

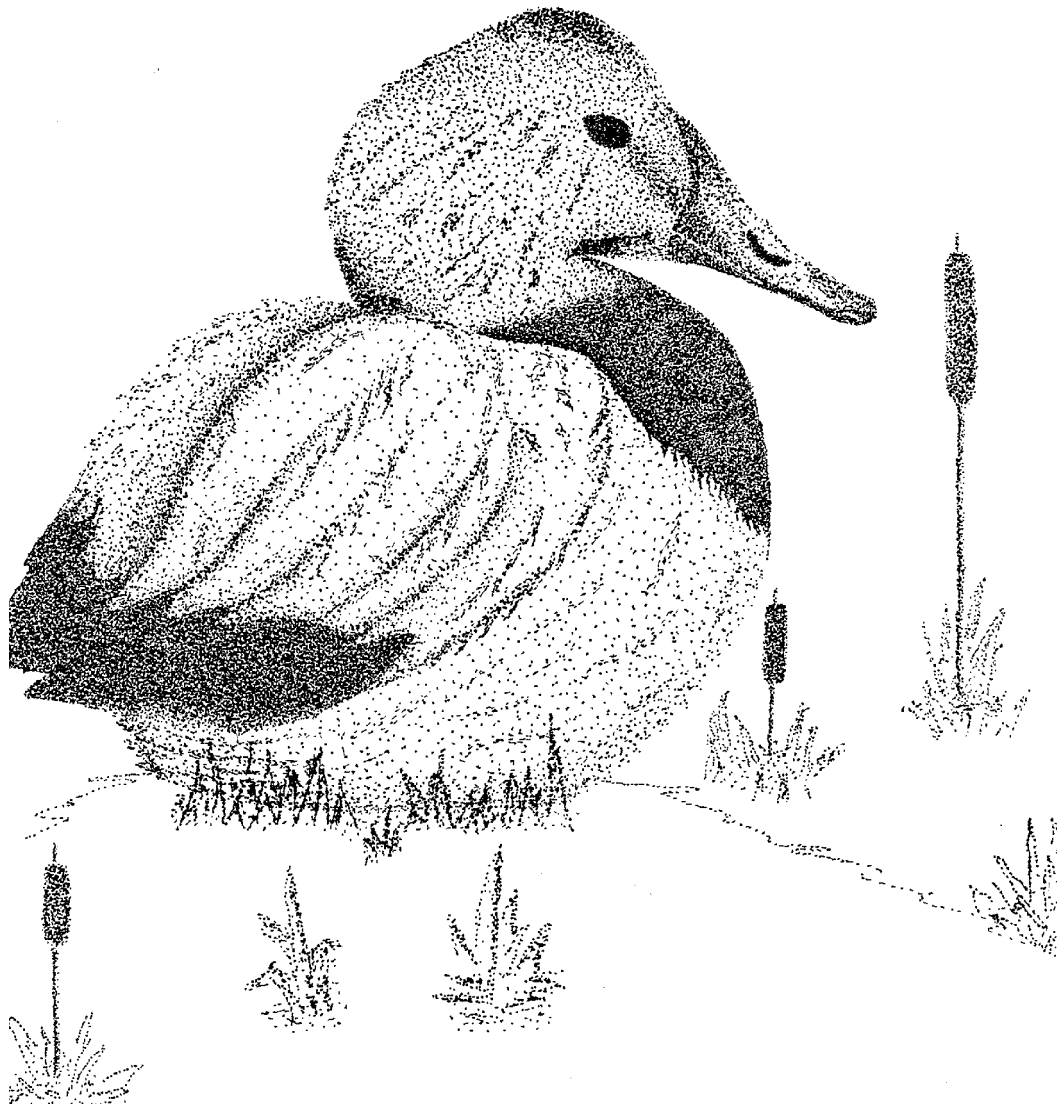
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# TEXAS REGISTER

Volume 27 Number 22 May 31, 2002

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

***Artist: Jennifer Boone***

***12th Grade***

***Ellison High 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.

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# Open Meetings

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

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

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

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

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



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

# THE GOVERNOR

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

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## Appointments

### **Appointments for May 13, 2002.**

Appointed to the Telecommunications Planning and Oversight Council, pursuant to SB 311, 77th Legislature, for terms to expire on August 31, 2003, Robert Frost of Fort Worth, Johanne M. Ibsen-Wolford of Austin.

### **Appointments for May 15, 2002.**

Appointed to the Texas Appraiser Licensing and Certification Board for terms to expire on January 31, 2004, Elroy Carson of Ransom Canyon (Mr. Carson is being reappointed), Dona S. Scurry of El Paso (Ms. Scurry is being reappointed), Shirley J. Ward of Alpine (replacing Debra Runyan of San Antonio whose term expired), Ted R. Whitmer of College Station (replacing Benjamin Barnett of Dallas whose term expired). *These appointments are effective May 20, 2002.*

### **Appointments for May 17, 2002.**

Appointed as the Border Commerce Coordinator for a term at the pleasure of the Governor, Gwyn Shea, Secretary of State.

Designated as presiding officer of the Public Utility Commission of Texas for a term at the pleasure of the Governor, Rebecca Armendariz

Klein. Ms. Klein will replace Mario Max Yzaguirre as presiding officer. Mr. Yzaguirre no longer serves on the commission.

### **Appointments for May 20, 2002.**

Appointed to the Statewide Health Coordinating Council for a term to expire on August 1, 2005, Peggy N. Troy of Southlake (replacing Joe Frush of Abilene who resigned).

Appointed to the Statewide Health Coordinating Council for terms to expire on August 1, 2007, Adena Williams Loston, Phd of Houston (Dr. Loston is being reappointed). Jimmie Lee Mason of Lubbock (replacing P.J. Schneider of Spring Branch whose term expired), Patricia L. Starck, DSN of Bellaire (replacing Judy Wolf of San Antonio whose term expired), David Aurelia Valdez, MD of San Antonio (Dr. Valdez is being reappointed).

Rick Perry, Governor

TRD-200203066





# 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.

## Open Records Question

### ORQ-60 (Proposed).

*Parties interested in submitting comment to the Attorney General concerning the following proposed Open Records Question are asked to please submit comment no later than July 15, 2002.*

The Office of the Attorney General has received inquiries in connection with open records requests made of various county clerks for electronic copies of county clerk real property records. The information at issue in these open records requests is apparently created or maintained by or for the county clerk under a contract with a private vendor. The inquiries raise important legal issues under the Texas Public Information Act ("PIA"), some of which are issues of first impression.

The law requires the Attorney General "to maintain uniformity in the application, operation, and interpretation of" the PIA. Gov't Code §552.011. In fulfilling this duty, the Attorney General may issue "detailed and comprehensive" open records decisions. *Id.* Under this authority, the Attorney General thus proposes the following open records question:

### ORQ-60 (Proposed).

*Requestor: No requestor. Regarding whether electronic copies of county clerk real property records created or maintained under a contract with a private third party vendor, including such copies in the sole actual possession of the vendor, are subject to the Public Information Act; whether a county clerk or the clerk's vendor must comply with an open records request for a copy of such information in electronic form; whether the vendor may set the amount the county clerk charges for an electronic copy; whether the requestor may be charged for costs associated with restricted access to or use of the information by the county clerk at the county clerk's office, and related questions.*

The decision in ORQ-60 is intended to address the pertinent legal questions of any party affected by the type of open records requests described above. **Hence, comment is both invited and encouraged on the above question, which at this time is merely proposed, and which may be modified or expanded in response to any comment received.** After July 15, 2002, when the period for comment on the above proposed question expires, the Attorney General will publish the final question for ORQ-60 in the *Texas Register*. At that time, before

a decision in ORQ-60 is issued, the Attorney General will also invite briefing from all interested parties to be submitted within the following 45 days.

**For more information call Michael Garbarino at (512) 936-6736.**

TRD-200203126

Susan Gusky

Assistant Attorney General

Office of the Attorney General

Filed: May 22, 2002

## Opinions

### Opinion No. JC-0503

The Honorable Frank Madla, Chair, Intergovernmental Relations Committee, Texas State Senate, P.O. Box 12068, Austin, Texas 78711-2068

Re: Whether a county may maintain a road that has not been officially established as a public road but which has been accessible to and regularly used by the public (RQ-0469-JC)

### S U M M A R Y

A county is limited to expending public funds on the construction and maintenance of public roads. A county may not expend public funds to construct, improve, or maintain private roads, except as authorized by article III, section 52f of the Texas Constitution. In general, a road may become a public road either pursuant to the statutory procedures set forth in the county road and eminent domain laws, by dedication, or by prescriptive easement.

Before maintaining a road that has not been officially established as a public road, a commissioners court must either obtain a judicial order declaring the road a public road or, alternatively, in a county with a population greater than 50,000, make its own determination that the road has become a public road by dedication or by prescriptive easement. Private landowners or others affected by a commissioners court's determination that a road is a public road may seek to have their rights adjudicated by a court. In such an action challenging a commissioners court's determination that a road is a public road, the status of the road would be a question of fact.

In counties of 50,000 or fewer persons governed by chapter 281 of the Transportation Code, a commissioners court is not authorized to determine that a road has become a public road by dedication or by prescriptive easement based on events occurring after that chapter's effective date, or to maintain such a road on the basis of those common-law doctrines.

**Opinion No. JC-0504**

The Honorable Bill Turner, Brazos County District Attorney, Brazos County Courthouse, 300 East 26th Street, Suite 310, Bryan, Texas 77803

Re: Whether section 37.123 of the Education Code, which creates the offense of "disruptive activity," requires proof of intent (RQ-0474-JC)

**S U M M A R Y**

Section 37.123 of the Education Code, which prohibits disruptive activities on a school campus, requires in order to sustain a conviction that the actor intentionally engaged in one of the five species of conduct described in that statute, rather than merely engaged in conduct that ultimately resulted in one of the effects described therein.

**Opinion No. JC-0505**

Mr. O.C. "Chet" Robbins, Executive Director, Texas Funeral Service Commission, 333 Guadalupe, Suite 110, Austin, Texas 78701

Re: Whether a casket constitutes "funeral merchandise" for purposes of Chapter 651 of the Occupations Code, and related questions (RQ-0477-JC)

**S U M M A R Y**

While a casket constitutes funeral merchandise for the purposes of chapter 651 of the Occupations Code, the sale of a casket for an imminent burial, without more, does not constitute an act of funeral directing.

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

TRD-200203118  
Susan D. Gusky  
Assistant Attorney General  
Office of the Attorney General  
Filed: May 21, 2002



Requests for Opinions

**RQ-0538**

Mr. Jerry L. Benedict, Administrative Director, Office of Court Administration, 205 West 14th Street, Suite 600, Austin, Texas 78711-2066

Whether the legislature may define the state appellate courts as "state agencies" for purposes of employment discrimination under chapter 21 of the Labor Code (Request No. 0538-JC)

**Briefs requested by June 21, 2002**

**RQ-0539**

The Honorable Bill G. Carter, Chair, Urban Affairs Committee, Texas House of Representatives, P.O. Box 2910, Austin, Texas 78768-2910

Re: Whether a city council may determine that its members are not eligible to serve as members of a volunteer fire department, and related questions (Request No. 0539-JC)

**Briefs requested by June 17, 2002**

**RQ-0540**

The Honorable Tim Cone, Upshur County, Criminal District Attorney, 405 North Titus Street, Gilmer, Texas 75644

Re: Whether section 130.908, Local Government Code is applicable after a primary election or only after a general election, and related questions (Request No. 0540-JC)

**Briefs requested by June 21, 2002**

**RQ-0541**

Mr. William M. Franz, Executive Director, State Board of Educator Certification, 1001 Trinity, Austin, Texas 78701-2603

Re: Procedure for certification of foreign educators by the State Board for Educator Certification (Request No. 0541-JC)

**Briefs requested by June 17, 2002**

**RQ-0542**

Mr. Jeff Moseley, Executive Director, Texas Department of Economic Development, P.O. Box 12728, Austin, Texas 78711-2728

Re: Enterprise project destinations under chapter 2303, Government Code, the Texas Enterprise Zone Act (Request No. 0542-JC)

**Briefs requested by June 21, 2002**

**RQ-0543**

The Honorable Russell W. Malm, Midland County Attorney, 200 West Wall Street, Suite 104, Midland, Texas 79701

Re: Authority of a county to enter into a multi-year lease of real property with a private organization for the purpose of operating an art museum (Request No. 0543-JC)

**Briefs requested by June 20, 2002**

**RQ-0544**

The Honorable Jeff Wentworth, Texas State Senate, P.O. Box 12068, Austin, Texas 78711-2068

The Honorable Edmund Kuempel, Texas House of Representatives, P.O. Box 2910, Austin, Texas 78768-2910

Re: Effect of the defeat of a ballot proposition confirming the creation of the Southeast Trinity Groundwater Conservation District, and related questions (RQ-0544-JC)

**Briefs requested by June 20, 2002**

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

TRD-200203148  
Susan D. Gusky  
Assistant Attorney General  
Office of the Attorney General  
Filed: May 22, 2002



# 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 3. OFFICE OF THE ATTORNEY GENERAL

#### CHAPTER 55. CHILD SUPPORT ENFORCEMENT

##### SUBCHAPTER J. VOLUNTARY PATERNITY ACKNOWLEDGMENT PROCESS

###### 1 TAC §§55.401, 55.402, 55.404, 55.405, 55.407

Office of the Attorney General proposes amendments to 1 TAC §§55.401, 55.402, 55.404, 55.405 and 55.407, concerning voluntary paternity acknowledgment process.

55.401. Changes the reference in Texas Family Code from Subchapter C to Subchapter D. Voluntary Acknowledgment of Paternity.

55.402. Substitutes Bureau of Vital Statistics for state. Change Family Code reference from §151.002 to 160.204.

55.404. Deletes (2) sign it before a witness.

55.405. Describes the process for filing Acknowledgment of Paternity and the Denial of Paternity forms.

55.407. Clarifies the training requirement from the Office of the Attorney General.

Cynthia Bryant, IV-D Director, Child Support Division, has determined that for the first five year period there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Bryant also has determined that the proposed amendments will not have an adverse economic effect on small businesses because the amendments to these sections impose no additional burden on anyone. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

The public benefit of the amendments to these sections is to clarify the process of Voluntary Paternity Acknowledgment Process.

Comments may be submitted to Kathy Shafer, Child Support Division, General Counsel section, Office of the Attorney General, (physical address) 5500 East Oltorf, Austin, Texas 78741, or (mailing address) P. O. Box 12017, Austin, Texas 78711-2017, mail code 039, (512) 460-6134.

The amendments are proposed under the September 1, 1999 statutory changes, found in the Texas Family Code, Section 160.302, Subchapter D. Voluntary Acknowledgment of Paternity.

The Code affected by the proposed amendments is Health and Safety Code, Section 192, Record of Acknowledgment of Paternity.

###### §55.401. *Scope.*

Fathers and mothers who wish to voluntarily establish paternity for their child may do so through any local child support office of the Office of the Attorney General, Child Support Division; the state Bureau of Vital Statistics; a local birthing hospital or birthing center; or any entity certified by the Office of the Attorney General to provide such services. The Acknowledgment of Paternity must be executed according to the rules contained herein and under the Texas Family Code, Chapter 160, Subchapter [C] D, Voluntary Acknowledgment [of ~~Denial~~] of Paternity. Entities that are required by law to provide paternity establishment services and entities that wish voluntarily to provide paternity establishment services must abide by the rules of this subchapter.

###### §55.402. *Definitions.*

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

(1) (No change.)

(2) Denial of Paternity form--A Statement executed by a presumed father denying parentage of the child of whom he is presumed to be the father, on a form prescribed by the Bureau of Vital Statistics.~~[state.]~~

(3) (No change.)

(4) Presumed father--A man who is legally assumed to be the father of a child because he meets the criteria found under Texas Family Code §160.204.~~[151.002.]~~

###### §55.404. *Voluntarily Acknowledging Paternity.*

(a) A man claiming to be the father and the mother may establish paternity before or after the birth of their child by voluntarily acknowledging paternity through a certified entity providing such services. The mother and father must read the Acknowledgment of Paternity form. In addition, both must listen to or view a video presentation of the rights and responsibilities of a parent, and alternatives to and legal consequences of acknowledging or denying paternity. Both the mother and father, separately or together, must then:

- (1) complete an Acknowledgment of Paternity form;
- (2) return the form to a certified entity.~~[sign it before a witness;]~~
- ~~[(3) return the form to a certified entity.]~~

(b)-(c) (No change)

§55.405. *Denial of Paternity Form.*

If the mother declares in the Acknowledgment of Paternity form that there is a presumed father of the child, the acknowledgment must be accompanied by a Denial of Paternity form signed by the presumed father, unless the presumed father is the man who is acknowledging paternity. The Acknowledgment of Paternity form and the Denial of Paternity form may be filed with the Bureau of Vital Statistics separately or simultaneously. If the acknowledgment and denial are both necessary, neither document is valid until both documents are filed. ~~[The Bureau of Vital Statistics will not accept the Acknowledgment of Paternity form for filing without the Denial of Paternity form, unless the presumed father is the man who has signed the Acknowledgment of Paternity form.]~~

§55.407. *Certification.*

All birthing hospitals, all birthing centers, the state Bureau of Vital Statistics, and each certified entity must have staff who:

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

(3) receive training from the ~~[are trained by]~~ Office of the Attorney General ~~[staff]~~ at least once yearly on the requirements for voluntarily establishing paternity. (The training is not to exceed eight (8) hours at locations throughout the state established by the Office of the Attorney General and Bureau of Vital Statistics.)

(4)-(6) (No change.)

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

Filed with the Office of the Secretary of State on May 20, 2002.

TRD-200203092

Susan D. Gusky

Assistant Attorney General

Office of the Attorney General

Earliest possible date of adoption: June 30, 2002

For information regarding this publication, please contact Andrea Younger, Agency Liaison, at (512) 463-2110.



## PART 5. TEXAS BUILDING AND PROCUREMENT COMMISSION

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

#### 1 TAC §113.1, §113.22

Texas Building and Procurement Commission proposes amendments to Title 1, T.A.C., §113.1 - General; and proposes new §113.22 concerning Advisory Committees. The amendments and new rule are proposed in compliance with the rulemaking and reporting requirements of the Texas Government Code, Chapter 2110, §§2110.005, 2110.006, 2110.007, and 2110.008. State agencies that establish advisory committees are required by Chapter 2110 to provide an evaluation report of their advisory committees biennially to the Legislative Budget Board; designate by rule the date that an advisory committee will automatically be abolished; and by rule state the purpose and tasks of the committee, and the manner in which an advisory committee is to report to the state agency.

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

Ms. Cindy Reed, Deputy Executive Director of Administration and Procurement, further determines that for each year of the first five-year period the amendments and new rule are in effect, the public benefit anticipated as a result of enforcing these rules is compliance with the current statutory reporting and rulemaking requirements of Texas Government Code, Chapter 2110 for state agency established advisory committees. There will be no effect on large, small or micro-businesses. There is no anticipated economic costs to persons who are required to comply with these rules and there is no impact on local employment.

Comments on the proposals may be submitted to Juliet King, General Counsel, Texas Building and Procurement Commission, P.O. Box 13047, Austin, TX 78711-3047. Comments must be received no later than thirty days from the date of publication of the proposal to the *Texas Register*.

The amendments to §113.1 and new rule §113.22 are proposed under the authority of the Texas Government Code, Title 10, Subtitle C, §§ 2110.005, 2110.006, 2110.007 and 2110.008; and Subtitle D, §§2152.003, 2155.080, and 2155.081 which provides the Texas Building and Procurement Commission with the authority to promulgate rules necessary to implement the sections.

The following codes are affected by these rules: Texas Government Code, Title 10, Subtitle C, §§ 2110.005, 2110.006, 2110.007 and 2110.008; and Subtitle D, §§2152.003, 2155.080, and 2155.081.

§113.1. *General Purchasing Provisions.*

(a) The commission purchases supplies, materials, services, and equipment for the State of Texas.

(b) Whenever possible, purchases are based on competitive bids. Negotiation of contracts is permitted for:

- (1) emergency purchases when there is insufficient time to solicit bids;
- (2) proprietary purchases or purchases of items for which there is only one source of supply;
- (3) purchases by means of competitive sealed proposals; and
- (4) proposed purchases in circumstances where competitive specifications have been advertised but the commission has received only one acceptable bid, or no acceptable bids; provided, however, such negotiation may not result in a material change to the advertised specifications.

(c) The commission keeps records of purchases which:

- (1) were competitively bid, or allowed for competitive bidding; and
- (2) were not competitive, but were adequately justified in writing.

(d) Purchase contracts shall be governed by and interpreted under the laws of the State of Texas.

(e) The commission may use electronic services to improve the efficiency and effectiveness of the purchasing system. Such services are provided on a cost recovery basis to those who choose to use them. Examples of such services include electronic delivery of purchase orders, electronic receipt of bids and proposals, and electronic bulletin boards.

(f) If an agency desires to use the commission's [~~Commission's~~] services for a delegated or exempt purchase, a written request shall be made in a manner and form determined by the Director of the [~~Central~~] Procurement [~~Services~~] Division and containing information the Director deems relevant to the purchase and processing of the request. Such service shall be by cost recovery and the Director shall determine and include all relevant factors related to providing the service on a cost basis. In no event shall non-delegated purchases be placed in jeopardy by the processing of delegated or exempt purchases.

~~{(g) The Director of the Central Procurement Services Division is delegated the authority to establish purchasing advisory committees as set forth in paragraphs (1) and (2) of this subsection.}~~

~~{(1) An Advisory Committee on Procurement authorized under the Texas Government Code, §2155.080}~~

~~{(2) A Vendor Advisory Committee authorized under the Texas Government Code, §2155.081.}~~

(g) [~~(h)~~] The Commission hereby establishes the program authorized by the Texas Government Code, §2155.078 and delegates to the Director of the [~~Central~~] Procurement Division the authority to administer the training, certification, and continuing education program for state agency purchasing personnel, including agencies exempted from the purchasing authority of the Commission, and purchasing personnel employed by a political subdivision or other public entity of the state in accordance with the Texas Government Code, Title 10, Subtitle D, Subchapter B, §2155.078 on a cost recovery basis. The director is further directed to promulgate guidelines for administering this program consistent with sound purchasing principles and state law.

#### §113.22. Advisory Committees.

(a) The Director of the Procurement Division is delegated authority to establish purchasing advisory committees as set forth in subsections (c) and (d) of this section. Advisory committees shall comply with requirements of the Texas Government Code, Chapter 2110 relating to State Agency Advisory Committees. The Advisory Committee on Procurement shall also comply with specific statutory authority provided by Texas Government Code, §2155.080; and the Vendor Advisory Committee shall also comply with specific statutory authority provided by Texas Government Code, §2155.081.

(b) An advisory committee in subsections (c) and (d) of this section are required to carry out the following functions:

- (1) Establish its own rules of operation.
- (2) The Director of the Procurement Division shall establish the size of the advisory committee.

(3) The chair of a purchasing advisory committee shall provide to the Director of the Procurement Division, or his designee, an annual report of the committee's activities.

(4) Annually, the Director of the Procurement Division, or his designee, shall evaluate the committee's work, usefulness, and the costs related to the committee's existence, including the cost of agency staff time spent in support of the committee's activities. The information developed in the evaluation shall be reported to the Legislative Budget Board biennially.

(5) Members of an advisory committee may not be reimbursed for expenses associated with conducting committee business, including travel expenses, unless otherwise authorized by the General Appropriations Act, Article IX, or approved by the Governor and the Legislative Budget Board.

(6) An advisory committee established by the Director of the Procurement Division shall be abolished on the fourth anniversary of the first meeting of the advisory committee,

(A) unless the governing body of the advisory committee votes to continue the committee in existence, and

(B) unless a specific duration is prescribed by statute for the advisory committee to exist.

(7) If the governing body of an advisory committee votes to continue the committee's existence, it shall continue to exist until the fourth anniversary date of the first meeting of its new term.

(c) The Advisory Committee on Procurement shall be composed of officers or employees from the commission, from state agencies, including institutions of higher education, and from political subdivisions who are invited by the commission to serve on the committee. The officers and employees who serve on the committee shall be experienced in public purchasing, public finance, or possess other appropriate expertise to serve on the committee. The purpose of the Advisory Committee on Procurement shall be to:

(1) provide a method for state agencies and political subdivisions to bring issues to the attention of the commission;

(2) review issues brought forth by the commission;

(3) develop and make recommendations on improvements to the procurement process;

(4) review and comment on findings and recommendations related to purchasing that are made by state agency internal auditors or by the state auditor;

(5) develop an assessment of the committee, committee goals and measurable objectives; and

(6) participate in an annual review of committee activities and make recommendations about the direction of the committee at the end of each fiscal year.

(d) The Vendor Advisory Committee shall be composed of employees from the commission and vendors who have done business with the state, and who are invited by the commission to serve on the committee. The commission shall invite a cross-section of the vendor community to serve on the committee, both large and small businesses and vendors who provide a variety of different goods and services to the state. The purpose of the Vendor Advisory Committee shall be to:

(1) represent the vendor community before the commission;

(2) serve as a channel for providing information to vendors;

(3) obtain vendor input and develop and make recommendations on improvements to the procurement process;

(4) develop an assessment of the committee, committee goals and measurable objectives at the end of each fiscal year; and

(5) participate in an annual review of the committee's activities and make recommendations about the direction and continuance of the committee at the end of each fiscal year.

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

Filed with the Office of the Secretary of State on May 20, 2002.

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Juliet King

Legal Counsel

Texas Building and Procurement Commission

Earliest possible date of adoption: June 30, 2002

For further information, please call: (512) 463-3960



### 1 TAC §113.2

The Texas Building and Procurement Commission proposes amendments to Title 1, T.A.C., §113.2 - Definitions. The amendments will add four new definitions to define the term "local government" as it applies to Title 1, T.A.C., Chapter 113 - Procurement Division; and will clarify language found in the following rules: §113.16 - Multiple Award Contract Procedure; §113.17 - Multiple Award Schedule; and §113.21 - Reverse Auction. The purpose of the proposed amendments is to establish additional common terms of reference for state agencies and local governmental entities.

Ms. Cindy Reed, Deputy Executive Director of Administration and Procurement, has determined for the first five year period the amendments are in effect there will be no fiscal implication for the state or local governments as a result of the added definitions. The additional definitions will facilitate the use and understanding of the purchasing methods.

Ms. Cindy Reed, Deputy Executive Director of Administration and Procurement, further determines that for each year of the first five-year period the amendments are in effect, the public benefit anticipated as a result of enforcing these rules will be a positive effect on large, small or micro-businesses that routinely participate in state business opportunities in that the additional definitions will provide common terms of reference and add clarification to the state's procurement process. There will be no anticipated economic costs to persons who are required to comply with these rules and there is no impact on local employment.

Comments on the proposals may be submitted to Juliet King, Legal Counsel, Texas Building and Procurement Commission, P.O. Box 13047, Austin, TX 78711-3047. Comments must be received no later than thirty days from the date of publication of the proposal to the *Texas Register*.

The amendments to Title 1, T.A.C., §113.2 - Definitions are proposed under the authority of the Texas Government Code, §2152.003; Texas Government Code, Chapter 2155, Subchapter B - General Purchasing Requirements, Procedures and Programs, §2155.062; and Subchapter I - Multiple Award Contract Schedule, §§2155.501 through 2155.509 which provides the Texas Building and Procurement Commission with

the authority to promulgate rules necessary to implement the sections.

The following codes are affected by these rules: Texas Government Code, Title 10, Subtitle D, §2152.003; Texas Government Code, Chapter 2155, Subchapter B, §2155.062; and Subchapter I, §§2155.501 through 2155.509.

#### §113.2. Definitions.

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

(1) **Adopted uniform standards and specifications**--Specifications and standards developed by nationally recognized standards-making associations that are evaluated and adopted by the specifications and standards program.

(2) **Advisory groups**--A group that advises and assists the standards and specification program in establishing specifications. The advisory group may include representatives from federal, state and local governments, user groups, manufacturers, vendors and distributors, bidders, associations, colleges, universities, testing laboratories and others with expertise and specialization in particular product area.

(3) **Agency**--A state agency as the term is defined under the Texas Government Code, Title 10, §2151.002.

(4) **Agent of record**--An employee or official designated by a qualified cooperative entity as the individual responsible to represent the qualified entity in all matters relating to the program.

(5) **Approved products list**--The list is also referred to as the approved brands list or qualified products list. It is a specification developed by evaluation brands and models of various manufacturers and listing those determined to be acceptable to meet the minimum level of quality. Testing is completed in advance of procurement to determine which products comply with the specifications and standards requirements.

(6) **Award**--The act of accepting a bid, thereby forming a contract between the state and a bidder.

(7) **Bid**--An offer to contract with the state, submitted in response to a bid invitation issued by the commission.

(8) **Bid deposit**--A deposit required of bidders to protect the state in the event a low bidder attempts to withdraw its bid or otherwise fails to enter into a contract with the state. Acceptable forms of bid deposits are limited to: cashier's check, certified check, or irrevocable letter of credit issued by a financial institution subject to the laws of Texas and entered on the United States Department of the Treasury's listing of approved sureties; a surety or blanket bond from a company chartered or authorized to do business in Texas.

(9) **Bid sample**--A sample required to be furnished as part of a bid, for evaluating the quality of the product offered.

(10) **Bidder**--An individual or entity that submits a bid. The term includes anyone acting on behalf of the individual or other entity that submits a bid, such as agents, employees, and representatives.

(11) **Blanket bond**--A surety bond which provides assurance of a bidder's performance on two or more contracts in lieu of separate bonds for each contract. The amount for a blanket bond shall be established by the commission based on the bidder's annual level of participation in the state purchasing program.

(12) **Board**--The governing body of a county or local school district.

(13) **Brand name**--A trade name or product name which identifies a product as having been made by a particular manufacturer.

(14) Centralized master bidders list (CMBL)--A list maintained by the commission containing the names and addresses of prospective bidders and qualified information systems vendors.

(15) Consumable procurement budget--That portion of an agency's budget as identified by the comptroller's expenditure codes attributable to consumable supplies, materials, and equipment.

(16) Cooperative purchasing program--A program to provide purchasing services to qualified cooperative entities, as defined herein.

(17) Debarment--An exclusion from contracting or sub-contracting with state agencies on the basis of any cause set forth in §113.102 of this title (relating to Vendor Performance and Debarment), commensurate with the seriousness of the offense, performance failure, or inadequacy to perform.

(18) Director--The director of the commission's purchasing division.

(19) Distributor purchase--Purchase of repair parts for a unit of major equipment that are needed immediately or as maintenance contracts for laboratory/medical equipment.

(20) Emergency purchase--A purchase of goods or services so badly needed that an agency will suffer financial or operational damage unless the items are secured immediately.

(21) Environmentally sensitive products--Products that protect or enhance the environment, or that damage the environment less than traditionally available products.

(22) Equivalent product--A product that is comparable in performance and quality to the specified product.

(23) Escalation clause--A clause in a bid providing for a price increase under certain specified circumstances.

(24) Formal bid--A written bid submitted in a sealed envelope in accordance with a prescribed format, or an electronic data interchange transmitted to the commission in accordance with procedures established by the commission.

(25) Group purchasing program--A purchasing program that offers discount prices to two or more state agencies or institutions of higher education, which is formed as a result of interagency or interlocal cooperation and follows all applicable statutory standards for purchases.

(26) Informal bid--An unsealed, competitive bid submitted by letter, telephone, telegram, or other means.

(27) Invitation for bids (or IFB)--A written request for submission of a bid; also referred to as a bid invitation.

(28) Late bid--A bid that is received at the place designated in the bid invitation after the time set for bid opening.

(29) Level of quality--The ranking of an item, article, or product in regard to its properties, performance, and purity.

(30) List of approved equipment--A list of items available under term contracts for purchase by school districts through the commission pursuant to the Texas Education Code, §21.901.

(31) Local government-- a county, municipality, special district, school district, junior college district, regional planning commission, or other political subdivision of the state pursuant to Local Government Code, §271.101.

(32) [~~(31)~~] Manufacturer's price list--A price list published in some form by the manufacturer and available to and recognized by

the trade. The term does not include a price list prepared especially for a given bid.

(33) Multiple award contract (as it applies to Multiple Award Schedule Contracts)--an award of a contract for an indefinite amount of one or more similar goods or services from a vendor.

(34) [~~(32)~~] Multiple award contract procedure--A purchasing procedure by which the commission establishes one or more levels of quality and performance and makes more than one award at each level.

(35) [~~(33)~~] Non-competitive purchase--A purchase of goods or services (also referred to as "spot purchase") that does not exceed the amount stated in §113.11 (c) (1) of this title (relating to Delegated Purchases).

(36) [~~(34)~~] Notice of award--A letter signed by the director or his designee which awards and creates a term contract.

(37) [~~(35)~~] Open market purchase--A purchase of goods, usually of a specified quantity, made by buying from any available source in response to an open market requisition.

(38) [~~(36)~~] Performance bond--A surety bond which provides assurance of a bidder's performance of a certain contract. The amount for the performance bond shall be based on the bidder's annual level of potential monetary volume in the state purchasing program. Acceptable forms of bonds are those described in the definition for "bid deposit".

(39) [~~(37)~~] Perishable goods--Goods that are subject to spoilage within a relatively short time and that may be purchased by agencies under delegated authority.

(40) [~~(38)~~] Post-consumer materials--Finished products, packages, or materials generated by a business entity or consumer that have served their intended end uses, and that have been recovered or otherwise diverted from the waste stream for the purpose of recycling.

(41) [~~(39)~~] Pre-consumer materials--Materials or by-products that have not reached a business entity or consumer for an intended end use, including industrial scrap material, and overstock or obsolete inventories from distributors, wholesalers, and other companies. The term does not include materials and by-products generated from, and commonly reused within, an original manufacturing process or separate operation within the same or a parent company.

(42) [~~(40)~~] Proprietary--Products or services manufactured or offered under exclusive rights of ownership, including rights under patent, copyright, or trade secret law. A product or service is proprietary if it has a distinctive feature or characteristic which is not shared or provided by competing or similar products or services.

(43) [~~(41)~~] Public bid opening--The opening of bids at the time and place advertised in the bid invitation, in the presence of anyone who wishes to attend. On request of any person in attendance, bids will be read aloud.

(44) [~~(42)~~] Purchase orders--

(A) Open market purchase order--A document issued by the commission to accept a bid, creating an open market purchase contract.

(B) Automated contract purchase order--A release order issued by the commission under an existing term contract, and pursuant to a requisition from a qualified ordering entity.

(C) Non-automated purchase order--A release order issued by an agency as a non-automated term contract, and pursuant to a requisition by the qualified ordering entity.

(45) [(43)] Purchasing functions--The development of specifications, receipt and processing of requisitions, review of specifications, advertising for bids, bid evaluation, award of contracts, and inspection of merchandise received. The term does not include invoice, audit, or contract administration functions.

(46) [(44)] Qualified information systems vendor catalogue proposal--A request for offers or quotations of prices from catalogue vendors (QISV).

(47) [(45)] Qualified cooperative entity--An entity that qualifies for participation in the cooperative purchasing program:

(A) A county, municipality, school district, special district, junior college district, or other legally constituted political subdivision of the state that is a local government.

(B) Mental health and mental retardation community centers in Government Code, §2155.202, that receive grants-in-aid under the provisions of Subchapter B, Chapter 534, Health and Safety Code.

(C) An assistance organization as defined in Government Code, §2175.001, that receive any state funds.

(D) A political subdivision, under Chapter 791, Government Code.

(48) [(46)] Qualified Ordering Entity--A state agency as the term is defined under the Texas Government Code, Title 10, §2151.002, or an entity that qualifies for participation in the cooperative purchasing program as defined in Local Government Code, Subchapter D, §271.081.

(49) [(47)] Recycled material content--The portion of a product made with recycled materials consisting of pre-consumer materials (waste), post-consumer materials (waste), or both.

(50) [(48)] Recycled materials--Materials, goods, or products that contain recyclable material, industrial waste, or hazardous waste that may be used in place of raw or virgin materials in manufacturing a new product.

(51) [(49)] Recycled product--A product that meets the requirements for recycled material content as prescribed by the rules established by the Texas Natural Resource Conservation Commission in consultation with the Texas Building and Procurement [General Services] Commission.

(52) [(50)] Remanufactured product--A product that has been repaired, rebuilt, or otherwise restored to meet or exceed the original equipment manufacturer's (OEM) performance specifications; provided, however, the warranty period for a remanufactured product may differ from the OEM warranty period.

(53) [(51)] Request for proposal--A written request for offers concerning goods or services the state intends to acquire by means of the competitive sealed proposal procedure.

(54) [(52)] Requisition--

(A) Open market purchase requisition--An initiating request from an agency describing needs and requesting the commission to purchase goods or services to satisfy those needs.

(B) Term contract purchase requisition--A request from a qualified ordering entity for delivery of goods under an existing term contract.

(55) [(53)] Responsible vendor--A vendor who has the capability to perform all contract requirements in full compliance with applicable state law, ethical standards, and applicable commission rules.

(56) [(54)] Resolution--Document of legal intent adopted by the governing body of a qualified cooperative entity that evidences the qualified cooperative entity's participation in the cooperative purchasing program.

(57) Reverse Auction--a real time bidding procedure that is Internet dependent and which is conducted at a pre-scheduled time and Internet location in which multiple suppliers, anonymous to each other, submit bids for designated goods or services.

(58) Schedule--a list of multiple award contracts from which agencies may purchase goods and services.

(59) [(55)] Scheduled purchase--A purchase with a prescheduled bid opening date, allowing the commission to combine orders for goods.

(60) [(56)] Sealed bid--A formal written bid.

(61) [(57)] Solicitation--An invitation for bids or a request for proposals.

(62) [(58)] Specification--A concise statement of a set of requirements to be satisfied by a product, material or service, indicating whenever appropriate the procedures to determine whether the requirements are satisfied.

(63) [(59)] Standard specification--A description of what the purchaser requires and what a bidder or proposer must offer.

(64) [(60)] Successor-in-interest--Any business entity that has ownership similar to a business entity. For purposes of §113.102 of this title (relating to Vendor Performance and Debarment), it shall be presumed that a business entity that employs, or is associated with, any partner, member, officer, director, responsible managing officer, or responsible managing employee, of a business entity that was previously debarred is a successor-in-interest.

(65) [(61)] Tabulation of bids--The recording of bids and bidding data for purposes of bid evaluation and recordkeeping.

(66) [(62)] Term contract purchase--A purchase by a qualified ordering entity under a term contract, which established a source of supply for particular goods at a given price for a specified period of time.

(67) [(63)] Testing--an element of inspection involving the determination, by technical means, of the properties or elements of item(s) or component(s), including function operation.

(68) [(64)] Texas uniform standards and specification--Standards and specifications prepared and published by the standards and specifications program of the commission.

(69) [(65)] Total expenditures on products with recycled material content, remanufactured products, and environmentally sensitive products--The total direct acquisition costs (vendor selling price plus delivery costs) of all such products.

(70) [(66)] Unit price--The price of a selected unit of a good or service, e.g., price per ton, per labor hour, or per foot.

(71) [(67)] Using agency--An agency of government that requisitions goods or services through the commission.

(72) [(68)] Vendor--A supplier of goods and services to the state.

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

Filed with the Office of the Secretary of State on May 20, 2002.



◆ ◆ ◆  
**1 TAC §113.4**

The Texas Building and Procurement Commission proposes amendments to Title 1, T.A.C., §113.4 - Centralized Master Bidders List. The amendments will revise the current rules as they relate to procedures used in the vendor registration and vendor record processes that are required to accommodate e-commerce initiatives established by Texas Government Code, §§2155.265 and 2156.003. The amendments will also add a new provision that will allow agencies to add vendors who are not on the Centralized Master Bidders List (CMBL) to a final bid list for specific solicitations in order to increase competition. The authority for this new provision is Texas Government Code, §2155.269.

Ms. Cindy Reed, Deputy Executive Director of Administration and Procurement, has determined for the first five year period the rule is in effect there will be no fiscal implication for the state or local governments as a result of enforcing or administering the amendments relating to the Centralized Master Bidders List. A positive fiscal implication is anticipated from allowing state agencies to add non CMBL vendors to their final bid list for specific solicitations. The amendments should, in specific instances, enhance competition and enable state agencies and other qualified entities to fulfill specific procurement needs in a more cost efficient manner. The positive fiscal impact on state and local governments cannot be quantified at present.

Ms. Cindy Reed, Deputy Executive Director of Administration and Procurement, further determines that for each year of the first five-year period the amendments are in effect, the public benefit anticipated as a result of enforcing the rule is compliance with the current statutory requirements of Texas Government Code, Chapter 2155 and 2156 as they apply to e-commerce initiatives. There will be a positive effect on large, small or micro-businesses that routinely participate in state business opportunities in that bid list application and record maintenance functions have been revised and clarified. There will be no anticipated economic costs to persons who are required to comply with the rule and there is no impact on local employment.

Comments on the proposals may be submitted to Juliet King, Legal Counsel, Texas Building and Procurement Commission, P.O. Box 13047, Austin, TX 78711-3047. Comments must be received no later than thirty days from the date of publication of the proposal to the *Texas Register*.

The amendments to §113.4 are proposed under the authority of the Texas Government Code, Title 10, Subtitle D, §§2152.003, 2155.267, 2155.268, and 2155.269 which provides the Texas Building and Procurement Commission with the authority to promulgate rules necessary to implement the sections.

The following codes are affected by these rules: Texas Government Code, Title 10, Subtitle D, §§2152.003, 2155.267, 2155.268, and 2155.269.

§113.4. Centralized Master Bidders List.

(a) The commission maintains the Centralized Master Bidders List (CMBL) of the names and addresses of vendors which have registered [applied and been accepted] for inclusion on the CMBL. The CMBL is maintained for the state's use in obtaining competitive bids for purchases and for registering vendors who wish to be designated as qualified information systems vendors. [No vendor will be placed on the CMBL to receive bid invitations for information purposes only.] Bid invitations and requests for proposals shall be [are] transmitted to vendors on the CMBL for the solicited commodity and/or service designated by the vendor for open market, term contracts, competitive sealed proposal acquisitions and delegated purchases in excess of the non-competitive bid limit.

(b) Registration for the Centralized Master Bidders List is an on line process with a vendor managed web based system. The established fee is to be paid annually. [To be considered for inclusion on the CMBL, a vendor must:]

{(1) complete the application form provided by the commission which includes certification that the vendor has access to the class and item codes and is aware of the requirements and procedures regarding the provision of goods, services and other transactions with the state and its qualified ordering entities;}

{(2) remit a check or money order in the amount of \$100, which is the biennial maintenance fee assessed to cover the commission's costs for maintaining the bidders list and transmission of bids or proposals. This fee, less a reasonable handling fee approved by the director, will be refunded if the applicant is not accepted for inclusion on the CMBL.}

(c) It is the vendor's responsibility to maintain their CMBL profile to ensure correct information for receipt of bids based on products or services which can be provided for selected districts for the State of Texas. [The commission will review and evaluate the CMBL application, and may reject an application that is not satisfactorily completed. ]

(d) A vendor may be administratively removed from the CMBL for one or more of the following reasons:

(1) failing to pay or unnecessarily delaying payment of damages assessed by the commission;

{(2) failing to submit bids in response to bid invitations on either: }

{(A) four consecutive open market invitations concerning the affected class or item; or }

{(B) one or more contract or schedule invitations concerning the affected class;}

(2) {(3)} failing to remit the annual [biennial] CMBL [maintenance] fee; or

(3) {(4)} any factor set forth in Government Code, Chapter 2155 [; §§ 2155.070 and 2155.077].

(e) A vendor which has been removed from the CMBL shall not be reinstated until expiration of the period for which the vendor was removed and approval is granted [by the director].

(f) An error in addressing a bid invitation or request for proposal or a failure of the post office to deliver the solicitation will not be sufficient reason to require the commission to reject all other bids or proposals.

(g) State agencies shall use the CMBL to select bidders for competitive bids or proposals and to the fullest extent possible for purchases exempt from the commission's purchasing authority. This requirement does not apply to the Texas Department of Transportation or to an institution of higher education as defined by §61.003, Education Code, but an institution of higher education should use the CMBL when possible.

(h) As set forth in Texas Government Code, Chapter, §2155.269, state agencies may waive the requirement to solicit only from bidders listed on the Centralized Master Bidders List (CMBL) by obtaining approval from the agency head or designee to add non-CMBL bidders to the final bid list. Non-CMBL bidders can be added to the final bid list for specific solicitations where the requirement to solicit only CMBL bidders is not warranted, such as to increase competition. This does not apply to purchases in §113.19 of this title (relating to Qualification of Information Systems Vendors (QISV))

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

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Juliet King

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### 1 TAC §113.6

The Texas Building and Procurement Commission proposes amendments to Title 1, T.A.C., §113.6, concerning Bid Evaluation and Award. The amendments will update statutory citations in the current rule as they relate to the application best value criteria in determining an award. Because solicitations for goods and services differ in scope, purpose and detail, the amendment expands the statutory reference that of Texas Government Code, §§2155.074, 2155.075, 2156.007, 2157.003 and 2157.125.

Ms. Cindy Reed, Deputy Executive Director of Administration and Procurement, has determined for the first five year period the rules are in effect there will be no fiscal implication for the state or local governments as a result of the application of the expanded statutory reference for best value criteria.

Ms. Cindy Reed, Deputy Executive Director of Administration and Procurement, further determines that for each year of the first five-year period the amendments and new rule are in effect, the public benefit anticipated as a result of enforcing the amended rule is compliance with the current statutory requirements of Texas Government Code, Chapters 2155, 2156 and 2157 as they apply to best value determinations in the contract award process.

Comments on the proposals may be submitted to Juliet King, Legal Counsel, Texas Building and Procurement Commission, P.O. Box 13047, Austin, TX 78711-3047. Comments must be received no later than thirty days from the date of publication of the proposal to the *Texas Register*.

The amendments to §113.6 are proposed under the authority of the Texas Government Code, Title 10, Subtitle D, §§2152.003,

2155.074, 2155.075, 2156.007, 2157.003 and 2157.125 which provides the Texas Building and Procurement Commission with the authority to promulgate rules necessary to implement the sections.

The following codes are affected by these rules: Texas Government Code, Title 10, Subtitle D §§2152.003, 2155.074, 2155.075, 2156.007, 2157.003 and 2157.125.

#### §113.6. Bid Evaluation and Award.

##### (a) Bid evaluation.

(1) The commission may accept or reject any bid or any part of a bid or waive minor technicalities in a bid, if doing so would be in the state's best interest.

(2) A bid price may not be altered or amended after bids are opened except to correct mathematical errors in extension.

(3) No increase in price will be considered after a bid is opened. A bidder may reduce its price provided it is the lowest and best bidder and is otherwise entitled to the award.

(4) Bid prices are considered firm for acceptance for 30 days from the bid opening date for open market purchases and 60 days for term contracts, unless otherwise specified in the invitation for bids.

(5) A bid containing a self-evident error may be withdrawn by the bidder prior to an award.

(6) Bid prices which are subject to unlimited escalation will not be considered. A bidder may offer a predetermined limit of escalation in his bid and the bid will be evaluated on the basis of the full amount of the escalation.

(7) A bid containing a material failure to comply with the advertised specifications shall be rejected.

(8) All bids must be based on "F.O.B. destination" delivery terms unless otherwise specified.

(9) If requested in the invitation for bids, samples must be submitted or the bid will be rejected. The commission will require samples only when essential to the assessment of product quality during bid evaluation. Samples for non-winning bids shall be returned to a bidder whenever practicable, at the bidder's expense. Otherwise, samples will be disposed of in the same manner as surplus or salvage property.

(10) When brand names are specified, bids on alternate brands will be considered if they otherwise meet specification requirements.

(11) Cash discounts are acceptable but are not considered in making an award. All cash discounts offered will be taken if they are earned by the agency.

(12) No electrical item may be purchased unless the item meets applicable safety standards of the federal Occupational Safety and Health Administration (OSHA).

##### (b) Award.

(1) All awards shall be made to the bidder complying with the best value criteria used in the bid and conforming to the advertised product or service specifications. In determining which bidder is offering the best value, in addition to price, the commission may ~~shall~~ consider and evaluate the factors set out in Government Code, Title 10, Subtitle D, Subchapter A, §§2155.074, 2155.075, 2156.007, 2157.003 and 2157.125, [~~2156.007~~] and all other factors comprising the best value criteria as may be set forth in the solicitation [bid].

(2) An open market purchase contract is awarded and created when the director of purchasing or his designee authorizes an open

market purchase order. A term contract is awarded and created when the director of purchasing or his designee signs a notice of award.

(3) In case of tie bids which cannot be resolved by application of one or more preferences described in §113.8 of this title (relating to Preferences), an award shall be made by drawing lots.

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

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### 1 TAC §113.8

The Texas Building and Procurement Commission proposes amendment to Title 1, T.A.C., §113.8, concerning Preferences. The amendment will add two purchasing preferences pursuant to Texas Government Code, §2155.449 relating to a preference for goods and services from economically depressed or blighted areas; and a preference for goods produced in a formerly contaminated property for which the owner has a certificate of completion for voluntary cleanup pursuant to and the Health and Safety Code, §361.609.

Ms. Cindy Reed, Deputy Executive Director of Administration and Procurement, has determined for the first five year period the rule are in effect there will be no fiscal implication for the state or local governments as a result of the application of the additional preferences .

Ms. Cindy Reed, Deputy Executive Director of Administration and Procurement, further determines that for each year of the first five-year period the amendment is in effect, the public benefit anticipated as a result of enforcing the amended rule is updated language that is consistent with statutory requirements of Texas Government Code, §2155.449 for applying certain preferences when determining the award of a bid. There will be no effect on large, small or micro-businesses. There is no anticipated economic costs to persons who are required to comply with this rule and there is no impact on local employment.

Comments on the proposals may be submitted to Juliet King, Legal Counsel, Texas Building and Procurement Commission, P.O. Box 13047, Austin, TX 78711-3047. Comments must be received no later than thirty days from the date of publication of the proposal to the *Texas Register*.

The amendments to §113.8 are proposed under the authority of the Texas Government Code, Title 10, Subtitle D, §§2152.003, and 2155.449 which provides the Texas Building and Procurement Commission with the authority to promulgate rules necessary to implement the sections.

The following codes are affected by these rules: Texas Government Code, Title 10, Subtitle D, §§2152.003 and 2155.449.

#### §113.8. Preferences

(a) Claiming a preference. To claim a preference, a bidder shall mark the appropriate box on the face of the bid invitation. If the

appropriate box is not marked, a preference will not be granted unless other documents included in the bid show a right to the preference.

(b) Preferences.

(1) Texas resident bidders.

(A) A Texas resident bidder shall be given preference over a nonresident bidder when the cost, and quality of the goods or services are equal.

(B) The commission may award a contract to a nonresident bidder only if its bid is lower than the lowest bid submitted by a responsible Texas resident bidder by the same amount that a Texas resident bidder would be required to underbid the nonresident bidder to obtain a comparable contract in the state where the nonresident's principal place of business is located. In evaluating a bid of a nonresident bidder, an amount will be added equal to the amount a Texas resident bidder would be required to underbid a nonresident bidder to obtain a comparable contract in the state where the nonresident bidder's principal place of business is located, otherwise known as reciprocal preference. After the amount is added, an award may be made to the nonresident bidder if it is determined to have the lowest price and best bid. The amount added is for evaluation purposes only; in no event shall an amount be awarded in excess of the amount actually bid.

(2) Texas and United States products.

(A) Supplies, materials, or equipment produced in Texas shall be given preference over comparable goods produced outside Texas when the cost and quality of the goods are equal. Supplies, materials, and equipment are considered to be produced in Texas if they are manufactured in Texas; "manufactured" does not include the work of packaging or repackaging.

(B) Agricultural products grown in Texas shall be given preference over comparable products grown outside Texas when the cost and quality of the goods are equal. Agricultural products are considered grown in Texas if they contain any amount grown in Texas. In case of tie bids between agricultural products claiming the preference, the bidder whose product contains the greatest percentage of the product grown in Texas will prevail. For purposes of this preference, agricultural products include, among other things, textiles and fiber products, processed and unprocessed foods, feed, lumber and forestry products, live animals, plants, flowers, and nursery stock.

(C) Supplies, materials, equipment, or agricultural products produced or grown in the United States shall be given preference over foreign products when the cost and quality are equal, if comparable goods of equal cost and quality produced or grown in Texas or offered by Texas bidders are not available.

(3) Products of persons with mental or physical disabilities. A preference shall be given to manufactured products of workshops, organizations, or corporations whose primary purpose is training and employing persons with mental or physical disabilities, if the products meet state specifications as to quantity, quality, and price. Competitive bids are not required for purchases of blind-made goods or services offered as a result of efforts by the Texas Council on Purchasing from People with Disabilities, if the goods or services meet state specifications as to quantity, quality, price, delivery, life cycle costs, and costs no more than the fair market price of similar items.

(4) Recycled, remanufactured or environmentally sensitive products. A preference shall be given to recycled, remanufactured or environmentally sensitive products if the products meet state specifications as to quantity and quality and defined best value factors.

(5) Energy efficient products. A preference shall be given to energy efficient products if they meet state requirements as to quantity and quality, and are equal to or less than the cost of other products offered. This preference shall be applied by evaluating the energy use of the products offered and considering the costs of such energy use over the expected life of the equipment. The methodology for evaluating energy use and costs shall be included in the bid invitation.

(6) Rubberized asphalt paving material. A preference shall be given to rubberized asphalt paving material made from scrap tires by a facility in this state if the cost, as determined by life-cycle cost benefit analysis, does not exceed the bid cost of alternative paving materials by more than 15%.

(7) Recycled motor oil and lubricants. A preference shall be given to motor oils and lubricants that contain at least 25% recycled oil if the quality is comparable and the cost is equal to or less than new oil and lubricants.

(8) Products and services from economically depressed or blighted areas as defined in Texas Government Code, §2306.004 or that meet the definition of a historically underutilized business zone as defined by 15 U.S.C. Section 632(p). Preference shall be given to products from economically depressed or blighted areas if they meet state requirements as to quantity and quality, and are equal to or less than the cost of other products offered.

(9) Products produced at a facility located on property for which the owner has received a certificate of completion under §361.609, Health and Safety Code, if the goods meet state specifications regarding quantity, quality, delivery, life cycle costs, and price.

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

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### 1 TAC §113.9

The Texas Building and Procurement Commission proposes amendment to Title 1, T.A.C., §113.9, concerning Contract Administration. The amendment provides a specific remedy which can be asserted against a vendor who has failed to pay damages assessed by the state. The amendment is in accordance with Texas Government Code, §§2155.070 and 2155.077.

Ms. Cindy Reed, Deputy Executive Director of Administration and Procurement, has determined for the first five year period the rules are in effect there will be no fiscal implication for the state or local governments as a result of the additional contract administration option. An indirect, positive fiscal implication may be experienced because in specific instances the added option will allow the commission to enforce vendor performance standards more efficiently thereby improving the service and quality of goods provided to the customer base.

Ms. Cindy Reed, Deputy Executive Director of Administration and Procurement, further determines that for each year of the

first five-year period the amendment is in effect, the public benefit anticipated as a result of enforcing the amended rule is compliance with the current statutory requirements of Texas Government Code, §§2155.070 and 2155.077. There will be a positive effect on large, small or micro-businesses that routinely participate in state business opportunities in that a clear, enforceable mechanism will exist to respond to and correct substandard performance by vendors. There is no anticipated economic costs to persons who are required to comply with this rule and there is no impact on local employment.

Comments on the proposals may be submitted to Juliet King, Legal Counsel, Texas Building and Procurement Commission, P.O. Box 13047, Austin, TX 78711-3047. Comments must be received no later than thirty days from the date of publication of the proposal to the *Texas Register*.

The amendments to §113.9 are proposed under the authority of the Texas Government Code, §§2152.003, 2155.070 and 2155.077.

The following codes are affected by these rules: Texas Government Code, Title 10, Subtitle D, §§2152.003, 2155.070 and 2155.077.

#### §113.9. Contract Administration.

##### (a) Inspection of merchandise.

(1) Qualified ordering entities must inspect all shipments received against orders and report any discrepancies to the commission immediately.

(2) If unlisted shortages are discovered, the vendor and the commission must be notified immediately. Unless shipments are checked immediately upon arrival and such shortage reports are made within 15 days, the contractor cannot be held responsible for shortages.

(3) A contractor may be required to pick up any merchandise not conforming to specifications and replace the merchandise immediately.

(b) Substitutions. Substitution of items called for in a contract is not permitted without the commission's prior approval. No such approval will be granted unless substituted items are of equal quality and are offered at the same or lower price.

##### (c) Cancellations.

(1) Cancellations on orders issued by the commission, either on the part of the vendor or a qualified ordering entity, are not permitted without the commission's prior written approval.

(2) Orders may be canceled without the contractor's consent due to unsatisfactory performance or nonperformance by the contractor.

(3) Orders may not be canceled without first obtaining the consent of the contractor if the reason for cancellation is not the fault of the contractor.

(4) A contract or a portion of a contract may be canceled on request of the contractor if the contractor is unable to perform due to circumstances beyond its control. In these instances, the commission will consider such requests when presented in writing with proper documentation.

##### (d) Damages for failure to perform.

(1) A vendor who fails to perform as required under a contract shall be liable for actual damages and costs incurred by the state.

(2) If any merchandise delivered under a contract has been used or consumed by an agency and on testing is found not to comply with specifications, no payment may be approved by the commission for such merchandise until the amount of actual damages incurred has been determined.

(3) A vendor who fails to pay damages assessed by the state may be removed from the Centralized Master Bidders List (CMBL) for not longer than one year. If complaints resume after the vendor is reinstated on the bidders list, the commission may bar the vendor from participating in state contracts pursuant to §113.102 of this title (relating to Vendor Performance and Debarment.) A vendor may not be awarded additional contracts until such damages have been paid or the matter has been otherwise resolved.

(4) The commission shall seek to collect damages by following the procedures established by the Office of the Attorney General for the collection of delinquent obligations.

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

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## 1 TAC §113.19

The Texas Building and Procurement Commission proposes amendments to Title 1, T.A.C., §113.19, concerning Qualification of Information Systems Vendors. The proposed amendments will update statutory citations (Texas Government Code, §§2157.062 through 2157.066) referenced in §113.19(d)(1) for requirements or criteria a vendor must meet in order to be designated as a Qualified Information Systems Vendors (QISV). Language has also been added to include the requirement found in Texas Government Code, §2157.066, that requires a vendor to make catalog information available on the worldwide web in order to be designated as a QISV.

Ms. Cindy Reed, Deputy Executive Director of Administration and Procurement, has determined for the first five year period the rules are in effect, there will be no fiscal implication for the state or local governments as a result of enforcing or administering the amended rule.

Ms. Cindy Reed, Deputy Executive Director of Administration and Procurement further determines that for each year of the first five-year period the amendments are in effect, the public benefit anticipated as a result of enforcing the rule will be language that is consistent with statutory requirements for designating QISV vendors found in Texas Government Code, §§2157.062 through 2157.066. There will be no effect on large, small or micro-businesses. There is no anticipated economic costs to persons who are required to comply with this rule, and there is no impact on local employment.

Comments on the proposals may be submitted to Juliet King, Legal Counsel, Texas Building and Procurement Commission, P.O. Box 13047, Austin, TX 78711-3047. Comments must be

received no later than thirty days from the date of publication of the proposal to the *Texas Register*.

The amendments to §113.19 are proposed under the authority of the Texas Government Code, Title 10, Subtitle D, §2152.003 and §§2157.062 through 2157.066 which provides the Texas Building and Procurement Commission with the authority to promulgate rules necessary to implement the sections.

The following code is affected by these rules: Government Code, Title 10, Subtitle D, §2152.003 and §§2157.062 through 2157.066.

### §113.19. Qualification of Information Systems Vendors

(a) Upon registration on the commission's Centralized Master Bidders List (CMBL), a vendor wishing to sell or lease automated information systems to governmental entities in accordance with this rule shall apply to the commission for designation as a qualified information systems vendor (QISV) by completing and submitting an application and catalogue URL (Universal Resource Locator, i.e. web site address).

(b) In this section a governmental entity is a state agency subject to the Information Resources Act (Texas Government Code, Title 10, Subtitle B, Chapter 2054) or a local government entity that participates in the Cooperative Purchasing Program under the Texas Local Government Code, Title 8, Subtitle C, Subchapter D.

(c) An application must include the following:

(1) a statement detailing the geographic area in Texas to which the vendor desires to market catalogue products and services;

(2) a statement acknowledging that any terms and conditions in the vendor's catalogue that conflict with the Constitution or laws of the State of Texas shall not be enforceable and, therefore, will not be binding.

(d) Upon receipt of a properly completed application, the director or the director's designee shall give consideration to the criteria set forth in the Texas Government Code, §§2157.062 through 2157.066. [the following standards and criteria when deciding to designate a vendor as a QISV:]

~~{(1) the criteria set forth in the Texas Government Code, §§2157.06 and 2157.065;}~~

~~{(2) the vendor's history of performance under Texas Government Code, §2155.077.}~~

(e) An application that is incomplete or that contains inaccurate information will not be approved, and the vendor will be notified of corrections needed.

(f) Each vendor's catalogue shall:

(1) Conform to requirements set forth in Texas Government Code, §2157.066 and any other requirements established by the commission.

(2) be maintained on a website in accordance with subsection (1) of this section and include indexing and keywords consistent with the commission's web catalogue guidelines. The vendor's catalogue maintained on the website and in compliance with this rule shall be the official version of the catalogue.

(g) A vendor designated as a QISV shall be notified of the designation by the commission. Once designated as a QISV, the vendor shall maintain a catalogue listing all products and services available for purchase and shall make the same available to qualified ordering entities upon request at no cost.

(h) The director shall promulgate guidelines for the revision process of a vendor's catalogue.

(i) Failure of a vendor to remain active on the CMBL, or failure to conform to any other commission rules may result in suspension or removal of QISV status. A vendor that has been suspended or removed may not market or sell products or services from its QISV catalogue to the state until the cause of the suspension or removal has been resolved.

(j) The vendor shall retain all records related to any business transaction under the catalogue purchase procedure for automated information systems for five years from the date of the purchase order. The records shall be provided upon request to the commission or the actual purchaser.

(k) Preference shall be given to QISV's who sell or lease products in Texas in accordance with provisions of the Texas Government Code, §2155.4441.

(l) The QISV vendor is encouraged to:

(1) use, produce, or provide products that contain recycled or remanufactured content, are environmentally sensitive, or possess energy saving features;

(2) identify recycled or remanufactured products and if possible, include the percentage of the total product that is recycled or remanufactured and/or the percentage of the total post-consumer recycled material content in its product literature or other representations; and

(3) use recycled/recyclable paper if printing a catalogue.

(m) The State of Texas is committed to assisting historically underutilized businesses (HUBs) to receive a portion of the total value of all contracts that an agency will award. If the vendor qualifies as a HUB, but is not certified by the State of Texas as such, the vendor should contact the commission to obtain a HUB certification application. Upon the request of a governmental entity, the vendor will be required to detail the amount of expenditures that have been made to material suppliers and subcontractors that are Texas certified HUBs. A vendor that has demonstrated past HUB participation is still expected to provide documentation using the reporting forms provided by a governmental entity to show its good faith effort in meeting or exceeding the state's procurement utilization goals identified in TBPC's[GSC's] HUB Rules (1 TAC §111.14).

(n) Once the process for utilizing URL's has been established and is operational, the TBPC [GSC] will create deadlines whereby all QISV's must provide and maintain their URL.

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

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## SUBCHAPTER F. VENDOR PERFORMANCE AND DEBARMENT PROGRAM

### 1 TAC §113.102

The Texas Building and Procurement Commission proposes amendment to Title 1, T.A.C., §113.102 concerning Vendor Performance and Debarment. The amendment updates statutory references and modifies an existing rule under the provisions of Texas Government Code §§2155.070 and 2155.077 to allow the administrative removal of a vendor's name from the commission's Centralized Master Bidders List. The amendment also provides the Director of the Procurement Division with the delegated authority to determine vendor debarment. Language has been added pursuant to the Texas Government Code, §2155.077, for "failure to pay assessed damages" as one of the factors that may result in a vendor debarment action. The amendment will also add clarifying language to more precisely state requirements contained in the existing rule.

Ms. Cindy Reed, Deputy Executive Director of Administration and Procurement, has determined for the first five year period the rules are in effect there will be no fiscal implication for the state or local governments as a result of implementing vendor debarment rules. An indirect, positive fiscal implication may be experienced because vendors with records of non-performance may be removed for the commission's bid list and barred from participating in state contracts for periods commensurate with the seriousness of the vendor's action and damage to the state's interests.

Ms. Cindy Reed, Deputy Executive Director of Administration and Procurement, further determines that for each year of the first five-year period the amendment is in effect, the public benefit anticipated as a result of the revision to the vendor performance and debarment rule will be compliance with the current statutory requirements of Texas Government Code, §§2155.070 and 2155.077. There will be no effect on large, small or micro-businesses. There is no anticipated economic costs to persons who are required to comply with this rule and there is no impact on local employment. Comments on the proposals may be submitted to Juliet King, Legal Counsel, Texas Building and Procurement Commission, P.O. Box 13047, Austin, TX 78711-3047. Comments must be received no later than thirty days from the date of publication of the proposal to the Texas Register.

The amendments to §113.102 are proposed under the authority of the Texas Government Code, Title 10, Subtitle D, §§2152.003, 2155.070 and 2155.077 which provides the Texas Building and Procurement Commission with the authority to promulgate rules necessary to implement the sections.

The following codes are affected by these rules: Texas Government Code, Title 10, Subtitle D, §§2152.003, 2155.070 and 2155.077.

#### *§113.102. Vendor Performance and Debarment.*

(a) The commission may debar a vendor for a period that is commensurate with the seriousness of the vendor's action and the damage to the state's interest and may administratively remove a vendor's name from the commission's Centralized Master Bidders List for the same period. If complaints resume after the vendor is reinstated on the bidders list, the Director of the Procurement Division[Central Procurement Services] will re-evaluate the vendor's current performance and make a determination of the vendor's standing at that time.

(b) The Director of the Procurement Division[Central Procurement Services] shall adopt a measurement system to evaluate a vendor's past performance as an indicator of a vendor's ability to perform under a state contract for purchases or other acquisitions under Government Code, Chapters 2155-2158:

(1) As a minimum, the number and severity of a vendor's performance problems in relation with volume of goods or services provided, the effectiveness of corrective actions taken by the vendor, and the age and relevance of past performance information at the time it is used shall be considered;

(2) Firms lacking relevant past performance history shall receive a neutral evaluation for past performance in state contracting except as provided for in subsection (d) of this section.

(c) The Director of the Procurement Division [~~Central Procurement Services~~] shall establish standard policies and procedures for vendor performance criteria used in the evaluation of delegated and non-delegated purchases. In the evaluation process for delegated purchases, agencies must accurately document the vendor performance criteria used in determining the successful bidder or offeror.

(d) The Director of the Procurement Division is delegated authority to determine vendor debarment.

(e) [(4)] When in the best interest of the State, a business entity or a successor-in-interest may be debarred for any of the following:

(1) A history of unsatisfactory performance of a contract, or a history of failure to perform contracted services.

(2) Stating an unwillingness to honor a binding bid.

(3) Knowingly and intentionally supplying false information in order to appear responsive to a solicitation, to obtain a contract, or to qualify for a bid preference.

(4) Knowingly and intentionally conferring or offering to confer any gift, gratuity, favor, or advantage, present or future, upon any employee of a state agency who exercises any official responsibility for an acquisition.

(5) Conviction of any felony charge of fraud, bribery, collusion, conspiracy, federal or state antitrust laws, or other criminal offense in connection with the bidding upon, award of, or performance of any contract for goods and services with any state agency.

(6) Violation of state ethic laws.

(7) Failure to comply with terms and conditions of existing contracts.

(8) Notice of debarment activities from other governmental entities.

(9) Any cause indicating that the individual or firm is not a responsible vendor.

(10) Failure to pay assessed damages.

(f) [(e)] A proposed debarment may include all known successors-in-interest of a business entity. Each proposed decision to debar a vendor and/or successors-in-interest shall be made on a case-by-case basis after consideration of relevant facts and circumstances. A proposal to debar a vendor shall be delivered in writing to the vendor, stating the reason therefore. Vendor shall be given 10 working days to respond. Debarment may [~~does~~] not relieve the vendor of responsibility for existing contractual obligations with the state. The commission shall establish procedures to ensure due process to vendors in the debarment process.

(1) Vendors subject to a proposed debarment may submit a written appeal to the Director of the Procurement Division [~~Central Procurement Services~~] within 10 days following notification of the proposed debarred status.

(2) No person who has a direct interest in the outcome of the appeal may communicate directly or indirectly upon the merits of

debarment with any commission employees without notice and approval of the Director of the Procurement Division [~~Central Procurement Services~~].

(g) [(f)] The commission and state agencies shall ensure that debarred vendors do not participate in state contracting. Any exclusion from state contracting due to debarment shall extend to all state contracting and subcontracting within the jurisdiction [~~supervision~~] of state agencies.

(h) [(g)] State agencies shall report poor or exceptional vendor [~~a vendor's~~] performance on any purchases of \$25,000 or more from contracts established [~~administered~~] by the commission and other purchases made through an agency's delegated authority in accordance with the procedure [~~policy~~] guidance contained in the Commission's Procurement Manual.

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

Filed with the Office of the Secretary of State on May 20, 2002.

TRD-200203080

Juliet King

Legal Counsel

Texas Building and Procurement Commission

Earliest possible date of adoption: June 30, 2002

For further information, please call: (512) 463-3960



## TITLE 10. COMMUNITY DEVELOPMENT

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

#### CHAPTER 1. ADMINISTRATION

#### SUBCHAPTER A. GENERAL POLICIES AND PROCEDURES

##### 10 TAC §1.11

The Texas Department of Housing and Community Affairs (TDHCA) proposes new §1.11 to establish procedures for filing an annual fair housing sponsor report with the Texas Department of Housing and Community Affairs and for sanctions. The new section is necessary to comply with Section 2306.0724 of the Texas Government Code, as added by Acts 2001, 77th Legislature, chapter 1367, section 4.02, effective September 1, 2001.

Edwina P. Carrington, Executive Director, 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 rule.

Ms. Carrington also has determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of enforcing the section will be to provide the public with current readily available information of TDHCA's annual housing activities. There will be no effect on persons, small businesses or micro-businesses. There are no anticipated economic costs to persons, small businesses or micro-businesses who are required to comply with the sections as proposed unless a violation of the sections occurs and penalties are assessed for such violation.

Comments may be submitted to Anne O. Paddock, Acting General Counsel, Texas Department of Housing and Community Affairs, P.O. Box 13941, Austin, Texas, 78711-3941 or by email at the following address: apaddock@tdhca.state.tx.us.

The new section is proposed under the Texas Government Code, Chapter 2306.

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

§1.11. Fair Housing Sponsor Report .

(a) Purpose. The purpose of this section is to establish procedures for filing the Fair Housing Sponsor report with the Texas Department of Housing and Community Affairs (the "Department"), pursuant to §2306.0724 of the Texas Government Code (the "Code").

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

(1) Fair Housing Sponsor Report--Data submitted to the Department by the owner of a housing development with 20 or more living units that contains relevant information pursuant to §2306.072(c)(6) of the Code including:

(A) the street address and municipality or county in which the property is located;

(B) the telephone number of the property management or leasing agent;

(C) the total number of units, reported by bedroom size;

(D) the total number of units, reported by bedroom size, designed for individuals who are physically challenged or who have special needs and the number of these individuals served annually;

(E) the rent for each type of rental unit, reported by bedroom size;

(F) the race or ethnic makeup of each project;

(G) the number of units occupied by individuals receiving government-supported housing assistance and the type of assistance received;

(H) the number of units occupied by individuals and families of extremely low income, very low income, low income, moderate income, and other levels of income;

(I) a statement as to whether the property has been notified of a violation of the fair housing law that has been filed with the United States Department of Housing and Urban Development, the Commission on Human Rights, or the United States Department of Justice; and

(J) a statement as to whether the development has any instances of material noncompliance with bond indentures or deed restrictions discovered through the normal monitoring activities and procedures that include meeting occupancy requirements or rent restrictions imposed by deed restriction or finance agreements.

(2) Department--The Texas Department of Housing and Community Affairs.

(3) Financial assistance--Multifamily and single family rental developments that receive financial assistance or administration from the Department including loans, grants, bonds or tax credits.

(4) Property--A housing development that received financial assistance from the Department.

(5) Reporting Year--The 12 month period in which the submission of the Fair Housing Sponsor Report is due.

(c) Procedures. The Department shall require the owner of each housing development that receives financial assistance and that contains 20 or more living units to submit an annual fair housing sponsor report in a department-approved format, available electronically on the Department's website at www.tdhca.state.tx.us, or by hard copy if electronic means are not available to an owner.

(1) Hard copies of the forms are available upon request by phone or mail.

(2) The Department shall maintain the reports in electronic and hard copy formats readily available to the public at no cost.

(3) The report shall use data collected for the previous year current as of and including December 31 of that year, and must be submitted to the Department no later than March 1 of the Reporting Year. The data must be postmarked on or before March 1, or the following business day if March 1st falls on a Sunday or legal holiday. The Department will compile and maintain a list of owners failing to report timely. The Department, not later than March 31st of each year, will mail a late or missing report notification to owners.

(d) Sanctions. In accordance with the provisions of §2306.0724 of the Code, the Executive Director of the Texas Department of Housing and Community Affairs may access and enforce penalties and sanctions against a person who fails to submit the Fair Housing Sponsor Report on or before March 1 of each year.

(1) Effective January 1, 2003, the Executive Director may:

(A) Issue to the person a written reprimand that specifies the violation;

(B) Assess an administrative penalty in an amount equal to \$1,000 for each violation in lieu of, or in addition to, any other sanction; and

(C) Deny future requests for departmental funding or other assistance.

(2) Denial of future requests for departmental funding may be assessed only for multiple, consistent and/or repeated violations of failure to submit the annual Fair Housing Sponsor Report by March 1 of each year. For first-time violations, the Department will issue a written reprimand.

(3) If, after investigation of a possible violation and the facts surrounding the possible violation, the Executive Director determines that a violation has occurred, the Executive Director shall issue a written notice or reprimand of violations not later than the 14th day after the date on which the notice of late or missing report was issued to owner. A written notice or reprimand of violations shall specify in detail the late or missing report and shall include any of the following:

(A) recommendation that the owner charged be barred from any future requests for departmental funding and assistance;

(B) recommendation that an administrative penalty under this section be imposed on the owner charged and indication of the penalty amount; or

(C) recommendation that no penalty be assessed if this is the owner's first violation.

(4) Not later than the 20th day after the date on which the notice or reprimand is received, the owner charged may accept the determination of the Executive Director made under this subsection, including the recommended penalty, or make a written request for a hearing on the determination.



(5) If the owner charged with the violation accepts the determination of the Executive Director, the Executive Director shall issue an order approving the determination and ordering that the owner pay the recommended penalty.

(6) If the owner charged requests a hearing, the Executive Director shall set a hearing and give written notice of the hearing to the owner. The respondent in an administrative hearing shall be entitled to due process and a hearing under the provisions of Code, Chapter 2001 and Chapter 2306. The respondent and the director may enter into a compromise settlement agreement in any contested matter prior to signing of the final order.

(7) Not later than the 30th day after the date on which the order was issued and/or the decision is final, the owner charged shall:

(A) pay the penalty in full; or

(B) file a petition for judicial review contesting the fact of the violation.

(8) If the owner charged does not pay the penalty and does not pursue judicial review, the Executive Director or the attorney general may bring an action for the collection of the penalty.

(9) An owner that has been denied departmental funding or other assistance for failure to submit the fair housing sponsor report timely may be removed from the denial list after reporting timely for at least two consecutive Reporting Years.

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

Filed with the Office of the Secretary of State on May 20, 2002.

TRD-200203091

Edwina Carrington

Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: June 30, 2002

For further information, please call: (512) 475-3726



## **TITLE 22. EXAMINING BOARDS**

### **PART 3. TEXAS BOARD OF CHIROPRACTIC EXAMINERS**

#### **CHAPTER 80. PROFESSIONAL CONDUCT**

##### **22 TAC §80.3**

The Texas Board of Chiropractic Examiners proposes to amend §80.3(c), relating to requests for information and records from licensees. Section 80.3(c) currently tracks the Chiropractic Act, Occupations Code §201.405(f), requiring a licensee to provide records and information to a patient within "a reasonable time." No statutory definition of "a reasonable time" is provided. The proposed amendment defines "reasonable time" to mean no later than 15 business days after the date of receipt of the request for records. The board regularly receives telephone complaints about licensees who fail to provide records to patients within a reasonable time period. Some complaints involves requests that were not answered for several weeks. The Board of Medical Examiners' rule, 22 TAC §165.2(b), requires a response within 15 business days. The board believes this is

an appropriate maximum time period in which a licensee should respond to requests for records.

Dr. Sergio François, D.C., Chair, Rules Committee, has determined that for the first five-year period the section as amended is in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the section as amended.

Dr. François has also determined that for each year of the first five years, the section as amended is in effect, the public benefit anticipated as a result of enforcing and administering the proposed amendment, will be that licensees will provide records on a more prompt basis. The rule is intended to provide guidance to licensees and patients as to the time in which a licensee has to respond to record and information requests. For the same period, there is no anticipated adverse economic effect on small or micro businesses, or anticipated economic cost to persons who are required to comply with the amendment as proposed.

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

The amendment is proposed under the Occupations Code §201.152, 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 Chiropractic Act.

The following are the statutes, articles, or codes affected by the amendment: §80.3(c)--Occupations Code, §201.152.

§80.3. *Request for Information and Records from Licensees.*

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

(c) Reasonable time. A copy of chiropractic records or a summary or narrative of the records requested under subsection (a) of this section shall be furnished by the licensee within a reasonable time, not to exceed 15 business days from [after] the date of the request.

(d) - (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 May 16, 2002.

TRD-200203036

Gary K. Cain, Ed.D.

Executive Director

Texas Board of Chiropractic Examiners

Earliest possible date of adoption: June 30, 2002

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



## **PART 22. TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY**

### **CHAPTER 501. RULES OF PROFESSIONAL CONDUCT**

#### **SUBCHAPTER C. RESPONSIBILITIES TO CLIENTS**

##### **22 TAC §501.77**

The Texas State Board of Public Accountancy (Board) proposes an amendment to §501.77, concerning Acting through Others.

The amendment to §501.77 will attach liability for a CPA firm's non-CPA owners' conduct to the CPA firm.

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment will be in effect:

A. the additional estimated cost to the state expected as a result of enforcing or administering the amendment will be zero because the conduct of non-CPA owners will be treated no differently than the conduct of CPA owners under the rule.

B. the estimated reduction in costs to the state and to local governments as a result of enforcing or administering the amendment will be zero because the conduct of non-CPA owners will be treated no differently than the conduct of CPA owners under the rule.

C. the estimated loss or increase in revenue to the state as a result of enforcing or administering the amendment will be zero because the conduct of non-CPA owners will be treated no differently than the conduct of CPA owners under the rule.

Mr. Treacy has determined that for the first five-year period the amendment is in effect the public benefits expected as a result of adoption of the proposed amendment will be continued accountability of CPA firms even when inappropriate conduct is committed by non-CPA owners of CPA firms.

The probable economic cost to persons required to comply with the amendment will be zero because the conduct of non-CPA owners will be treated no differently than the conduct of CPA owners under the rule.

Mr. Treacy has determined that a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

The Board requests comments on the substance and effect of the proposed amendment from any interested person. Comments must be received at the Board no later than noon on June 28, 2002. Comments should be addressed to Amanda G. Birrell, General Counsel, Texas State Board of Public Accountancy, 333 Guadalupe, Tower III, Suite 900, Austin, Texas 78701 or faxed to her attention at (512) 305-7854.

Mr. Treacy has determined that the proposed amendment will not have an adverse economic effect on small businesses because the conduct of non-CPA owners will be treated no differently than the conduct of CPA owners under the rule.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small business; if the amendment is believed to have such an effect, then how may the Board legally and feasibly reduce that effect considering the purpose of the statute under which the amendment is to be adopted; and if the amendment is believed to have such an effect, how the cost of compliance for a small business compares with the cost of compliance for the largest business affected by the amendment under any of the following standards: (a) cost per employee; (b) cost for each hour of labor; or (c) cost for each \$100 of sales. See Texas Government Code, §2006.002(c).

The amendment is proposed under the Public Accountancy Act, Tex. Occupations Code, Sections 901.151 (Vernon 2001) which

authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act and 901.354 which authorizes non-CPA ownership of CPA firms.

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

§501.77. *Acting through Others.*

(a) A certificate or registration holder shall not permit others to carry out on his behalf, either with or without compensation, acts, which, if carried out by the certificate or registration holder, would place him in violation of these rules of professional conduct.

(b) The board shall consider that the conduct of any non-CPA owner or employee in connection with the business of a licensed firm is the conduct of that licensed firm for the purposes of the rules of professional conduct.

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

Filed with the Office of the Secretary of State on May 17, 2002.

TRD-200203062

Amanda G. Birrell

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: June 30, 2002

For further information, please call: (512) 305-7848



## CHAPTER 505. THE BOARD

### 22 TAC §505.10

The Texas State Board of Public Accountancy (Board) proposes an amendment to §505.10, concerning Board Committees.

The amendment to §505.10 will permit the Board to increase the efficiency and effectiveness of its investigatory capabilities by utilizing volunteer CPA investigators.

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment will be in effect:

A. the additional estimated cost to the state expected as a result of enforcing or administering the amendment will be minimal (under \$100.00 per year) because any increase from telephone calls and postage will be offset by the increased efficiency and effectiveness of investigations.

B. the estimated reduction in costs to the state and to local governments as a result of enforcing or administering the amendment will be zero as to local governments because they are not affected by the Amendment. The estimated reduction to state government costs will be minimal (under \$100.00 per year) because any increase from telephone calls and postage will be offset by the increased efficiency and effectiveness of investigations.

C. the estimated increase in revenue to the state as a result of enforcing or administering the amendment will be minimal (under \$100.00 per year) depending on the additional penalties collected by the Board as a result of the CPA volunteer investigator's efforts.

Mr. Treacy has determined that for the first five-year period the amendment is in effect the public benefits expected as a result

of adoption of the proposed amendment will be an increase in the Board's enforcement efficiency and effectiveness.

The probable economic cost to persons required to comply with the amendment will be zero because the rule serves to increase the Board's enforcement efficiency and effectiveness in enforcing rules of conduct that are already in place.

Mr. Treacy has determined that a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

The Board requests comments on the substance and effect of the proposed amendment from any interested person. Comments must be received at the Board no later than noon on June 28, 2002. Comments should be addressed to Amanda G. Birrell, General Counsel, Texas State Board of Public Accountancy, 333 Guadalupe, Tower III, Suite 900, Austin, Texas 78701 or faxed to her attention at (512) 305-7854.

Mr. Treacy has determined that the proposed amendment will not have an adverse economic effect on small businesses because the rule serves to increase the Board's enforcement efficiency and effectiveness.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small business; if the amendment is believed to have such an effect, then how may the Board legally and feasibly reduce that effect considering the purpose of the statute under which the amendment is to be adopted; and if the amendment is believed to have such an effect, how the cost of compliance for a small business compares with the cost of compliance for the largest business affected by the amendment under any of the following standards: (a) cost per employee; (b) cost for each hour of labor; or (c) cost for each \$100 of sales. See Texas Government Code, §2006.002(c).

The amendment is proposed under the Public Accountancy Act, Tex. Occupations Code, Sections 901.151 (Vernon 2001) which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act and 901.162(c) which authorizes the Board to use constructive enforcement volunteers.

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

*§505.10. Board Committees.*

(a) Committee appointments. Appointments to standing committees and ad hoc committees shall be considered annually by the board's presiding officer to assist in carrying out the functions of the board under the provisions of the Public Accountancy Act. Committee appointments shall be made by the presiding officer for a term of two years but may be terminated at any point by the presiding officer. Committee members may be re-appointed at the discretion of the presiding officer. The board's presiding officer shall be an ex officio member of each standing committee and ad hoc committee and chairman of the executive committee.

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

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

(d) Vacancies. If for any reason a vacancy occurs on a committee, the board's presiding officer may appoint a replacement in accordance with subsection (a) of this section.

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

(1) The executive committee shall be comprised of the board's presiding officer, assistant presiding officer, secretary, treasurer, immediate past presiding officer of the board if still serving on the board, and at least one other officer elected by the board. The executive committee may act on behalf of the full board in matters of urgency, or when a meeting of the full board is not feasible; the executive committee's actions are subject to full board ratification at its next regularly scheduled meeting. The functions of the executive committee shall be to advise, consult with, and make recommendations to the board concerning matters requested by the board's presiding officer, including:

- (A) litigation;
- (B) proposed changes in the board rules of professional conduct (the rules);
- (C) amendments to the Act;
- (D) responses/positions relating to papers, reports, and other submissions from national associations or boards; and
- (E) special issues.

(2) The continuing professional education committee shall be comprised of at least two board members, one of whom shall serve as chairman, assisted by at least two non-board members who shall serve in an advisory capacity. The committee shall make recommendations to the board regarding:

(A) the mandatory continuing professional education program as it relates to reporting and attendance requirements, registration and monitoring of continuing professional education sponsors, disciplinary actions, reporting forms, and office procedures;

(B) proposed changes in board rules, opinions, and policies related to the mandatory continuing professional education program as it relates to licensees and to relations with sponsors of continuing professional education;

(C) investigations of sponsor compliance with the terms of the sponsor agreements, including the related recordkeeping requirements;

(D) the results of monitoring continuing professional education courses for the purpose of evaluating the facilities, course content as presented, and the adequacy of the course presenter(s); and

(E) any significant deficiencies observed in carrying out subparagraphs (C) and (D) of this paragraph.

(3) The qualifications committee shall be comprised of at least two board members, one of whom shall serve as chairman. The committee shall make recommendations to the board regarding:

(A) the educational qualifications of an applicant for the Uniform Certified Public Accountant Examination in accordance with §§511.51 through 511.59 of this title (relating to Educational Requirements);

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

(C) the work experience qualifications of an applicant for the certified public accountant certificate in accordance with §§511.121 through 511.124 of this title (relating to Experience Requirements); and/or

(D) where applicable, the equivalency examination measuring the professional competency of an applicant for a CPA certificate by reciprocity; and

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

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

(A) applications for certification, registration, and licensure;

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

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

(5) The behavioral enforcement committee shall be comprised of at least two board members, one of whom shall serve as chairman, assisted by at least two non-board members who shall serve in an advisory capacity. The committee shall:

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

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

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

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

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

(6) The technical standards review committee shall be comprised of at least two board members, one of whom shall serve as chairman, and at least three non-board members with recognized experience in industry, government, and education. The committee shall:

(A) study complaints from any source involving suspected violations of the technical standards included in the rules and shall make recommendations to the board as appropriate; and

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

(7) The peer [quality] review committee shall be comprised of at least two board members, one of whom shall serve as chairman, assisted by any number of non-board members who shall serve in an advisory capacity. The committee shall:

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

(B) refer to the technical standards review committee egregious substandard reports issued by practice units for which educational rehabilitation has not been effective; and

(C) make recommendations to the board with regard to proposed changes in board rules, opinions, and policies relating to the quality review program.

(8) The board rules committee shall be comprised of at least two board members, one of whom shall serve as chairman, assisted by any number of non-board members who shall serve in an advisory capacity. The committee shall make recommendations to the board and propose changes regarding board rules. All committees shall endeavor to consult with the board rules committee concerning proposed rules.

(9) The regulatory compliance committee shall be comprised of at least two board members, one of whom shall serve as chairman, assisted by any number of non-board members who shall serve in an advisory capacity. The committee shall make recommendations to the board regarding legislative oversight, including, but not limited to, budget, performance measures, proposed changes in legislation affecting the board, and computer utilization.

(10) The major case enforcement committee shall be comprised of at least two board members, one of whom shall serve as chairman. At least one committee member shall be a public member of the board. The committee shall make recommendations to the board regarding legal matters on litigation or potential litigation, and other major cases to which the board is a party. The committee shall have the authority to act on behalf of the board in instances where disclosure of facts to the full board could cause the board's objectivity to be jeopardized, subject to final approval by the board. The board shall have sole authority to determine whether cases shall be heard by the major case enforcement committee or other enforcement committee.

(11) The peer assistance oversight committee shall be comprised of at least two board members, one of whom shall serve as chairman. The committee shall oversee the peer assistance program administered by the Texas Society of Certified Public Accountants as required under the Texas Health and Safety Code, Chapter 467.001(B), and insure that the minimum criteria as set out by the Texas Commission on Alcohol and Drug Abuse are met. It shall make recommendations to the board and the TSCPA regarding modifications to the program and, if warranted, refer cases to other board committees for consideration of disciplinary or remedial action by the board. The committee shall report to the board on a quarterly basis, by case number, on the status of the program.

(12) The constructive enforcement committee shall be comprised of two board members, one of whom shall serve as chairman, assisted by non-board CPA members who shall also serve as investigators. The committee shall approve the constructive enforcement program, coordinate its activities with board committees and staff, and supervise the training of committee members. A staff attorney of the board shall supervise the day to day administration of the constructive enforcement program and activities of the committee's non-board members on behalf of the committee chairman. The committee shall:

(A) investigate matters forwarded to the committee from any other board committee or board staff in accordance with board instruction and policy;

(B) prepare, as appropriate, investigative reports regarding each referred matter;

(C) inform referring board committees or board staff of the results of its investigations;

(D) inform the appropriate committee when possible violations of board rules and the Public Accountancy Act are observed; and

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

(f) Ad hoc advisory committees. Ad hoc advisory committees may be established by the board's presiding officer and members and advisory members appointed as appropriate.

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

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

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

Filed with the Office of the Secretary of State on May 17, 2002.

TRD-200203063

Amanda G. Birrell

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: June 30, 2002

For further information, please call: (512) 305-7848



## **TITLE 31. NATURAL RESOURCES AND CONSERVATION**

### **PART 10. TEXAS WATER DEVELOPMENT BOARD**

#### **CHAPTER 355. RESEARCH AND PLANNING FUND**

##### **SUBCHAPTER A. GENERAL RESEARCH AND PLANNING**

###### **31 TAC §355.5, §355.10**

The Texas Water Development Board (the board) proposes amendments to 31 TAC §355.5 and §355.10 concerning the repayment of grants from the Research and Planning Fund. The proposed amendments are designed to require recipients of facility planning grants to repay all or part of the grants if projects are not constructed within a specified time period after the facility planning study is complete. This requirement is added to provide greater assurance that the limited funds available for planning grants are awarded to applicants which are most serious about going forward with a project.

Proposed §355.5(4)(H) requires the board's executive administrator to evaluate applications for regional facility planning grants by considering the ability of a recipient of funds to repay the assistance if construction of a project is not commenced within the time specified by rule. This will assure that if a grant recipient is

required to repay a grant, it has the legal and financial capability to do so.

Proposed §355.10(f) allows the board to condition grants for regional facility planning to require that recipients agree to repay the grant to the board if construction of a project described by the planning grant is not timely commenced. If construction is not commenced within two years of the time the executive administrator notifies the grant recipient that the agency has closed the account for the grant, the loan recipient shall repay 25 percent of the grant. For each additional year that a project has not commenced construction, the grant recipient shall repay an additional 25 percent, up to repayment of 100 percent of the grant. The subsection also requires the execution of any necessary documents to assure that the grant recipient is required to make the required grant repayment. The board proposes these amendments to ensure that it focuses its limited facility planning funds on those entities that are most likely to move projects from planning to construction. The board has found that only approximately one-third of the projects for which it provides regional facility planning funds actually move into construction. The board believes that only applicants with clear intent to proceed with projects will accept grant funds with the requirement that they be repaid if the project does not commence.

Proposed §355.10(g) would provide for the entity to make the payment to the board no later than within the entity's first fiscal year following the date on which each repayment obligation is triggered. This will allow the entities to provide for the repayment in its next budget cycle, either from current revenues or through the establishment of a sinking fund and levy of taxes, if needed.

Proposed §355.10(h) establishes that construction of a project is considered to have begun when either an entity closes a debt issuance that will fund a project that the executive administrator verifies is substantially the same as the project recommended in the regional facility planning grant report, or the effective date of a contract for the construction of a project the executive administrator verifies is substantially the same as the project recommended in the regional facility planning grant report, if the project costs are not funded by a debt issuance. This provision will establish a definite time to determine when construction begins. Use of debt issuance or effective date of a construction contract will assure that an entity is bound to begin the construction.

Ms. Melanie Callahan, Director of Fiscal Services, 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. This is based on the assumption of an average 24-month completion of facility planning studies, the first of which would begin in November, 2002. No repayments would be due to the board under the proposed rules until more than five-years after the rule has been in effect. However, shortly thereafter, some political subdivisions might be required to begin making repayments in an undetermined amount to the board.

Ms. Callahan 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 ensuring that limited funds available for regional facility planning grants will be directed toward projects that are most likely to move to construction. Ms. Callahan 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, General Counsel, Texas Water Development Board, P.O. Box 13231, Austin, Texas, 78711-3231, by e-mail to [suzanne.schwartz@twdb.state.tx.us](mailto:suzanne.schwartz@twdb.state.tx.us) or by fax @ 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 Water Code and other laws of the State.

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

§355.5. *Criteria.*

Applications will be evaluated by the executive administrator, considering, at a minimum, the following criteria:

(1) Research project evaluation criteria for unsolicited applications:

- (A) relationship of project to current needs for water resource research;
- (B) description of the proposed research project;
- (C) approach to organizing and managing the research project;
- (D) detailed estimate of the cost of the proposed research project;
- (E) estimated time required to complete the research project;
- (F) ability to perform the research and complete the project;
- (G) potential economic impact; and
- (H) environmental enhancement and conservation impact.

(2) Research project evaluation criteria for solicited applications:

- (A) description of the proposed research project;
- (B) responsiveness of the application to the request for proposals for requests for qualifications;
- (C) approach to organizing and managing the research project;
- (D) detailed estimate of the cost of the proposed research project;
- (E) estimated time required to complete the research project; and
- (F) ability to perform the research and complete the project.

(3) Flood control planning project criteria:

- (A) degree to which proposed planning duplicates previous or ongoing flood plans;
- (B) project service area is regional versus local;
- (C) history of flooding in project area;
- (D) participation in National Flood Insurance Program;
- (E) project organization and budget; and

(F) scope and potential benefits of project.

(4) Regional facility planning project criteria:

- (A) degree to which proposed planning duplicates previous or ongoing plans;
- (B) regional nature of project;
- (C) conformance to certified water quality management plans;
- (D) adequacy of water conservation plan and commitment to water conservation;
- (E) project organization and budget;
- (F) scope and potential benefits of project; ~~and~~
- (G) the degree to which the regional facility planning is consistent with an approved regional water plan for the area in which the political subdivision is located; ~~and~~[-]

(H) ability of a recipient of funds to repay the assistance if a project is not constructed according to §355.10(f) of this title (relating to Funding Limitations).

§355.10. *Funding Limitations.*

(a) Grants for regional facility planning and flood control planning shall be limited to 50% of the total cost of the project, except that the board may supply up to 75% of the total cost to political subdivisions which have unemployment rates exceeding the state average by 50% or more, and which have per capita income which is 65% or less of the state average for the last reporting period available.

(b) In-kind services may be substituted for any part of the local share, if such services are directly in support of the planning effort, are properly documented, and approved in advance by the board.

(c) Up to 100% of the cost of research projects may be provided by the board.

(d) Funds will be released only as reimbursement of costs actually incurred for approved activities.

(e) Grants in excess of 75% for regional facility planning or flood control planning will be provided if authorized by specific legislation or legislative appropriation language.

(f) The board may condition grants for regional facility planning to require that the recipients agree in the contract for assistance, and by the execution of any other documents necessary to secure such agreement, to pay back to the board the following specified percentages of the grant if construction on a project described by the regional facility planning grant is not begun within the following specified times:

(1) if construction is not begun within two years of the time the executive administrator notifies the grant recipient that the agency has closed the account for the grant, the recipient shall repay to the board 25% of the amount of the grant;

(2) if construction is not begun within three years of the time the executive administrator notifies the grant recipient that the agency has closed the account for the grant, the recipient shall repay to the board an additional 25% of the amount of the grant;

(3) if construction is not begun within four years of the time the executive administrator notifies the grant recipient that the agency has closed the account for the grant, the recipient shall repay to the board an additional 25% of the amount of the grant; and

(4) if construction is not begun within five years of the time the executive administrator notifies the grant recipient that the agency

has closed the account for the grant, the recipient shall repay to the board an additional 25% of the amount of the grant.

(g) Repayment under subsection (f) of this section shall occur no later than within the entity's first fiscal year following the date on which each repayment obligation is triggered.

(h) For the purposes of subsection (f) of this section, construction will be considered to have begun when:

(1) an entity closes a debt issuance that will fund a project that the executive administrator verifies is substantially the same as the project recommended in the regional facility planning grant report; or

(2) the effective date of a contract for the construction of a project the executive administrator verifies is substantially the same as the project recommended in the regional facility planning grant report, if the project costs are not funded by a debt issuance.

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

Filed with the Office of the Secretary of State on May 15, 2002.

TRD-200203032

Suzanne Schwartz

General Counsel

Texas Water Development Board

Proposed date of adoption: July 17, 2002

For further information, please call: (512) 936-2246



## CHAPTER 367. AGRICULTURAL WATER CONSERVATION PROGRAM

### SUBCHAPTER C. GRANTS TO STATE AGENCIES

#### 31 TAC §§367.71 - 367.77

The Texas Water Development Board (the board) proposes new sections §§367.71 - 367.77, concerning Grants to State Agencies under the Agricultural Water Conservation Program. The new sections will comprise new Subchapter C, Grants to State Agencies. The new sections reflect recently enacted amendments to the Texas Water Code. The new sections allow the board to make grants to a state agency for the funding of any agricultural water conservation program of that agency, including a program in which the state agency provides funding to a political subdivision or a person for agricultural water conservation, as provided by legislative appropriation.

New §367.71 and §367.72 are proposed to define the board's policy relating to new Subchapter C, which is to further agricultural water conservation in order to conserve the state's water resources and provide resulting benefits to all of the state's citizens, and to define necessary terms.

Proposed new §367.73, Purpose, provides that the board may use money in the fund to make grants to a state agency for the funding of any agricultural water conservation program of that agency as provided by legislative appropriation.

New §367.74, Applications, is proposed to identify specific information required to be submitted by applicants in order to have a complete application.

Proposed new §367.75, Approval of Grant Applications, provides that the board shall only consider grant applications if legislative appropriations have been provided.

New §367.76, Grant Agreement, is proposed to specify that the terms and conditions of grant distributions will be determined by agreements between the board and state agencies receiving grants.

Proposed new §367.77, Annual Report to Board by Executive Administrator, provides that the executive administrator will make an annual report to the board following any fiscal year in which the board had funds available for the purposes of this title.

Ms. Melanie Callahan, Director of Fiscal Services, has determined that for the first five-year period these sections are in effect there will not be fiscal implications on state and local government as a result of enforcement and administration of the sections.

Ms. Callahan 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 establish a method to provide grant funds to state agencies as for which legislative appropriations are provided. Ms. Callahan has determined there will not be economic costs to small businesses or individuals required to comply with the sections as proposed.

Comments on the proposed new sections will be accepted for 30 days following publication and may be submitted to Michael Wied, Attorney, Administration and Northern Legal Services, Texas Water Development Board, P.O. Box 13231, Austin, Texas, 78711-3231, by e-mail to michael.wied@twdb.state.tx.us or by fax @ 512/463-5580.

The new sections are 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 Texas Water Code and other laws of the State, and §17.903 which requires the board to adopt rules necessary to carry out the provisions of Subchapter J, Chapter 17.

The statutory provisions affected by the proposed new sections are Texas Water Code Chapter 17.903.

The following sections are promulgated under the authority of the Texas Water Code, §§6.101, 17.894 and 17.903.

#### §367.71. Policy Statement.

It is the policy of the board to further agricultural water conservation in order to conserve the state's water resources and provide resulting benefits to all of the state's citizens.

#### §367.72. Definitions.

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

(1) Board--The Texas Water Development Board.

(2) Executive administrator--The executive administrator of the Texas Water Development Board or the executive administrator's designated representative.

(3) State agency--An agency that is identified by specific legislative appropriation.

#### §367.73. Purpose.

The board may use money in the fund to make grants to a state agency for the funding of any agricultural water conservation program of that

agency, including a program in which the state agency provides funding to a political subdivision or a person for agricultural water conservation, as provided by legislative appropriation.

§367.74. Applications.

An applicant shall submit an application in the form and numbers prescribed by the executive administrator. The application shall reference the specific legislative appropriation authorizing funding as well as the applicant's legal authority to accept and administer the requested funds. The executive administrator may request additional information needed to evaluate the application and may return any incomplete application.

§367.75. Approval of Grant Applications.

The board shall consider a grant application according to the provisions of the specific legislative appropriation.

§367.76. Grant Agreement.

The executive administrator or his designated representative may enter into agreements with applicants under this section for the purpose of setting forth the terms and condition of the grant.

§367.77. Annual Report to Board by Executive Administrator.

Following any fiscal year in which the board had funds available for the purpose of §367.73 of this title (relating to Purpose), the executive administrator shall provide a report to the board on the preceding fiscal year activities under the grant 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 May 17, 2002.

TRD-200203060

Suzanne Schwartz

General Counsel

Texas Water Development Board

Proposed date of adoption: July 17, 2002

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



## TITLE 34. PUBLIC FINANCE

### PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

#### CHAPTER 3. TAX ADMINISTRATION SUBCHAPTER O. STATE SALES AND USE TAX

##### 34 TAC §3.300

The Comptroller of Public Accounts proposes an amendment to §3.300, concerning manufacturing; custom manufacturing; fabricating; processing. The amendment incorporates legislative changes made to Tax Code, §151.3181, by Senate Bill 1125, 77th Legislature, 2001. These changes provide manufacturers with a new method of calculating tax on divergent use of manufacturing equipment that occurs on or after October 1, 2001. The new method is based on a formula that computes a divergent use percentage using either output or hours. The amendment of subsection (d)(4) clarifies the types of power, supply, support, and control equipment that qualify for exemption.

James LeBas, Chief Revenue Estimator, has determined that for the first five-year period the rule will be in effect, there will be no significant fiscal impact on the state or units of local government.

Mr. LeBas also has determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be in providing taxpayers with additional information regarding their tax responsibilities. This rule 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 rule.

Comments on the proposal may be submitted to Bryant K. Lomax, Manager, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711.

This amendment is proposed under 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 Tax Code, Title 2.

The amendment implements Tax Code, §151.3181.

§3.300. *Manufacturing; Custom Manufacturing; Fabricating; Processing.*

- (a) (No change.)
- (b) Manufacturer's responsibilities.

(1) Collection of tax. Persons who are engaged in the business of fabricating, manufacturing, processing, or custom manufacturing must collect sales tax on the total sales price of the manufactured item or accept a resale or exemption certificate in lieu of the tax. The sales price includes the cost of materials, labor or service costs, and all expenses that are connected with production. Persons who fabricate, custom manufacture, or process tangible personal property that the customer furnishes, either directly or indirectly, must collect tax on such fabricating, custom manufacturing, or processing charge. Manufacturers shall pay or accrue sales or use tax on all items used in the manufacturing process that do not qualify for exemption from tax. A manufacturer who purchases tangible personal property tax free by means of an exemption certificate or resale certificate and subsequently uses the item for a nonexempt purpose is responsible for tax as provided in subsection (k) of this section. [must remit the tax to the comptroller based on the purchase price of the item or the fair market rental value of the equipment for the period of time during which the equipment is used for purposes other than manufacturing. Reference should be made to §3.285 of this title (relating to Resale Certificate; Sales for Resale), §3.287 of this title (relating to Exemption Certificates), and §3.346 of this title (relating to Use Tax).]

(2) - (4) (No change.)

(c) (No change.)

(d) The following items are exempted from the taxes imposed by Tax Code, Chapter 151, if purchased, leased, or rented by a manufacturer for storage, use, or consumption:

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

(4) actuators, steam production equipment (including water purification equipment such as demineralizers and reverse osmosis units) and its fuel, in-process flow through tanks, cooling towers, generators, heat exchangers, transformers and the switches, breakers, capacitor banks, regulators, relays, reclosers, fuses, interruptors, reactors, arrestors, resistors, insulators, instrument transformers, and telemetry units that are related to the transformers, electronic control room equipment, computerized control units, pumps, compressors, hydraulic



units, boilers (including economizers, superheaters, waterwalls, hoppers, feedwater heaters, condensers, pumps, air preheaters, draft fans, pulverizers, primary crushers, secondary crushers, oil or gas burning equipment that is related to the boilers), and related accessories that are used to power, supply, support, or control equipment that qualifies for exemption under paragraph (2) or (6) of this subsection or to generate electricity, chilled water, or steam for ultimate sale;

(5) - (18) (No change.)

(e) - (j) (No change.)

(k) Divergent use.

(1) A manufacturer who issues a resale certificate to purchase tangible personal property tax free and subsequently uses the item for a nonexempt purpose must remit the tax to the comptroller based on the purchase price of the item or the fair market rental value of the item. See §3.285 of this title (relating to Resale Certificate; Sales for Resale) and §3.346 of this title (relating to Use Tax).

(2) A manufacturer who issues an exemption certificate to purchase tangible personal property tax free and subsequently uses the item for a nonexempt purpose is responsible for tax based on the divergent use. For divergent use that occurs prior to October 1, 2001, a manufacturer owes tax based on the purchase price or the fair market rental value of the equipment. See §3.287(e) of this title (relating to Exemption Certificates). For divergent use that occurs after September 30, 2001, a manufacturer owes tax based on the guidelines that are provided in paragraph (3) of this subsection.

(3) A manufacturer must remit tax in the following manner on divergent use that occurs after September 30, 2001.

(A) No tax is due if the divergent use occurs in any month after the fourth anniversary of the equipment purchase date. Equipment that is purchased before October 1, 1997, is not subject to tax on divergent use that occurs after October 1, 2001.

(B) Except as provided by subparagraph (C) of this paragraph, a manufacturer owes tax on an item if the divergent use occurs in the month of, or during any month before, the fourth anniversary of the date of purchase. The amount of the tax that is due for the month in which the divergent use occurs is equal to 1/48 of the purchase price multiplied by the percentage of divergent use during that month multiplied by the applicable tax rate when the divergent use occurs.

(i) The 48-month period that is used in calculating divergent use begins when the equipment is purchased.

(ii) The amount of divergent use for a month can be measured either in hours or by applicable output as follows:

(I) the divergent use percentage for a month is computed by taking the total divergent use hours of operation of the equipment in a month and dividing that amount by the total hours of operation of the equipment during the same month; or

(II) the divergent use percentage for a month is computed by taking the total output of the equipment during the period of divergent use in a month and dividing that amount by the total output of that equipment during the same month.

(C) A manufacturer who uses equipment in a divergent manner in the month of, or during any month before, the fourth anniversary of the date of purchase owes no tax on that use if the divergent use percentage in that month is 5.0% or less.

(D) A manufacturer who purchases non-capitalized equipment repair parts or consumables for equipment that is routinely

used in both exempt and nonexempt manners may elect to pay tax on the repair parts or consumables by applying the divergent use percentage of the equipment as provided by paragraph (2)(B) of this subsection for the month during which the manufacturer purchased the repair parts or consumable items.

(E) A manufacturer who purchases repair labor for equipment may owe tax if the manufacturer uses the qualifying exempt equipment for both exempt and nonexempt purposes. If the manufacturer was using qualifying equipment in an exempt manner at the time when the repair was needed, then no tax is due on the repair. If the manufacturer was using the qualifying equipment in a nonexempt manner when the repair was needed, then tax is due on the purchase price of the repair. If a manufacturer cannot determine whether the equipment was being used in an exempt or nonexempt manner at the time of the repair, then the manufacturer may pay tax on the purchase price of the repair multiplied by the divergent use percentage as provided by paragraph (2)(B) of this subsection for the month in which the purchase of the repair service was made.

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

Filed with the Office of the Secretary of State on May 16, 2002.

TRD-200203047

Martin Cherry

Deputy General Counsel for Taxation

Comptroller of Public Accounts

Earliest possible date of adoption: June 30, 2002

For further information, please call: (512) 475-0387



### 34 TAC §3.327

The Comptroller of Public Accounts proposes an amendment to §3.327, concerning taxpayer's bond or other security. Senate Bill 1123, 77th Legislature, 2001, increases the maximum amount of security that the comptroller can impose on retailers. The proposed amendment incorporates this legislative change in subsections (b) and (c). Other changes are proposed to reflect current policy and to provide clarity.

James LeBas, Chief Revenue Estimator, has determined that for the first five-year period the rule will be in effect, there will be no significant fiscal impact on the state or units of local government.

Mr. LeBas also has determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be in providing taxpayers with additional information regarding their tax responsibilities. This rule 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 rule.

Comments on the proposal may be submitted to Bryant K. Lomax, Manager, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711.

This amendment is proposed under 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 Tax Code, Title 2.

The amendment implements Tax Code, §151.253.

§3.327. *Taxpayer's Bond or Other Security.*

(a) ~~Each [Who must post bond or security. Every]~~ person who applies for a tax permit or who becomes delinquent in the payment of any taxes, penalties, or interest must furnish security in the amount ~~that [determined by] the comptroller determines~~ to be sufficient to protect the state against a failure to pay any amounts or costs which may become due under the state, city, ~~special purpose district, county,~~ and metropolitan transit authority sales and use tax laws.

(b) ~~A person who applies for a tax permit may be required to post a bond or security in an amount that is equal to the greater of \$100,000 or four times the amount of the average monthly tax liability. An itinerant vendor may be required to post a bond, but the minimum amount may not be less than \$500. For the purposes of this section, an itinerant vendor is a person who does not operate any place of business as defined in §3.286 of this title (relating to Seller's Responsibilities). [Conditional permit. An applicant may be issued a conditional permit to do business for a period of time not to exceed 14 days in order to furnish the security required.]~~

(c) ~~A permitted retailer who is or has been delinquent in the payment of state or local sales or use taxes may be required to post a bond or security in an amount that is equal to the greater of either \$100,000 or four times the amount of the average monthly tax liability. [The amount of bond or security required of persons applying for a tax permit.]~~

~~[(1) Each applicant must post bond or security in an amount equal to two times the amount of the average monthly tax liability.]~~

~~[(2) If a bond amount for a person other than an itinerant vendor is calculated to be less than \$3,000, an initial bond will not be required.]~~

~~[(3) If a bond amount for an itinerant vendor is calculated to be less than \$100, an initial bond will not be required. For the purposes of this paragraph, an itinerant vendor is a person who does not operate any place of business as defined in §3.286 of this title (relating to Seller's Responsibilities).]~~

(d) ~~If the comptroller determines at any time that the amount of the bond on file is inadequate or if a permitted retailer is delinquent in the payment of any state or local sales or use taxes, the comptroller may require a new or additional bond to be posted. [The amount of bond or security required of a person who currently is or has been delinquent in payment of any amount due.]~~

~~[(1) Monthly filers. A retailer reporting on a monthly basis must post bond or security in an amount equal to two times the amount of the retailer's average monthly tax liability.]~~

~~[(2) Quarterly and yearly filers. A person reporting on a quarterly or yearly basis must post bond or security in an amount equal to three times the amount of the person's average monthly tax liability.]~~

~~[(3) Bond amounts calculated to be less than \$100. If a bond amount is calculated to be less than \$100, bond will not be required.]~~

~~[(e) Recalculation of amount of bond required under certain circumstances. If it is determined at any time that the amount of bond on file is inadequate or that a person is delinquent in the payment of any amount due, the comptroller may recalculate the amount of security and require new or additional bond to be posted. Under no circumstances, however, will the amount required exceed \$50,000 or be less than \$100.]~~

(e) ~~[(f)]~~ Types of security.

(1) Acceptable types of security:

(A) irrevocable assignments of accounts in banks, savings and loan institutions, and credit unions, whose deposits are insured by an agency of the United States government;

(B) cash (personal checks are acceptable);

(C) bank letters of credit ~~that [which]~~ are deemed by the comptroller to be sufficient in amount and secure;

(D) United States Treasury bonds, readily convertible to cash;

(E) surety bonds.

(2) Unacceptable types of security:

(A) corporate stocks and bonds;

(B) personal guarantees.

~~[(g) [Assignment.] An assignment of either a savings account or a certificate of deposit in an institution insured by an agency of the United States government must be irrevocable and must be executed on an assignment form approved by the comptroller.~~

~~[(h) [Surety bonds.] A surety bond must be executed on a form approved by the comptroller and can be issued only by a surety company chartered or authorized to do business in the State of Texas. The bond shall constitute a new and separate obligation in the penal sum named therein for each calendar year or a portion thereof while the bond is in force. The bond must be executed by an attorney-in-fact appointed by the surety. The appointing instrument must be properly notarized and physically attached to the bond.~~

~~[(i) [Forfeiture.] In the event of forfeiture, the comptroller will notify the holder of [person holding] the security and demand payment. The comptroller will also notify the permitted retailer and demand that a new [another] or additional bond or security for a specified amount be furnished within 10 days of the date of such notice. [The amount of bond or security specified in the notice shall be fixed by the comptroller subject only to the limitations stated in subsection (e) of this section.] This notice shall become final at the expiration of 10 days. Failure to comply with the requirements of the notice within the 10-day period will result in the suspension of the retailer's tax permit.~~

~~[(j) Retailer's bond or security when ownership is changed.~~

(1) ~~When [The Tax Code, §151.201, requires a retailer holding a tax permit to apply for a new permit when] the legal structure of a [the retailer's] business changes, the retailer who holds a tax permit must apply for a new permit, as provided by Tax Code, §151.201. Examples include, but are not limited to [; for example], a change from a sole ownership to a partnership, or a change from a partnership to a corporation[, etc].~~

(2) When a retailer applies for a new permit because of a change in legal structure, the retailer ~~may be required to post a bond or security as provided by [must comply with]~~ the provisions of this section. The comptroller will review all ~~available records of the retailer's history of payment of taxes [records and such other information as the comptroller may require regarding the prior taxpaying performance of the retailer.]~~

(3) If, after the review, it appears that the interests of the state will not be endangered by the new ownership, the comptroller may determine that no new or additional bond is required.

(4) If, however, it appears that there has been a substantial change in ownership or that security is required to guarantee payment of taxes by the new entity, the comptroller may require security in accordance with the provisions 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 May 15, 2002.

TRD-200203006

Martin Cherry

Deputy General Counsel for Taxation

Comptroller of Public Accounts

Earliest possible date of adoption: June 30, 2002

For further information, please call: (512) 475-0387



## CHAPTER 5. FUNDS MANAGEMENT

### (FISCAL AFFAIRS)

#### SUBCHAPTER C. CLAIMS PROCESSING--

#### TRAVEL VOUCHERS

##### 34 TAC §5.22

The Comptroller of Public Accounts proposes an amendment to §5.22, concerning incorporation by reference: "State of Texas Travel Allowance Guide."

The amendment is necessary because of the issuance of a new "State of Texas Travel Allowance Guide" by the comptroller in January 2002. The new guide reflects changes made by the 77th legislature, regular session, 2001 to the Travel Regulations Act and to the travel provisions of the General Appropriations Act. The new guide also includes policy changes that are intended to promote efficiency and eliminate ambiguities concerning the travel of state officers and employees. Chapter 10 of the new guide lists the major differences between it and the previous guide. A copy of the new guide is available upon request from Claims Division, P.O. Box 13528, Austin, Texas 78711.

James LeBas, Chief Revenue Estimator, has determined that for the first five-year period the amendment will be in effect, there will be no foreseeable implications relating to costs or revenue of the state or local governments.

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 enforcing the amendment will be helping ensure that the travel expenses incurred by state officers or employees are paid or reimbursed in accordance with applicable law. The proposed amendment would not have an adverse effect on small businesses or micro-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 addressed to Joani Bishop, Manager of Claims Division, P.O. Box 13528, Austin, Texas 78711. If a person wants to ensure that the comptroller considers and responds to a comment made about this proposal, then the person must ensure that the comptroller receives the comment not later than the 30th day after the issue date of the *Texas Register* in which this proposal appears. If the 30th day is a state or national holiday, Saturday, or Sunday, then the first workday after the 30th day is the deadline.

The amendment is proposed under the Government Code, §660.021, which requires the comptroller to adopt rules to administer the Travel Regulations Act and the travel provisions of the General Appropriations Act.

The amendment implements the Government Code, §403.248 and §§660.001 - 660.208. The amendment also implements the following provisions of the General Appropriations Act: Article III, §§7, 9, and 12; Article IX, §§4.04(a), (e), 5.01-5.07, 5.09, 6.24(b), and 10.35; Rider 22 in the appropriations to the Department of Agriculture; Rider 5 in the appropriations to the Department of Banking; Rider 7 in the appropriations to the Cosmetology Commission; Rider 2 in the appropriations to the Department of Criminal Justice; Rider 6 in the appropriations to the Department of Housing and Community Affairs; Rider 3 in the appropriations to the Commission on Human Rights; Rider 8 in the appropriations to the Department of Insurance; Rider 8 in the appropriations to the Texas Lottery Commission; Rider 29 in the appropriations to the Department of Mental Health and Mental Retardation; Rider 19 in the appropriations to the Parks and Wildlife Department; Riders 19 and 21 in the appropriations to the Department of Public Safety; Rider 2 in the appropriations to the Racing Commission; Rider 2 in the appropriations to the Savings and Loan Department; Rider 8 in the appropriations to the Teacher Retirement System; and Rider 27 in the appropriations to the Department of Transportation.

§5.22. *Incorporation by Reference: "State of Texas Travel Allowance Guide."*

The "State of Texas Travel Allowance Guide," which was issued by the comptroller in January 2002 [~~December 1999~~] and filed with the secretary of state, is incorporated by reference as a section. The guide is published by the comptroller in Austin, Texas, and copies may be obtained from the comptroller upon request.

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

Filed with the Office of the Secretary of State on May 15, 2002.

TRD-200203007

Martin Cherry

Deputy General Counsel for Taxation

Comptroller of Public Accounts

Earliest possible date of adoption: June 30, 2002

For further information, please call: (512) 475-0387



## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### PART 9. TEXAS DEPARTMENT ON AGING

#### CHAPTER 253. STATE AGING PLAN

The Texas Department on Aging proposes the repeal and replacement of §253.3, concerning State Aging Plan. The Texas Board on Aging requested a committee be formed to review the current formula and to determine any impact following the reauthorization of the Older Americans Act and the new census data. The committee recommended some changes to the current formula and added a rural factor. The rule was presented to the Texas Board on Aging during their May meeting and was approved for publication in the *Texas Register*.

Barbara Zimmerman, Chief Fiscal Officer has determined that for the first five-year period the repeal and new section are in effect

there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal and new section.

Ms. Zimmerman also has determined that for each year of the first five years the repeal and new section are in effect the public benefit anticipated as a result of enforcing the rule will be an updated rule. There will be no effect on small or micro businesses. There will be no effect to individuals required to comply with the section as proposed.

Comments on the repeal and new rule may be submitted to Gary Jessee, Director of the Office of AAA Support and Operations, Texas Department on Aging, P.O. Box 12786, Austin, Texas 78711. All comments must be written and delivered via mail, in person, or facsimile. E-mail and verbal comments cannot be accepted. All comments must be received within 30 calendar days following the date of publication of the proposed repeal and new rule in the *Texas Register*.

#### 40 TAC §253.3

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

The repeal is proposed under Texas Government Code, §2161.003, which provides the Texas Department on Aging with the authority to promulgate rules governing the operation of the Department.

Texas Government Code, §2161.003 is affected and implemented by this proposed action.

§253.3. *Funding Allocation Formula for Title III Programs and Area Agencies on Aging.*

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

Filed with the Office of the Secretary of State on May 20, 2002.

TRD-200203081

Gary Jessee

Director of the Office of AAA Support and Operations  
Texas Department on Aging

Earliest possible date of adoption: June 30, 2002

For further information, please call: (512) 424-6857



#### 40 TAC §253.3

The new rule is proposed under Texas Government Code, §2161.003, which provides the Texas Department on Aging with the authority to promulgate rules governing the operation of the Department.

Texas Government Code, §2161.003 is affected and implemented by this proposed action.

§253.3. *Area Agency on Aging Funding Allocation Formula for Older Americans Act Programs.*

(a) Goal of the Formula: The goal of this formula is to distribute funding in an equitable manner based upon the most current population projections of the Texas State Data Center; and in so doing clearly meet the assurances contained in the Older Americans Act of 1965, as amended, §305(a)(2)(E), as it relates to targeting.

(b) Area Agency on Aging State General Revenue Base. Each area agency on aging will be allocated a base amount of \$60,000.

(c) Area Agency on Aging Administration Base. In accordance with the Older Americans Act, an administration pool comprised of 10% of the federal allocation of funds to area agencies on aging will be established. Of this amount, each area agency on aging will be allocated no less than \$85,000.

(d) Area Agency on Aging Supportive Services Base. Each area agency on aging will be allocated a base amount of \$115,000 for Title III Supportive Services.

(e) Area Agency on Aging Nutrition Services Base. Each area agency on aging will be allocated a base amount of \$100,000 for Title III Nutrition Services.

(f) Area Agency on Aging Rural Allocation. The rural allocation factor is based upon a three part formula:

(1) area agencies on aging whose population density factor exceeds the statewide average persons aged 60 and over per square mile will receive no rural allocation;

(2) area agencies on aging with a population density factor of fifty percent of the statewide average up to the statewide average of persons aged 60 and over per square mile will receive a rural allocation of \$15,000; and

(3) area agencies on aging with a population density factor of less than fifty percent of the statewide average persons aged 60 and over per square mile will receive a rural allocation of \$30,000.

(g) Allocation of Remaining Funds. All remaining funds, excluding Title VII Ombudsman Activity Grant, will be allocated in accordance with the following formula of weighted factors:

(1) total area agency on aging region's population aged 60 and over, weighted at 40%;

(2) total area agency on aging region's population aged 60 and over who are minorities, weighted at 10%; and

(3) total area agency on aging region's population aged 60 and over who are living on incomes below the poverty level, weighted at 50%.

(h) Allocation of Title VII Ombudsman Activity Grant (effective federal fiscal year 2004): Each area agency on aging will be allocated a base amount of \$3,000. Remaining funds will be allocated based on the following factors:

(1) number of licensed nursing facility beds based upon the most recent Texas Department of Human Services Long-term Care Regulatory Facility Report for the prior state fiscal year, weighted at 50%;

(2) number of licensed assisted living facilities based upon the most recent Texas Department of Human Services Long-term Care Regulatory Facility Report for the prior state fiscal year, weighted at 25%; and

(3) number of certified volunteer Ombudsmen based upon the Texas Department on Aging Active Volunteer Ombudsman Report for the prior state fiscal year, weighted at 25%.

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

Filed with the Office of the Secretary of State on May 20, 2002.

TRD-200203082

Gary Jessee  
Director of the Office of AAA Support and Operations  
Texas Department on Aging  
Earliest possible date of adoption: June 30, 2002  
For further information, please call: (512) 424-6857



# ADOPTED RULES

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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.

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## TITLE 1. ADMINISTRATION

### PART 5. TEXAS BUILDING AND PROCUREMENT COMMISSION

#### CHAPTER 116. PROPERTY MANAGEMENT DIVISION

##### SUBCHAPTER B. MANDATORY PAPER RECYCLING PROGRAM

###### 1 TAC §§116.20 - 116.28

The Texas Building and Procurement Commission adopts new Title 1, T.A.C., Chapter 116, Subchapter B, §§116.20-116.28, concerning the Mandatory Paper Recycling Program. New §116.21 and §116.26 are adopted with changes to the proposed text as published in the April 5, 2002, issue of the *Texas Register* (27 TexReg 2617) due to public comment that was received and will be republished. Sections 116.20, 116.22, 116.23, 116.24, 116.25, 116.27 and 116.28 are adopted without changes and the text will not be republished.

The new rules are adopted in accordance with S.B. 311, Article 12, §12.01 (77th Legislature) which added new Texas Government Code, §2175.902 to establish a mandatory paper recycling program that is administered by the commission for state agencies located in commission controlled facilities (facilities listed on the commission's building inventory).

Due to comment that was received, language has been deleted from §116.21(3) that listed "self-adhesive" or "glued-on" labels as contaminants. The preposition "for" has also been inserted between the words "year" and "delegation" in the last sentence of §116.26(c) to correct a typo. It now reads "However, a state agency shall have the right to apply each fiscal year for delegation of responsibility."

The new §§116.20 through 116.28 will establish guidelines and procedures, standards for delegating responsibility to a state agency, goals, performance measures, the responsibilities of the designated paper recycling coordinator, and proper recycling methods for the mandatory recycling program as mandated by Government Code, §2175.902.

One written comment was received from the Texas Rehabilitation Commission concerning the definition for "contaminants in new rule 116.21. The comment proposed removing "self-adhesive" or "glued-on" labels from the list of contaminants.

The commission agrees that "self-adhesive" or "glued-on" labels should not be listed as contaminants, and has found that these types of paper labels are accepted as recyclable paper by the commission's contracted recycling vendor.

The new rules for Title 1, T.A.C., Chapter 116, Subchapter B, §§116.20 through 116.28 for the Mandatory Paper Recycling Program are adopted under the authority of the Texas Government Code, Title 10, Subtitle D, §§2152.003, 2175.061 and 2175.902 which provides the Texas Building and Procurement Commission with the authority to promulgate rules necessary to implement the sections.

###### §116.21. Definitions.

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

(1) Commission--the Texas Building and Procurement Commission (successor agency to the General Services Commission).

(2) Commission controlled facilities--Those facilities which are listed on the commission's Building Inventory.

(3) Contaminants--Any material that significantly decreases the market value of recyclable paper. Contaminants include, but are not limited to, food containers (bottles, cans, plastic cups, polystyrene, aluminum, food wrappers, etc.) food waste, hardbound covered books, plastics (including plastic paper clips and plastic spiral notebook binders), paper towels, napkins, rubber bands, express mail envelopes, padded envelopes, laminated paper, wrappers on packaged paper stock, self-adhesive nonpaper products, and toner cartridges.

(4) Mixed paper--A mixture of various grades of recyclable waste paper that includes colored paper, glossy paper, envelopes (excluding padded envelopes and express mail envelopes), sticky notes, office paper, cover stock, paperboard, small amounts of cardboard and softbound books. Cardboard boxes are not included with mixed paper and are to be sorted and collected separately. Mixed paper must be free of contaminants.

(5) Paperboard--Paper stock used for indexes, hanging files, kraft files (brown or golden), corrugated cardboard, pressboard and tube stock.

(6) Paper recycling program--The collection of all paper deposited in specifically marked recycling containers for the purpose of recycling. The program promotes the use of recycling containers by state employees located in state buildings under the commission's control.

(7) Waste paper--Paper stock that is commonly generated in the office environment that has been used and consists of a mixture of various qualities of used paper.

(8) White paper--White office paper in single sheets or continuous forms, including white computer paper, copy paper, letterhead, white notebook paper, ledger paper, rolodex or index cards and calculator tape. Not more than 25 % of the white paper's surface can be covered with colored ink other than black ink. White paper must be free of contaminants.

(9) Newsprint--Newspapers (including advertisement inserts), magazines and catalogs. Old telephone books are to be collected separately by a state agency.

(10) Paper recycling coordinator--A state agency's point of contact who coordinates the recycling efforts within their agency, tracks the success of the paper recycling program, and may educate employees on recycling methods.

*§116.26. Delegation of Responsibility.*

(a) The commission may delegate responsibility for maintaining a mandatory paper recycling program to state agencies located outside of Travis County in state buildings that are under the commission's control, if they have demonstrated they have met and can provide the following standards:

(1) compliance with the commission's guidelines regarding the proper separation and discarding of waste paper in the appropriate designated paper recycling containers;

(2) the designated paper recycling coordinator is actively monitoring and training employees according to the commission's procedures on eliminating contaminants disposed of in recycling containers;

(3) development of a paper recycling contract that is to be awarded in the best interest of the state to the highest bidder;

(4) adequate staffing and equipment to transport the waste paper to the vendor;

(5) the commission's standards, procedures and guidelines for the mandatory paper recycling program continue to be followed; and

(6) the state agency has consistently complied with §116.23 of this Title (relating to Designated Paper Recycling Coordinator).

(b) A state agency seeking delegated responsibility to operate its own paper recycling program shall make a written application to the commission, on a form prescribed by the commission. The application should include the state agency's reasons and documentation that the standards in subsection (a) of this section have been either met or exceeded.

(c) The commission shall determine if the standards for delegation have been met and are in the best interest of the state. The commission shall respond in writing to the state agency making the request within 60 days. The commission's decision shall be final for that fiscal year. However, a state agency shall have the right to apply each fiscal year for delegation of responsibility.

(d) If a state agency that has been delegated responsibility to administer their own paper recycling program does not continue to follow the commission's standards, procedures, and guidelines (including subsection (e) of this section) their right to have delegated responsibility to administer their own paper recycling program shall be revoked. The commission shall inform the state agency in writing of revocation and the reasons for it 30 days prior to the revocation.

(e) State agencies that have been delegated responsibility to administer their own paper recycling program shall provide the commission with quarterly reports stating the quantity of paper recycled

and sold, the revenue received by the state agency, and their expenses in administering their own program. Reports shall be forwarded to the commission no later than forty-five (45) days after the end of each state fiscal quarter.

(f) Revenue generated from the sale of waste paper by the commission shall be deposited in the commission's General Revenue Fund to be used for payment of expenses in the mandatory paper recycling program. Revenue received by state agencies delegated authority to administer their own paper recycling program shall be deposited in that state agency's General Revenue Funds.

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

Filed with the Office of the Secretary of State on May 17, 2002.

TRD-200203069

Juliet King

Legal Counsel

Texas Building and Procurement Commission

Effective date: June 6, 2002

Proposal publication date: April 5, 2002

For further information, please call: (512) 463-3960

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**TITLE 13. CULTURAL RESOURCES**

**PART 2. TEXAS HISTORICAL COMMISSION**

**CHAPTER 21. LOCAL HISTORY PROGRAMS**

**13 TAC §21.31**

The Texas Historical Commission adopts an amendment to Chapter 21, §21.31 (related to awards granted by the Texas Historical Commission) concerning the granting of awards and the award selection process without changes to the text as published in the March 8, 2002, issue of the *Texas Register* (27 TexReg 1615).

The amendment is adopted as a means of simplifying the nominations and selection process.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Government Code, §442.005(q) that authorizes the Texas Historical Commission to promulgate rules to carry out the intent of this chapter and associated legislative mandates.

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

Filed with the Office of the Secretary of State on May 15, 2002.

TRD-200203024

F. Lawrence Oaks

Executive Director

Texas Historical Commission

Effective date: June 4, 2002

Proposal publication date: March 8, 2002

For further information, please call: (512) 936-4323

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**CHAPTER 23. PUBLICATIONS**

**13 TAC §23.3**

The Texas Historical Commission adopts the repeal of Chapter 23, §23.3 (related to the T.R. Fehrenbach Award), concerning the requirements for nomination for this award without changes to the proposal as published in the March 8, 2002, issue of the *Texas Register* (27 TexReg 1616).

The repeal is adopted as a means of simplifying the nomination and selection process.

It was decided at the January 11, 2002, meeting of the Texas Historical Commission that this rule would no longer be needed as Chapter 21, §21.31 is being amended to cover all awards granted by the Texas Historical Commission.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Government Code, §442.005(q) that authorizes the Texas Historical Commission to promulgate rules to carry out the intent of this chapter and associated legislative mandates.

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

Filed with the Office of the Secretary of State on May 15, 2002.

TRD-200203026

F. Lawrence Oaks

Executive Director

Texas Historical Commission

Effective date: June 4, 2002

Proposal publication date: March 8, 2002

For further information, please call: (512) 936-4323

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**TITLE 16. ECONOMIC REGULATION**

**PART 4. TEXAS DEPARTMENT OF LICENSING AND REGULATION**

**CHAPTER 65. BOILER DIVISION**

The Texas Department of Licensing and Regulation adopts the repeal of 16 Texas Administrative Code, §65.100 and new §65.100 concerning technical requirements of boilers as published in the March 22, 2002 issue of the *Texas Register* (27 TexReg 2165) with changes.

The rules as adopted reflect changes in the Law as revised by the 76th Legislative Session and the change in the requirement for repairs and alterations to conform to the current edition of the National Board Inspection Code and addenda. The changes from what was initially proposed reflect changes to ASME Codes and Standards as adopted by statute, plus editorial changes.

The Department drafted and distributed the proposed rules to persons internal and external to the agency and has received comments from a member of the Board of Boiler Rules. The Department wishes to thank all of the persons and organizations

who participated in its rulemaking process. Below is a summary of the comments received and the Department's response.

*Comment:* A comma should be placed in proposed rule §65.100(e)(1)(G), between the words "interconnected" and "the". *Agency Response: Agree.* The change is made as commented upon.

*Comment:* With reference to Figure 1: §65.100(f)(1), there is an arrow pointing to a spot that appears incorrect. *Agency Response: Agree.* The figure has been corrected.

*Comment:* In proposed rule §65.100(j)(2)(A)(vii), a reference is made to "the table in subsection (i)(1)(E) of this section." The correct reference should be (j)(1)(E). *Agency Response: Agree.* The correct reference has been inserted.

*Comment:* In light of the changes to ASME Section II, part D allowable stresses first published in the 1998 edition, 1999 addenda, please consider the following changes to subsections §65.100(m)(5)(A), (B), and (C).

*§65.100(m)(5)(A), "For all cases involving the question of tightness, the pressure shall be no more than the set pressure of the safety valve or valves having the lowest setting."* This will set the maximum test value no larger than that which is in the rules today, but will allow the inspector to set a lower pressure for tightness check when appropriate. *Agency Response: Agree.* The wording is changed as commented upon.

*§65.100(m)(5)(B), "For all cases involving the question of safety, the pressure applied shall not exceed the lesser of that which was required by the original code of construction, or the pressure equal to that which results in an applied stress no greater than 90% of the specified minimum yield stress at test temperature of the material as published by ASME Code, Section II, Part D, current edition."* Limiting the applied stress to 90% of the specified minimum yield stress will better insure the vessel does not experience permanent distortion. *Agency Response: Agree.* The wording is changed as commented upon.

*§65.100(m)(5)(C). Delete in its entirety.* The proposed changes to §65.100(m)(5)(B) incorporate requirements from this paragraph. Additionally, there is no real need to mandate 2% tolerance on test pressure as the requirement of §65.100(m)(5)(B) states the allowable maximum test pressure. *Agency Response: Agree* The subsection is deleted as commented upon.

**16 TAC §65.100**

The repeal is adopted under Texas Health and Safety Code, Chapter 755 which authorizes the Executive Director 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 statutory provisions affected by the repeal are Texas Occupations Code, Chapter 51 and Texas Health and Safety Code, Chapter 755. No other statutes, articles, or codes are affected by the repeal.

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

Filed with the Office of the Secretary of State on May 20, 2002.

TRD-200203071



William H. Kuntz, Jr.  
Executive Director  
Texas Department of Licensing and Regulation  
Effective date: June 9, 2002  
Proposal publication date: March 22, 2002  
For further information, please call: (512) 463-7348

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**16 TAC §65.100**

The new rule is adopted under Texas Occupations Code, Chapter 51 and Texas Health and Safety Code, Chapter 755 which authorizes the Executive Director 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 statutory provisions affected by the adopted new rule are Texas Occupations Code, Chapter 51 and Texas Health and Safety Code, Chapter 755. No other statutes, articles, or codes are affected by the adoption.

*§65.100. Technical Requirements.*

(a) Ventilation.

(1) The boiler room must have an adequate and uninterrupted air supply to assure proper combustion and ventilation.

(2) The combustion and ventilation air may be supplied by either an unobstructed opening or by power ventilators or fans.

(3) The opening shall be sized on the basis of one square inch of free area for each 2,000 Btu/hour input of the combined burners located in the boiler room.

(4) The power ventilator or fans shall be sized on the basis of 0.2 cfm. for each 1,000 Btu/hour fuel input for the combined burners located in the boiler room.

(5) The boiler and the fans shall be interlocked so that the burners will not operate unless an adequate number of fans are in operation.

(b) Location of discharge outlets. The discharge of safety valves and safety relief valves, blowdown pipes, and other outlets shall be located to prevent injury to personnel.

(c) Electric steam boilers.

(1) A cable at least as large as one of the incoming power lines to the generator shall be provided for grounding the generator shell. This cable shall be permanently fastened on some part of the generator and shall be grounded in an approved manner.

(2) A suitable screen or guard shall be provided around high-voltage bushings, and a sign posted warning of high voltage. This screen or guard shall be so located that it will be impossible for anyone working around the generator to accidentally come in contact with the high voltage circuit.

(3) In electric boilers of the submerged-electrode type, the water gage glass shall be located to indicate the water levels both at start-up and under maximum load conditions as established by the manufacturer.

(4) In electric boilers of the resistance-heating-element type, the lowest visible part of the water gage glass shall not be below the top of the electric resistance heating element. Each boiler of this type shall be equipped with an automatic low-water electric power cutoff to automatically disconnect the power supply before the surface

of the water falls below the top of the electrical resistance heating elements.

(5) Tubular water glasses on electric boilers having a normal water content not exceeding 100 gallons shall be equipped with a protective shield.

(6) The minimum safety valve or safety relief valve relieving capacity for electric boilers shall be 3 1/2 pounds of steam per hour per kilowatt input.

(d) Atmospheric vents, gas vents, bleed or relief lines for power boilers, unfired steam boilers and process steam generators with supplemental firing.

(1) Gas pressure regulators not incorporating integral vent limiters, and all other gas train components requiring atmospheric air pressure to balance a diaphragm or other similar device, shall be provided with a connection for a vent line. These lines shall be sized in accordance with the component manufacturer's instructions. The vent or relief line shall be at least the same size as the vent outlet of the device.

(A) Where there is more than one gas pressure regulator at a location, each gas pressure regulator shall have a separate vent. The vent lines may be manifolded in accordance with accepted engineering practices to minimize back pressure in the event of a diaphragm failure (see paragraphs (2) and (3) following).

(B) A gas pressure regulator shall not be vented into the boiler flue or exhaust system.

(2) Atmospheric vent lines, when manifolded, shall be connected into a common atmospheric vent line having a cross-sectional area not less than the area of the largest vent line plus 50% of the areas of the additional vent lines.

(3) Atmospheric vent lines shall not be connected to any common or manifolded gas vent, bleed, or relief lines.

(4) Gas pressure relief valves may discharge into common manifolding only with other gas vent, bleed, or relief lines. When manifolded, the common vent line shall have a cross-sectional area not less than the area of the largest vent line plus 50% of the areas of the additional vent lines.

(5) Vent and relief lines shall be piped to the outdoors at a safe point of discharge so there is no possibility of discharged gas being drawn into the air intake, ventilating system, or openings of any structure or piece of equipment and shall extend sufficiently above any structure so that gaseous discharge does not present a fire hazard. A means shall be provided at the terminating point to prevent blockage of the line by foreign material, moisture, or insects.

(e) Power boilers, excluding unfired steam boilers and process steam generators.

(1) Safety valves and safety relief valves.

(A) The use of weighted-lever safety valves, or safety valves having either the seat or disk of cast iron, is prohibited.

(B) Each boiler shall have at least one safety valve and, if it has more than 500 square feet of water heating surface or has electric power input more than 1,100 kilowatts, it shall have two or more safety valves.

(C) The valve or valves shall be connected to the boiler, independent of any other steam connection, and attached as close as practicable to the boiler without unnecessary intervening pipe or fittings.

(D) No valve(s) of any description shall be placed between the required safety valve or safety relief valve or valves and the boiler, nor in the discharge pipe between the safety valve or safety relief valve or valves and the atmosphere. When a discharge pipe is used, it shall be at least full size of the safety valve discharge and fitted with an open drain to prevent water lodging in the upper part of the safety valve or discharge pipe. When an elbow is placed on a safety valve discharge pipe, it shall be located close to the safety valve outlet. The discharge pipe shall be securely anchored and supported. In the event multiple safety valves discharge into a common pipe, the discharge pipe shall be sized in accordance with ASME Code, Section I, PG-71. All safety valve or safety relief valve discharges shall be located or piped to a safe point of discharge clear from walkways or platforms.

(E) The safety valve capacity of each boiler must allow the safety valve or valves to discharge all the steam that can be generated by the boiler without allowing the pressure to rise more than 6.0% above the highest pressure to which any valve is set, and to no more than 6.0% above the maximum allowable working pressure. For forced-flow steam generators with no fixed steam and waterline, power-actuated relieving valves may be used in accordance with ASME Code, Section I, PG-67.

(F) One or more safety valves on every boiler shall be set at or below the maximum allowable working pressure. The remaining valve(s) may be set within a range of 3.0% above the maximum allowable working pressure, but the range of setting of all the safety valves on a boiler shall not exceed 10% of the highest pressure to which any valve is set.

(G) When two or more boilers, operating at different pressures and safety valve settings, are interconnected, the lower pressure boilers or interconnected piping shall be equipped with safety valves of sufficient capacity to prevent overpressure, considering the maximum generating capacity of all boilers.

(H) In those cases where the boiler is supplied with feedwater directly from water mains without the use of feeding apparatus (not to include return traps), no safety valve shall be set at a pressure higher than 94% of the lowest pressure obtained in the supply main feeding the boilers.

(2) Feedwater supply.

(A) Each boiler shall have a feedwater supply, which will permit it to be fed at any time while under pressure.

(B) A boiler having more than 500 square feet of water heating surface shall have at least two means of feeding, one of which should be a pump, injector, or inspirator. A source of feed directly from water mains at a pressure of at least 6.0% greater than the set pressure of the safety valve with the highest setting may be considered as one of the means of feeding. Boilers fired by gaseous, liquid, or solid fuel in suspension may be equipped with a single means of feeding water, provided means are furnished for the immediate shutoff of heat input if the feedwater is interrupted.

(C) Feedwater shall not be discharged close to riveted joints of shell or furnace sheets or directly against surfaces exposed to products of combustion or to direct radiation from the fire.

(D) Feedwater piping to the boiler shall be provided with a check valve near the boiler and a stop valve or cock between the check valve and the boiler. When two or more boilers are fed from a common source there shall also be a stop valve on the branch to each boiler between the check valve and the source of supply. Whenever a globe valve is used on the feedwater piping, the inlet shall be under the disk of the valve.

(E) In all cases where returns are fed back to the boiler by gravity, there shall be a check valve and stop valve in each return line, the stop valve to be placed between boiler and the check valve, and both shall be located as close to the boiler as is practicable. It is recommended that no stop valve be placed in the supply and return pipe connections of a single boiler installation.

(F) Where deaerating heaters are not used, it is recommended that the temperature of the feedwater be not less than 120 degrees Fahrenheit to avoid the possibility of setting up localized stress. Where deaerating heaters are used, it is recommended that the minimum feedwater temperature be not less than 215 degrees Fahrenheit so that dissolved gases may be thoroughly released.

(3) Water level indicators.

(A) Each boiler, except forced-flow steam generators with no fixed steam and waterline, and high temperature water boilers of the forced circulation type that have no steam and waterline, shall have at least one water gage glass.

(B) Except for electric boilers of the electrode type, boilers with a maximum allowable working pressure (MAWP) over 400 psig shall be provided with two water gage glasses, which may be connected to a single water column or connected directly to the drum.

(C) Two independent remote level indicators may be provided instead of one of the two required gage glasses for boiler drum water level indication, when the MAWP is above 400 psig. When both remote level indicators are in reliable operation, the remaining gage glass may be shut off, but shall be maintained in serviceable condition.

(D) In all installations where direct visual observations of the water gage glass(es) cannot be made, two remote level indicators shall be provided at operational level.

(E) The gage glass cock connections shall not be less than 1/2 inch pipe size.

(F) No outlet connections, except for damper regulator, feedwater regulator, drains, steam gages, or apparatus of such form as does not permit the escape of an appreciable amount of steam or water therefrom, shall be placed in the pipes connecting a water column or gage glass to a boiler.

(G) The water column shall be fitted with a drain cock or drain valve of at least 3/4 inch pipe size. The water column blow-down pipe shall not be less than 3/4 inch pipe size and shall be piped to a safe point of discharge.

(H) Connections from the boiler to remote level indicators shall be at least 3/4 inch pipe size, to and including the isolation valve, and at least 1/2 inch OD tubing from the isolation valve to the remote level indicator. These connections shall be completely independent of other connections for any function other than water level indication.

(4) Low-water fuel cutoff and water feeding devices.

(A) All automatically fired steam boilers, except boilers having a constant attendant, who has no other duties while the boiler is in operation, shall be equipped with approved low-water fuel cutoffs. These devices shall be installed in such a manner that they cannot be rendered inoperative by the manipulation of any manual control or regulating apparatus. The low-water fuel cutoff devices shall be tested regularly by lowering the water level in the boiler sufficiently to shut off the fuel supply to the burner when the water level reaches the lowest safe level for operation. The low-water cutoff shall be rated for a pressure and temperature equal to or greater than the maximum allowable working pressure and temperature of the boiler.

(B) When a low-water fuel cutoff and feedwater pump control are combined in a single device, an additional separate low-water fuel cutoff shall be installed. The additional control shall be wired in series electrically with the existing low-water fuel cutoff.

(C) When a low-water fuel cutoff is housed in either the water column or a separate chamber it shall be provided with a blowdown pipe and valve not less than 3/4 inch pipe size. The arrangement shall be such that when the water column is blown down, the water level in it will be lowered sufficiently to activate the lower-water fuel cutoff device.

(D) If a water feed device is utilized, it shall be constructed to prevent feedwater from entering the boiler through the water column or separate chamber of the low-water fuel cutoff.

(5) Pressure gages.

(A) Each boiler shall have a pressure gage that is easily readable. The dial of the pressure gage shall be graduated to approximately double the pressure at which the safety valve is set, but in no case, less than one and one-half times this pressure. The pressure gage shall be connected to the steam space, to the water column, or its steam connection. A valve or cock shall be placed in the gage connection adjacent to the gage. An additional valve or cock may be located near the boiler providing it is locked or sealed in the open position. No other shutoff valves shall be located between the gage and the boiler. The pipe connection shall be of ample size and arranged so that it may be cleared by blowing down. For a steam boiler, the gage or connection shall contain a siphon or equivalent device which will develop and maintain a water seal that will prevent steam from entering the gage tube.

(B) Each boiler must have a valved connection at least 1/4 inch pipe size connected to the steam space for the exclusive purpose of attaching a test gage when the boiler is in service to test the accuracy of the pressure gage.

(6) Stop valves.

(A) Each steam outlet from a boiler (except safety valve connections) shall be fitted with a stop valve located as close as practicable to the boiler.

(B) When a stop valve is located that allows water to accumulate, ample drains shall be provided. The drain shall be piped to a safe location and shall not be discharged on the boiler or its setting.

(C) When boilers provided with manholes are connected to a common steam main, the steam connection from each boiler shall be fitted with two stop valves with an ample drain between them. The discharge of the drain shall be visible to the operator while manipulating the valves and shall be piped clear of the boiler setting. The stop valves shall consist preferably of one automatic nonreturn valve (set next to the boiler) and a second valve of the outside-screw-and-yoke type.

(7) Blowdown connection.

(A) The construction of the setting around each blowdown pipe shall permit free expansion and contraction. These setting openings must be sealed without restricting the movement of the blowdown piping.

(B) All blowdown piping, when exposed to furnace heat, shall be protected by firebrick or other heat-resisting material, and constructed to allow the piping to be inspected readily or easily.

(C) Each boiler shall have a blowdown pipe, fitted with a valve or cock, in direct connection with the lowest water space. The piping shall be run full size without the use of a reducer or bushings

and shall not be galvanized. Cocks shall be of gland or guard type and suitable for the pressure allowed. The use of globe valves shall be in accordance with ASME Code.

(D) When the maximum allowable working pressure exceeds 100 psig, the piping shall be at least schedule 80 steel and shall not be galvanized. Each blowdown pipe shall be provided with two valves or a valve and cock, such valves and cocks shall be adequate for design conditions of the boiler.

(E) All fittings between the boiler and blowdown valve shall be of steel or extra-heavy malleable iron. In case of renewal of blowdown pipe or fittings, they shall be installed in accordance with the requirements of the applicable section of the ASME Code.

(F) It is recommended that blowdown tanks be designed, constructed, and installed in accordance with National Board recommended rules for boiler blowoff equipment.

(f) Unfired steam boilers.

(1) Unfired steam boilers referred to in §65.10 of this title (relating to Definitions), are shown in Exhibits 5C and 5D of this chapter.

Figure 1: 16 TAC §65.100 (f)(1)

Figure 2: 16 TAC §65.100 (f)(1)

(2) Unfired steam boilers shall be constructed in accordance with the American Society of Mechanical Engineers (ASME), Section I, or ASME, Section VIII, Division 1.

(A) Unfired steam boilers constructed in accordance with ASME Code, Section VIII, Division 1 shall meet the special requirements for unfired steam boilers and shall be stamped with the U symbol stamping including the UB lettering. The limits are defined as the first blinding point, circumferential welded joint, threaded joint, or flanged joint in the piping connected to each vessel in which steam is generated. The safety devices, gages, gage glasses, and similar devices used to perform the functions covered by ASME Code, Section I, PG-59 through PG-61 are included within the Jurisdictional limits as shown in Exhibit 5C of paragraph (1) of this subsection.

(B) When the owner/operator elects to construct the unfired steam boiler to ASME Code, Section I, the limits as shown in Exhibit 5D of paragraph (1) of this subsection are as defined in Section I of the ASME Code.

(3) Safety valves and safety relief valves.

(A) The use of weighted-lever safety valves, or safety valves having either the seat or disk of cast iron, is prohibited.

(B) Each ASME Code, Section VIII, Division 1 unfired steam boiler shall have at least one pressure relieving device. Safety valves for ASME, Section VIII, Division 1 unfired steam boilers shall be V or UV stamped. ASME, Section VIII, Division 1 does not require that the relief device be attached directly to the boiler.

(i) The installation of isolation valves between the unfired steam boiler and the safety valve is permitted for systems designed and installed as depicted in Exhibit 5C of paragraph (1) of this subsection.

(ii) Full-area stop valves may be installed on the inlet side of a safety valve as shown in Exhibit 5C of paragraph (1) of this subsection. A full-area stop valve may be installed on the discharge of the safety valve when connected to a common header. Stop valves shall be car sealed or locked in the open position.

(iii) One or more safety valves on every unfired steam boiler shall be set at or below the maximum allowable working

pressure. The remaining valves, if any, shall be set within the range specified and have the capacity required by the applicable ASME Code.

(C) Each ASME Code, Section I unfired steam boiler shall have one safety valve and if it has more than 500 square feet of water heating surface it shall have two or more safety valves. ASME Code, Section I safety valves shall be V stamped.

(i) The valve or valves shall be connected to the boiler, independent of any other steam connection, and attached as close as practicable to the boiler without unnecessary intervening pipe or fittings.

(ii) No valves of any description shall be placed between the required safety valve or safety relief valve or valves and the boiler, nor on the discharge pipe between the safety valve or safety relief valve and the atmosphere.

(iii) The safety valve capacity of each unfired steam boiler must allow the safety valve or valves to discharge all the steam that can be generated by the boiler without allowing the pressure to rise more than 6.0% above the highest pressure to which any valve is set, and to no more than 6.0% above the maximum allowable working pressure.

(D) When a discharge pipe open to the atmosphere is used, it shall be at least full size of the safety valve discharge and fitted with an open drain to prevent water lodging in the upper part of the safety valve or discharge piping. The drain or drains shall be piped to a safe point of discharge. When an elbow or fitting is installed on the discharge pipe it shall be located close to the safety valve outlet. The discharge pipe shall be securely anchored and supported. All safety valve discharges shall be located or piped to a safe point of discharge clear from walkways or platforms.

(E) When two or more unfired steam boilers operating at different pressures and safety valve settings are interconnected, the lower pressure boilers or interconnected piping shall be equipped with safety valves of sufficient capacity to prevent overpressure, considering the maximum generating capacity of all boilers.

#### (4) Feedwater supply.

(A) Each unfired steam boiler shall have a feedwater supply which will permit it to be fed at any time while under pressure.

(B) Feedwater piping to the unfired steam boiler constructed to ASME Code, Section I shall be provided with a check valve near the boiler and a stop valve or cock between the check valve and the boiler. When two or more boilers are fed from a common source there shall also be a stop valve on the branch to each boiler between the check valve and the source of supply. Whenever a globe valve is used on the feedwater piping, the inlet shall be under the disk of the valve.

(C) Where deaerating heaters are not used, it is recommended that the temperature of the feedwater be not less than 120 degrees Fahrenheit to avoid the possibility of setting up localized stress. Where deaerating heaters are used, it is recommended that the minimum feedwater temperature be not less than 215 degrees Fahrenheit so that dissolved gases may be thoroughly released.

#### (5) Water level indicators.

(A) ASME Code, Section I unfired steam boilers with a maximum allowable working pressure (MAWP) of 400 psig or less shall have at least one gage glass. For a MAWP over 400 psig shall have two required gage glasses. When two gage glasses are required one of the gage glasses may be replaced by two independent remote

level indicators that are maintained in simultaneous operation while the boiler is in service.

(B) Each steam drum of an ASME Code, Section VIII, Division 1 unfired steam boiler, irrespective of pressure and temperature, shall be provided with one direct reading water level indicator (water gage glass) or two independent remote level indicators that are maintained in simultaneous operation while the boiler is in service.

(C) In all installations where direct visual observations of the water gage glass(es) cannot be made, two remote level indicators shall be provided at operational level.

(D) The gage glass cock connections shall not be less than 1/2 inch pipe size.

(E) No outlet connections, except for feedwater regulators, drains, steam gages, or apparatus of such form as does not permit the escape of an appreciable amount of steam or water therefrom, shall be placed in the pipes connecting a water column or gage glass to a boiler.

(F) The water column shall be fitted with a drain cock or drain valve of at least 3/4 inch pipe size. The water column blowdown pipe shall not be less than 3/4 inch pipe size and shall be piped to a safe point of discharge.

(G) Connections from the unfired steam boiler to remote level indicators shall be at least 3/4 inch pipe size, to and including the isolation valve, and at least 1/2 inch OD tubing from the isolation valve to the remote level indicator. These connections shall be completely independent of other connections for any function other than water level indication.

#### (6) Low-water cutoffs, alarms and feed regulating devices.

(A) The owner/operator is responsible for the design and installation of any low water protection devices as required to prevent damage to the unfired steam boiler. All installed low water cutoffs, alarms and feeding devices shall be designed for pressure and temperature equal or greater than the maximum allowable working pressure of the unfired steam boiler.

(B) When a low-water cutoff, and/or alarm is housed in either the water column or a separate chamber, it shall be provided with a blowdown pipe and valve not less than 3/4 inch pipe size. The arrangement shall be such that when the water column is blown down, the water level in it will be lowered sufficiently to activate the low-water cutoff and/or alarm device.

(C) Should an unfired steam boiler be installed in a system without a local and constant attendant, and it is not a fail safe design, it shall be provided with a low-water cutoff as required for power boilers.

#### (7) Pressure gages.

(A) Each unfired steam boiler shall have a pressure gage that is easily readable. The dial of the pressure gage shall be graduated to approximately double the pressure at which the safety valve is set, but in no case, less than one and one-half times this pressure. The pressure gage shall be connected to the steam space, to the water column, or its steam connection. A valve or cock shall be placed in the gage connection adjacent to the gage. An additional valve or cock may be located near the boiler providing it is locked or sealed in the open position. No other shutoff valves shall be located between the gage and the boiler. The pipe connection shall be of ample size and arranged so that it may be cleared by blowing down. The gage or connection shall contain a siphon or equivalent device which will develop and maintain a water seal that will prevent steam from entering the gage tube.

(B) Each unfired steam boiler must have a valved connection at least 1/4 inch pipe size connected to the steam space for the exclusive purpose of attaching a test gage when the boiler is in service to test the accuracy of the pressure gage.

(8) Stop valves.

(A) Each steam outlet from an ASME Code, Section I unfired steam boiler shall be fitted with a stop valve located as close as practicable to the boiler.

(B) When a stop valve is located such that it allows water to accumulate, ample drains shall be provided. The drain shall be piped to a safe location and shall not be discharged on the boiler or its setting.

(g) Process steam generators.

(1) Some process steam generators referred to in §65.10 of this title (relating to Definitions) are shown in Exhibits 5A and 5B of this chapter.

Figure 1: 16 TAC §65.100 (g)(1)

Figure 2: 16 TAC §65.100 (g)(1)

(2) The steam collection or liberation drums of a process steam generator shall be constructed in accordance with the American Society of Mechanical Engineers (ASME) Section VIII, Division 1 or Division 2, and shall be stamped with the U or U2 symbol. As an alternate the process steam generator may be constructed to ASME Code, Section I.

(3) When the owner/operator elects to construct a process steam generator to ASME Code, Section I, the limits as shown in Exhibits 5A and 5B of paragraph (1) of this subsection, are as defined in the rules of ASME Section I.

(4) Safety valves and safety relief valves.

(A) The use of weighted-lever safety valves, or safety valves having either the seat or disk of cast iron is prohibited.

(B) Each ASME Code, Section VIII, Division 1 or Division 2 steam collection or liberation drum of a process steam generator shall have at least one safety valve designed for steam service with the V or UV stamp. The valve body drain shall be open and piped to a safe point of discharge.

(i) The installation of full-area stop valves between the steam collection or liberation drum of a process steam generator and the safety valve is permitted as depicted in Exhibit 5A and 5B of this paragraph (1) of this subsection. A full-area stop valve may be installed on the discharge of the safety valve when connected to a common header. Stop valves shall be car sealed or locked in the open position.

(ii) One or more safety valves on every steam collection or liberation drum of a process steam generator shall be set at or below the maximum allowable working pressure. The remaining valves, if any, shall be set within the range specified and have the capacity required by the applicable ASME code.

(C) Each ASME Code, Section I process steam generator shall have one safety valve and if it has more than 500 square feet of water heating surface it shall have two or more safety valves. ASME Code, Section I safety valves shall be V stamped.

(i) The valve or valves shall be connected to the steam collection or liberation drum of the process steam generator, independent of any other steam connection, and attached as close as practicable to the steam collection or liberation drum without unnecessary intervening pipe or fittings.

(ii) No valves of any description shall be placed between the required safety valve or safety relief valve or valves and the steam collection or liberation drum, nor on the discharge pipe between the safety valve or safety relief valve and the atmosphere.

(iii) The safety valve capacity of each process steam generator must allow the safety valve or valves to discharge all the steam that can be generated by the process steam generator without allowing the pressure to rise more than 6.0% above the highest pressure to which any valve is set, and to no more than 6.0% above the maximum allowable working pressure.

(D) When a discharge pipe open to the atmosphere is used, it shall be at least full size of the safety valve discharge and fitted with an open drain to prevent water lodging in the upper part of the safety valve or discharge piping. The drain or drains shall be piped to a safe point of discharge. When an elbow or fitting is installed on the discharge pipe it shall be located close to the safety valve outlet. The discharge pipe shall be securely anchored and supported. All safety valve discharges shall be located or piped to a safe point of discharge clear from walkways or platforms.

(E) When two or more steam collection or liberation drums of process steam generators, operating at different pressures and safety valve settings are interconnected, the lower pressure process steam generator(s) or interconnected piping shall be equipped with safety valves of sufficient capacity to prevent overpressure, considering the maximum generating capacity of all of process steam generators.

(5) Feedwater supply.

(A) Each steam collection or liberation drum of a process steam generator shall have a feedwater supply which will permit it to be fed at any time while under pressure.

(B) Feedwater piping to a process steam generator constructed to ASME Code, Section I shall be provided with a check valve near the process steam generator and a stop valve or cock between the check valve and the process steam generator. When two or more process steam generators are fed from a common source there shall also be a stop valve on the branch to each process steam generator between the check valve and the source of supply. Whenever a globe valve is used on the feedwater piping, the inlet shall be under the disk of the valve.

(C) Where deaerating heaters are not used, it is recommended that the temperature of the feedwater be not less than 120 degrees Fahrenheit to avoid the possibility of setting up localized stress. Where deaerating heaters are used, it is recommended that the minimum feedwater temperature be not less than 215 degrees Fahrenheit so that dissolved gases may be thoroughly released.

(6) Water level indicators.

(A) ASME Code, Section I process steam generators with a MAWP of 400 psig or less shall have at least one gage glass. For a MAWP over 400 psig shall have two required gage glasses. When two gage glasses are required one of the gage glasses may be replaced by two independent remote level indicators that are maintained in simultaneous operation while the process steam generator is in service.

(B) Each steam collection or liberation drum of an ASME Code, Section VIII, Division 1 or Division 2 process steam generator, irrespective of pressure and temperature, as shown in Exhibit 5A and 5B of paragraph (1) of this subsection shall be provided with one direct reading water level indicator (water gage glass) or two independent remote level indicators that are maintained in simultaneous operation while the process steam generator is in service.

(C) In all installations where direct visual observations of the water gage glass(es) cannot be made, two remote level indicators shall be provided at operational level.

(D) The gage glass cock connections shall not be less than 1/2 inch pipe size.

(E) No outlet connections, except for feedwater regulator, drains, steam gages, or apparatus of such form as does not permit the escape of an appreciable amount of steam or water therefrom, shall be placed on the pipes connecting a water column or gage glass on the steam collection or liberation drum of a process steam generator.

(F) The water column shall be fitted with a drain cock or drain valve of at least 3/4 inch pipe size. The water column blowdown pipe shall not be less than 3/4 inch pipe size and shall be piped to a safe point of discharge.

(G) Connections from the steam collection or liberation drum of a process steam generator to remote level indicators shall be at least 3/4 inch pipe size, to and including the isolation valve, and at least 1/2 inch OD tubing from the isolation valve to the remote level indicator. These connections shall be completely independent of other connections for any function other than water level indication.

(7) Low-water cutoffs, alarms and feed regulating devices.

(A) The owner/operator is responsible for the design and installation of any low water protection devices as required to prevent damage to the process steam generator. All installed low water cutoffs, alarms and feeding devices shall be designed for a pressure and temperature equal to or greater than the maximum allowable working pressure and temperature of the process steam generator steam collection or liberation drum.

(B) When a low-water cutoff, and/or alarm is housed in either the water column or a separate chamber, it shall be provided with a blowdown pipe and valve not less than 3/4 inch pipe size. The arrangement shall be such that when the water column is blown down, the water level in it will be lowered sufficiently to activate the low-water cutoff and/or alarm device.

(C) Should a steam collection or liberation drum of a process steam generator be installed in a system without a local and constant attendant, and it is not a fail safe design, it shall be provided with a low-water cutoff as required for power boilers.

(8) Pressure gages.

(A) Each steam collection or liberation drum of a process steam generator shall have a pressure-indicating device that is easily readable from the primary operating station. The range shall be graduated to approximately double the pressure at which the safety valve is set, but in no case, less than one and one-half times this pressure. The pressure-indicating device shall be connected to the steam space, or to the water column, or its steam connection. A valve or cock shall be placed in the gage connection adjacent to the gage. An additional valve or cock may be located near the steam collection or liberation drum of the process steam generator. No other shutoff valves shall be located between the gage and the steam collection or liberation drum of the process steam generator. The pipe connection shall be of ample size and arranged so that it may be cleared by blowing down or flushing. The pressure-indicating device shall be provided with a siphon or equivalent device, which will develop and maintain a water seal that will prevent steam from entering the pressure-indicating device.

(B) Each steam collection or liberation drum of a process steam generator must have a valved connection at least 1/4 inch pipe size connected to the steam space for the purpose of

attaching a test gage when the process steam generator is in service to test the accuracy of the pressure-indicating device.

(9) Stop valves.

(A) Each steam outlet from a ASME Code, Section I process steam generator shall be fitted with a stop valve located as close as practicable to the steam collection or liberation drum of the process steam generator.

(B) When a stop valve is located that allows water to accumulate, ample drains shall be provided. The drain shall be piped to a safe location and shall not be discharged on the process steam generator or its setting.

(h) Potable water heaters, unique requirements.

(1) Stop valves should be placed in the supply and discharge pipe connections of a water heater installation to permit draining the heater without emptying the system.

(2) Each heater shall have a bottom drain pipe connection fitted with a valve or cock connected to the lowest water space practicable. The minimum size bottom drain shall be 3/4 inch.

(3) Each water heater shall have a thermometer located and connected at or near the outlet that is easily readable. The thermometer shall at all times indicate the temperatures of the water in the hot water heater.

(4) When the water supply to a water heater exceeds 75% of the design pressure of the heater, a pressure-reducing valve shall be required.

(i) Nuclear boilers.

(1) Nuclear boilers shall be inspected inservice by the owner or operator in accordance with ASME Boiler and Pressure Vessel Code, Section XI.

(2) The owner or operator shall engage the services of an inspection agency, qualified in accordance with American National Standards Institute/American Society of Mechanical Engineers (ANSI/ASME) N626.1, licensed by the Texas State Board of Insurance, and authorized to provide inspection services by the commissioner.

(3) The chief inspector shall assign, after receipt of the completed N-3 owner's data report, a state serial number to the nuclear boiler.

(A) All N-5 data reports for piping systems and N-3 owner's data reports shall be filed with the chief inspector.

(B) National Board registration described in §65.50(a) of this title (relating to Reporting Requirements) or §65.20(c)(1)(D) of this title (relating to Licensing/Certification/Registration Requirements) is not required.

(4) The certificate of operation will be issued after receipt of the preservice inspection summary report and prior to commercial service. The summary report shall include all activities required by ASME Code, Section XI, except for the results of examinations or test of items obtainable only during power ascension testing. These items shall be filed as an amendment to the summary report within 60 days of the completion of the power ascension testing. The items identified to be submitted in the amendment shall be agreed upon by mutual consent as provided for in paragraph (11) of this subsection prior to power ascension testing and issuance of the certificate of operation.

(5) The inservice inspection plan shall be submitted to the chief inspector by the owner or operator prior to commercial service.

(6) The chief inspector shall review the inservice inspection plan and select those items necessary to verify compliance with the Health and Safety Code, Chapter 755 and ASME Code, Section XI. Items selected for verification shall be from within the verification boundary of the nuclear boiler consisting of the components and component supports of the systems illustrated in Exhibit 6 of this chapter. Figure: 16 TAC §65.100 (i)(6)

(7) The chief inspector shall, upon reasonable notification by the owner or operator of inservice inspection activities to be accomplished during any outage on items selected in subsection (f) of this section, coordinate with the owner or operator the verification activities.

(8) The chief inspector shall review and maintain summary reports of the inservice inspections that are submitted by the owner or operator in accordance with ASME Code, Section XI.

(9) Repairs and/or replacements shall conform to the requirements of ASME Code, Section XI.

(10) The owner or operator shall, in case of serious accidents to a nuclear boiler involving a breach of the pressure boundary integrity of components included in Exhibit 6 as shown in paragraph (6) of this subsection, immediately notify the chief inspector by the most expeditious means available and apprise him of the nature of the accident. The chief inspector shall assess the nature of the accident, formulate inspection activities as required, and coordinate these activities with the owner or operator and as necessary with other state and federal agencies having jurisdiction.

(11) If exceptions or situations arise which are not specifically addressed in this section or other sections of the Boiler Law and Rules, or in ASME Code, Section XI, the owner or operator shall contact the chief inspector for guidance or interpretation.

(j) Heating boilers.

(1) Safety valves.

(A) Each steam boiler shall have one or more officially rated safety valves of the spring pop type adjusted and sealed to discharge at a pressure not to exceed 15 psig. Seals shall be attached in a manner to prevent the valve from being taken apart without breaking the seal. The safety valves shall be arranged so that they cannot be reset to relieve at a higher pressure than the maximum allowable working pressure of the boiler. A body drain connection below seat level shall be provided. For valves exceeding two inch pipe size, the drain hole or holes shall be tapped not less than 3/8 inch pipe size. For valves two inch pipe size or less, the drain hole shall not be less than 1/4 inch in diameter.

(B) Each safety valve 3/4 inch or over used on a steam boiler shall have a substantial lifting device which will positively lift the disk from its seat at least 1/16 inch when there is no pressure on the boiler. The seats and disks shall be of suitable material to resist corrosion.

(C) No safety valve for a steam boiler shall be smaller than 1/2 inch. No safety valve shall be larger than 4 1/2 inches. The inlet opening shall have an inside diameter approximately equal to, or greater than, the seat diameter.

(D) The minimum relieving capacity of valve or valves shall be governed by the capacity marking on the boiler.

(E) The minimum valve capacity in pounds per hour shall be the greater of that determined by dividing the maximum Btu output at the boiler nozzle obtained by the firing of any fuel for which the unit is installed by 1,000, or shall be determined on the basis of

the pounds of steam generated per hour per square foot of boiler heating surface as given in the following table. For cast iron boilers, the minimum valve capacity shall be determined by the maximum output method. In every case, the safety valve capacity for each steam boiler shall be such that with the fuel burning equipment installed, and operated at maximum capacity, the pressure cannot rise more than five psig above the maximum allowable working pressure.

Figure: 16 TAC §65.100 (j)(1)(E)

(2) Safety relief valves.

(A) Hot water boilers.

(i) Each hot water heating or supply boiler shall have at least one officially rated safety relief valve set to relieve at or below the maximum allowable working pressure of the boiler.

(ii) When more than one safety relief valve is used on either hot water heating or hot water supply boilers, the additional valve or valves shall be officially rated and may have a set pressure within a range not to exceed six psig above the maximum allowable working pressure of the boiler up to and including 60 psig, and 5.0% for those having a maximum allowable working pressure exceeding 60 psig.

(iii) Safety relief valves shall be spring loaded. Safety relief valves shall be set and sealed so that they cannot be reset without breaking the seal. A body drain connection below seat level shall be provided. For valves exceeding two inch NPS (nominal pipe size), the drain hole or holes shall be tapped not less than 3/8 inch NPS. For valves of two inch NPS or less, the drain hole shall not be less than 1/4 inch in diameter.

(iv) Each safety relief valve shall have a substantial lifting device which will positively lift the disk from its seat at least 1/16 inch when there is no pressure on the boiler.

(v) Seats and disks of safety relief valves shall be made of a suitable material to resist corrosion. No materials likely to fail due to deterioration or vulcanization, when subjected to saturated steam temperature corresponding to capacity test pressure, shall be used for any part.

(vi) No safety relief valve shall be smaller than 3/4 inch nor larger than 4 1/2 inch standard pipe size except that boilers having a heat input not greater than 15,000 Btu/hr may be equipped with a rated safety relief valve of 1/2 inch standard pipe size. The inlet opening shall have an inside diameter approximately equal to, or greater than, the seat diameter. In no case shall the minimum opening through any part of the valve be less than 1/4 inch in diameter or its equivalent area.

(vii) The required steam relieving capacity, in pounds per hour, of the pressure relieving device or devices on a boiler shall be the greater of that determined by dividing the maximum output in Btu at the boiler nozzle obtained by the firing of any fuel for which the unit is installed by 1,000, or shall be determined on the basis of pounds of steam generated per hour per square foot of boiler heating surface as given in the table in subsection (j)(1)(E) of this section. For cast iron boilers the minimum valve capacity shall be determined by the maximum output method.

(viii) In every case, the safety relief valve capacity for each boiler with a single safety relief valve shall be such that, with the fuel burning equipment installed and operated at maximum capacity, the pressure cannot rise more than 10% above the maximum allowable working pressure. When more than one safety relief valve is used, the overpressure shall be limited to 10% above the set pressure of the highest set valve.

(B) Potable water heaters.

(i) Potable water heaters (tank type) shall have at least one pressure temperature relief valve of the automatic reseating type set to relieve at or below the maximum allowable pressure of the heater.

(ii) The relief valve shall have a capacity equal to or exceeding the rated burner input of the heater.

(iii) The ASME BTU rating on the valve shall be used to determine the relieving capacity.

(iv) Relief valves shall be connected directly to the heater within the top six inches of the tank.

(v) Relief valves may be installed vertically or horizontally. The center line of the horizontal connection shall be no lower than four inches from the top of the shell.

(vi) Relief valves shall not be connected to an internal pipe in the heater, or to a cold water feed line connected to the heater.

(3) Safety valve and safety relief valve piping. No valve shall be placed between the safety valve or safety relief valve and the boiler nor on the discharge pipe between the safety valve and the atmosphere or the safety relief valve and the drain. When a discharge pipe is used, it shall be full size and fitted with an open drain to prevent water from lodging in the upper part of the safety valve or relief valve or in the discharge pipe. When an elbow is placed on the safety valve or relief valve discharge pipe, it shall be located close to the valve outlet. The discharge pipe shall be securely anchored and supported, independent of the valve.

(4) Pressure gages.

(A) Steam heating boilers.

(i) Each steam heating boiler shall have a pressure gage connected to the steam space, water column, or steam connection by a siphon or equivalent device exterior to the boiler. The gage shall be of sufficient capacity to keep the gage tube filled with water and arranged so that the gage cannot be shut off from the boiler except by a cock with tee or lever handle placed in a pipe near the gage. The handle of the cock shall be parallel to the pipe in which it is located when the cock is open.

(ii) The scale on the dial of a steam heating boiler pressure gage shall be graduated to not less than 30 psig nor more than 60 psig. The travel of the pointer from zero to 30 psig pressure shall be at least three inches.

(B) Hot water heating boilers or hot water supply.

(i) Each hot water heating boiler shall have a pressure or altitude gage connected to it or to its flow connection which cannot be shut off from the boiler except by a cock with tee or lever handle placed on the pipe near the gage. The handle of the cock shall be parallel to the pipe in which it is located when the cock is open.

(ii) The scale on the dial of the pressure or altitude gage shall be graduated to not less than one and one-half nor more than three times the pressure at which the safety relief valve is set. The gage shall be provided with effective stops for the indicating pointer at the zero point and at the maximum pressure point.

(iii) Piping and tubing for pressure or altitude gage connections shall be of nonferrous metal when smaller than one-inch pipe size.

(5) Water gage glasses.

(A) Each steam heating boiler shall have one or more water gage glasses attached to the water column or boiler by means of valved fittings. The lower fitting shall have a drain valve of the straightway type with opening not less than 1/4 inch diameter to facilitate cleaning. Gage glass replacement shall be possible under pressure.

(B) Transparent material, other than glass, may be used for the water gage provided that the material has proved suitable for the pressure, temperature, and corrosive conditions encountered in service.

(6) Low-water fuel cutoffs and water feeding devices.

(A) All automatically fired steam boilers, except boilers having a constant attendant, who has no other duties while the boiler is in operation, shall be equipped with approved low-water fuel cutoffs installed in such a manner that they cannot be rendered inoperative by the manipulation of any manual control or regulating apparatus. The low-water fuel cutoff devices shall be tested regularly by lowering the water level in the boiler sufficiently to shut off the fuel supply to the burner when the water level reaches the lowest safe level for operation.

(B) When a low-water fuel cutoff and feedwater pump control are combined in a single device, an additional separate low-water fuel cutoff shall be installed. The additional control shall be wired in series electrically with the existing low-water fuel cutoff.

(C) When a low-water fuel cutoff is housed in either the water column or a separate chamber it shall be provided with a blow-down pipe and valve not less than 3/4 inch pipe size. The arrangement shall be such that when the water column is blown down, the water level in it will be lowered sufficiently to activate the low-water fuel cutoff device.

(D) All newly installed automatically fired hot water heating boilers, when installed in a forced circulation system and not under continuous attendance, shall be equipped in the manner described in this subsection. A coil-type boiler or a water-tube boiler requiring forced circulation to prevent overheating of the coils or tubes shall have a device which is listed by a nationally recognized testing agency to prevent burner operation at a flow rate inadequate to protect the boiler unit against overheating.

(E) As there is no normal water line to be maintained in a hot water heating boiler, any location of the low-water fuel cutoff above the lowest safe water level established by the boiler manufacturer is satisfactory.

(F) If a water feed device is utilized, it shall be constructed to prevent feedwater from entering the boiler through the water column or separate chamber of the low-water fuel cutoff.

(7) Stop valves.

(A) Single steam heating boilers. When a stop valve is used in the supply pipe connection of a single steam heating boiler, there shall be one used in the return pipe connection.

(B) Single hot water heating boilers.

(i) Stop valves shall be located at an accessible point in the supply and return pipe connections near the boiler nozzle of a single hot water heating boiler installation to permit draining the boiler without emptying the system.

(ii) When the boiler is located above the system and can be drained without draining the system, stop valves may be eliminated.

(C) Supply and return line. Each supply and return line to a steam heating boiler, which may be entered while adjacent boilers are in operation, shall be fitted with either two stop valves with ample



drain between or a stop valve and figure 8 blank. The blank shall be installed between the stop valve and the boiler.

(D) Type of stop valve. When stop valves over two inches in size are used, they shall be of the outside screw-and-yoke rising stem type or of such other type as to indicate at a distance whether it is closed or open by the position of its stem or other operating mechanism. The wheel may be carried either on the yoke or attached to the stem. If the valve is of the plug cock type, it shall be fitted with a slow opening mechanism and an indicating device and the plug shall be held in place by a guard or gland.

(E) Identification of stop valves by tag. When stop valves are used, they shall be properly designated, substantially as follows, by tags of metal or other durable material fastened to them: Figure: 16 TAC §65.100 (j)(7)(E)

(8) Feedwater connections.

(A) Feedwater, makeup water, or water treatment shall be introduced into a boiler through the return piping system or through an independent feedwater connection which does not discharge against parts of the boiler exposed to direct radiant heat from the fire. Feedwater, makeup water, or water treatment shall not be introduced through openings or connections provided for inspection or cleaning, safety valve, or safety relief valve, surface blowoff, water column, water gage glass, pressure gage, or temperature gage.

(B) Feedwater pipe shall be provided with a check valve near the boiler and a stop valve or cock between the check valve and the boiler or return pipe system.

(9) Bottom blowdown or drain valve.

(A) Bottom blowoff valve. Each boiler shall have a bottom blowoff connection to the lowest water space practicable with a minimum size as shown in the following table. The discharge piping shall be full size to the point of discharge. Boilers having a capacity of 25 gallons or less are exempt from these requirements. Figure: 16 TAC §65.100(j)(9)(A)

(B) Drain valve. Each boiler shall have one or more drain connections, fitted with valves or cocks connecting to the lowest water containing spaces. The minimum size of the drain piping, valves, and cocks shall be 3/4 inches. The discharge piping shall be full size to the point of discharge. When the blowoff connection is located at the lowest water containing space, a separate drain connection is not required.

(C) Minimum pressure rating. The minimum pressure rating of valves and cocks used for blowoff or drain purposes shall be at least equal to the pressure stamped on the boiler, but in no case less than 30 psig. The temperature rating of such valves and cocks shall not be less than 250 degrees Fahrenheit.

(10) Provisions for thermal expansion.

(A) Hot water heating boiler. If the system is of closed type, an airtight tank or other suitable air cushion that is consistent with the volume and capacity of the system shall be installed, and it shall be suitably designed for a hydrostatic test pressure of two and one-half times the allowable working pressure of the system. Expansion tanks for systems designed to operate above 30 psig shall be constructed in accordance with the ASME Code, Section VIII, Division 1. Provision shall be made for draining the tank without emptying the system, except for pre-pressurized tanks.

(B) Potable water heater. If a system is equipped with a check valve or pressure-reducing valve in the cold water inlet line, an airtight expansion tank or other suitable air cushion shall be considered.

When an expansion tank is provided, it shall be constructed in accordance with the ASME Code, Section VIII, Division 1, for a maximum allowable working pressure equal to or greater than the water heater. Provision shall be made for pre-pressurized tanks.

(k) Repairs and alterations. Repairs and alterations shall conform to the current edition of the National Board Inspection Code (NBIC) and addenda; and shall be acceptable to the inspector, except that repairs and alterations may be performed by the following provided the intended work is within the scope of the issued certificate of authorization:

(1) holders of the appropriate certificate(s) of authorization from the American Society of Mechanical Engineers; or

(2) holders of a certificate of authorization from the National Board of Boiler and Pressure Vessel Inspectors for use of the R repair symbol stamp; or

(3) owner/operators of boilers who have been issued a certificate of authorization by the Texas Department of Licensing and Regulation.

(A) Issuance of the certificate of authorization will be made upon submission of an application, on forms provided by the department.

(B) Review of the applicant's program and facilities initially and at subsequent three-year intervals will be done.

(i) The review will determine the applicant has a documented program to control repairs and/or alterations conforming to minimum requirements established by the department.

(ii) The review will require demonstration of the applicant's ability to perform repairs and/or alterations by implementing on representative work the requirements of the written program.

(l) Lap seam cracks. The shell or drum of a boiler in which a typical lap seam crack is discovered along a longitudinal riveted lap-type joint shall be immediately and permanently discontinued for use under pressure. A lap seam crack is the typical crack frequently found in lap seams, which extends parallel to the longitudinal joint and is located either between or adjacent to rivet holes.

(m) Hydrostatic tests.

(1) When there is a question or doubt about the extent of a defect found in a boiler, the inspector may require a hydrostatic test.

(2) In preparing a boiler for a hydrostatic test, the boiler shall be filled with water to the stop valve and all air vented off. If the boiler to be tested is connected with other boilers that are under pressure, such connections shall be blanked off unless they have double stop valves on all connection pipes with a drain between.

(3) During a hydrostatic test of a boiler, the safety valve or valves shall be removed or each valve disc shall be held to its seat by means of a testing clamp and not by screwing down the compression screw under the spring.

(4) The minimum temperature of the water used to apply a hydrostatic test shall be 70 degrees Fahrenheit, but the maximum temperature shall not exceed 120 degrees Fahrenheit.

(5) When a hydrostatic test is to be applied after inspection, the pressure shall be as follows.

(A) For all cases involving the question of tightness, the pressure shall be no more than the set pressure of the safety valve or valves having the lowest setting.

(B) For all cases involving the question of safety, the pressure applied shall not exceed the lesser of that which was required by the original code of construction, or the pressure equal to that which results in an applied stress no greater than 90% of the specified minimum yield stress at test temperature of the material as published by ASME Code, Section II, Part D, current edition.

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

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Executive Director

Texas Department of Licensing and Regulation

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For further information, please call: (512) 463-7348



## TITLE 19. EDUCATION

### PART 7. STATE BOARD FOR EDUCATOR CERTIFICATION

#### CHAPTER 230. PROFESSIONAL EDUCATOR PREPARATION AND CERTIFICATION SUBCHAPTER G. CERTIFICATION REQUIREMENTS FOR CLASSROOM TEACHERS

##### 19 TAC §§230.191 - 230.193, 230.199

The State Board for Educator Certification adopts amendments to §§230.191 - 230.193, and 230.199, relating to certification requirements for classroom teachers, without changes to the proposed text as published in the April 5, 2002, issue of the *Texas Register* (27 TexReg 2677) and will not be republished.

The following is a summary of the factual basis for the rules as adopted that demonstrates a rational connection between the factual basis for the rules and the rules as adopted:

These adopted rules allow SBEC to issue new certificates based on updated and improved standards and examinations. Under the adopted rules, SBEC will cease issuing certain classroom teaching certificates and endorsements on September 1, 2003, as provided by the amendments. These superseded certificates will remain valid, and SBEC will not require educators who hold one of these credentials to obtain the corresponding new certificate. The adopted rules for the new certificates describe what broad curriculum areas or courses identified in the Texas Essential Knowledge and Skills (TEKS) the holder of each new certificate has been prepared to teach. The amendments and new rules would also allow for a one-year overlap of the superseded certificates and the new standards-based certificates. The major provisions of the amendments would accomplish the following:

Section 230.191(c)(1): Paragraph (1) of this Section 230.191(c) currently allows alternative certification programs (ACPs) to recommend candidates for certain educator certificates that traditional educator preparation programs cannot offer. On September 1, 2002, however, SBEC will begin issuing new certificates, none of which will be available only to ACP candidates. New 19 Texas Admin. Code Chapter 233 (adopted elsewhere in this same issue) will contain provisions for the new certificates. The adopted amendments to this §230.191(c)(1) initiate the transition away from ACP-only certificates to the new certificates that any approved program may prepare educator candidates for. The first ACP-only certificates that will be discontinued as of September 1, 2003, are those for classroom teachers of regular and elementary education (Prekindergarten through Grade 6). The adopted amendment allows a year-long transition period in which ACPs may recommend candidates for the old elementary certificates or the new ones, depending on which certificate exam the program prepared the candidate to pass.

Section 230.191(c)(2)(A)(v): Subparagraph (A) of this Section 230.191(c)(2) sets out the general, optional preparation requirements for elementary classroom teaching certificates (Grades 1-6, 1-8, and Prekindergarten-Grade 6) that will no longer be issued as of September 1, 2003. (As indicated, however, in the explanation below for the adopted amendment to §230.192, the certificate option that includes the generic special education delivery system will continue to be offered beyond September 1, 2003, until SBEC develops new certification exams for this area.) These certificates are being superseded by new ones whose provisions will be located in adopted new 19 Tex. Admin. Code Chapter 233, related to new standard classroom teaching certificates (adopted elsewhere in this same issue). Adopted new Clause (v) to this §230.191(c)(2)(A) would implement the discontinuance of the old elementary certificates.

Section 230.192(c): This §230.192 presently contains the specific preparation requirements for the options for elementary classroom teaching certificates listed in §230.191(c)(2)(A) above. Subsection (b) of §230.192 includes a table specifying course and semester-hour requirements or exceptions by subject or student population to be taught. With the exception of the delivery system for generic special education, adopted new Subsection (c) of §230.192 provides for the discontinuance by September 1, 2003, of the elementary education certificates listed in the table included as part of Subsection (b) of §230.192. New 19 Texas Admin. Code Chapter 233, related to new standard classroom teaching certificates (adopted elsewhere in this same issue), contains the replacements for the certificates to be discontinued.

Section 230.193(c): This §230.193 now details the preparation options for secondary classroom teaching certificates. Subsection (b) of §230.193 includes a table specifying course and semester-hour requirements or exceptions by subject or student population to be taught. With the exception of the teaching fields and delivery systems in Art, Business, Dance, Generic Special Education, Health Education, Industrial Technology (formerly Industrial Arts), Journalism, Music, Other Languages, Physical Education, Speech Communications, and Theatre Arts, adopted new Subsection (c) to §230.193 provides for the discontinuance by September 1, 2003, of the secondary education certificates listed in the table included as part of Subsection (b) of §230.193. New 19 Texas Admin. Code Chapter 233, related to new standard classroom teaching certificates (adopted elsewhere in this same issue), contains the replacements for the certificates to be discontinued.

Section 230.199(c)(1)(C), (c)(2)(C), (d)(2)(C), and (d)(3)(D): Currently, §230.199 prescribes the program requirements for endorsements in various delivery systems. With the proposal of new 19 Texas Admin. Code Chapter 233, related to new standard classroom teaching certificates (adopted elsewhere in this same issue), SBEC would no longer add certain endorsements to existing teacher certificates. Instead, standard certificates would be issued to qualified teachers to provide instruction in the delivery system areas formerly covered by discontinued endorsements. To this end, SBEC proposes four new subparagraphs in §230.199 to provide for the discontinuance of the following endorsements as of September 1, 2003:

1. new Subparagraph (C) in Paragraph (1) of Subsection (c) would discontinue the bilingual education endorsement;
2. new Subparagraph (C) in Paragraph (2) of Subsection (c) would discontinue the early childhood education (Prekindergarten-Kindergarten) endorsement;
3. new Subparagraph (C) in Paragraph (2) of Subsection (d) would discontinue the learning resources endorsement; and
4. new Subparagraph (D) in Paragraph (3) of Subsection (d) would discontinue the information processing technologies endorsement.

No comments were received in regarding adoption of the proposed rules.

The amendments are adopted under the following sections of the Education Code: §21.041(b)(2), which requires the State Board for Educator Certification (SBEC) to propose rules that specify the classes of educator certificates to be issued; §21.041(b)(4), which requires SBEC to propose rules that specify the requirements for the issuance and renewal of an educator certificate; §21.044, which requires SBEC to propose rules that establish the training requirements a person must accomplish to obtain a certificate; §21.048(a), which requires SBEC to propose rules prescribing comprehensive examinations for each class of certificate issued by the Board; and §21.050, which establishes the nature of an academic degree required for certification.

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

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William Franz

Executive Director

State Board for Educator Certification

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For further information, please call: (512) 469-3002



## SUBCHAPTER M. CERTIFICATION OF EDUCATORS IN GENERAL

### 19 TAC §230.413

The State Board for Educator Certification adopts amendments to §230.413, relating to certification of educators in general, without changes to the proposed text as published in the April 5, 2002, issue of the *Texas Register* (27 TexReg 2683) and will not be republished.

The following is a summary of the factual basis for the rules as adopted that demonstrates a rational connection between the factual basis for the rules and the rules as adopted:

The adopted rules allow SBEC to issue new certificates based on updated and improved standards and examinations. Under the adopted rules, SBEC will cease issuing certain classroom teaching certificates and endorsements on September 1, 2003, as provided by the amendments. These superseded certificates will remain valid, and SBEC will not require educators who hold one of these credentials to obtain the corresponding new certificate. The adopted rules for the new certificates describe what broad curriculum areas or courses identified in the Texas Essential Knowledge and Skills (TEKS) the holder of each new certificate has been prepared to teach. The amendments and new rules would also allow for a one-year overlap of the superseded certificates and the new standards-based certificates. The major provisions of the amendments would accomplish the following:

Section 230.413(b)(7)(A) and (D): Subparagraph (A) of this §230.413(b)(7) is amended to conform with new 19 Texas Admin. Code Chapter 233 (adopted elsewhere in this same issue), which will contain provisions for new standard classroom teaching certificates to be issued for the first time beginning September 1, 2002. Subparagraph (A) of this §230.413(b)(7) is amended to conform with current nomenclature for certificates issued by SBEC.

Section 230.413(c)(2) and (3): Subsection (c) of this §230.413 is amended to reflect the projected replacement of the current certification testing program known as "ExCET" (Examination for the Certification of Educators in Texas) by another program, tests of which will be generically referred to as "certification examinations" and will be described in §230.5 of this title. Paragraph (2) of this subsection is amended to conform with current nomenclature for certificates issued by SBEC. New Paragraph (3) of this same subsection is adopted to implement the superseding of this subsection on September 1, 2003, by the provisions of new 19 Texas Admin. Code Chapter 233, related to new standard classroom teaching certificates (adopted elsewhere in this same issue).

Section 230.413(d)(1)-(3): Amendments are adopted for Subsection (d) as well as Paragraphs (1) and (2) of Subsection (d) of this §230.413 to reflect the projected replacement of the ExCET certification testing program by another program, whose tests will generically be referred to as "certification examinations." New Paragraph (3) of this same subsection is adopted to implement the superseding of this subsection on September 1, 2003, by the provisions of new 19 Texas Admin. Code Chapter 233, related to new standard classroom teaching certificates (adopted elsewhere in this same issue).

No comments were received regarding adoption of the rule.

The amendment is adopted under the following sections of the Education Code: §21.041(b)(2), which requires the State Board for Educator Certification (SBEC) to propose rules that specify the classes of educator certificates to be issued; §21.041(b)(4), which requires SBEC to propose rules that specify the requirements for the issuance and renewal of an educator certificate; §21.044, which requires SBEC to propose rules that establish the training requirements a person must accomplish to obtain a certificate; §21.048(a), which requires SBEC to propose rules prescribing comprehensive examinations for each class of certificate issued by the Board; and §21.050, which establishes the nature of an academic degree required for certification.

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

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William Franz

Executive Director

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## SUBCHAPTER O. TEXAS EDUCATOR CERTIFICATES BASED ON CERTIFICATION AND COLLEGE CREDENTIALS FROM OTHER STATES OR TERRITORIES OF THE UNITED STATES

### 19 TAC §§230.461, 230.462, 230.464

The State Board for Educator Certification (SBEC or Board) adopts amendments to §230.461 and §230.462, and new §230.464, relating to Texas educator certificates based on certification and college credentials from other states and territories of the United States, without changes to the proposed text as published in the April 5, 2002, issue of the *Texas Register* (27 TexReg 2685) and will not be republished.

The following is a summary of the factual basis for the rules as adopted that demonstrates a rational connection between the factual basis for the rules and the rules as adopted:

The Board adopts the following amendments to §230.461 and §230.462 and new §230.464:

Section 230.461(b): The adopted amendment to Subsection (b) of §230.461 clarifies that the academic degree obtained by an educator from another state who is seeking Texas certification must be comparable to the bachelor's degree or higher. This amendment is adopted in accordance with §21.050, Education Code, which authorizes SBEC to adopt rules requiring a bachelor's degree for certification. This requirement is the same as that for other candidates who seek certification to teach academic subjects in Texas public schools.

Section 230.461(e) and new §230.464: The adopted amendment to Subsection (e) of §230.461 and new §230.464 delegate to SBEC's executive director the authority to review the qualifications of educators from other states and to issue certificates to such applicants that are found to be eligible for Texas certification. Section 21.041(b)(5), Education Code, requires the Board to propose rules providing for the issuance of a Texas certificate to an eligible educator another state or country, subject to §21.052, Education Code. Section 21.052 says specifically that the *Board* may issue a certificate to an eligible educator from another state or country. Section 21.039(3), Education Code, however, generally provides for the executive director to issue the certificates authorized by the Board. Accordingly, the adopted rules provide a legal and appropriate method of processing Texas certificates for educators from other states or territories for the following reasons:

1. it is not administratively efficient for the Board as a body to review each application from out-of-state educators and to issue each such approved certificate;
2. Section 21.041(b)(1) requires the Board to propose rules that provide for regulation of educators and the general administration of Chapter 21, Subchapter B, Education Code, in a manner consistent with this subchapter;
3. Section 21.039(3), Education Code, generally empowers the executive director to issue all certificates authorized under Chapter 21, Subchapter B, Education Code;
4. Section 21.040(6), Education Code, requires the Board to develop and implement policies that clearly define the respective responsibilities of the Board and the Board's staff; and
5. Section 21.039(1), Education Code, requires the executive director to perform duties assigned by the Board or specified by law.

Section 230.462(a), (c), and (h): The adopted amendments to Subsections (a), (c), and (h) of §230.462 implements the 77th Legislature's amendment of §21.052, Education Code, to the exempt out-of-state educators from Texas certification exam requirements if they passed comparable certification exams in their jurisdiction of certification. Amended Subsection (h) ratifies the limited extension of temporary credentials issued to certain educators from other states under emergency rules that the Board adopted in August 2001 and that expired on February 6, 2002. This extension was granted to allow eligible out-of-state educators extra time to find out if they would be exempted from further testing under the results of SBEC's first phase of reviewing other states' certification exams. These "two-year" certificates will expire after September 1, 2002, the date many current certificates and ExCET tests are slated for replacement.

Section 230.462(i): The adopted amendment to Subsection (i) of §230.462 allows certain educators from outside Texas until August 31, 2003, to take the current ExCET tests as determined by an SBEC review of credentials and receive the corresponding certificates that are slated to be discontinued, even though the replacement certificates will become available September 1, 2002. This amendment conforms the out-of-state educator rules to similar Board policies for other types of candidates permitting a limited one-year overlap of current tests and certificates during the initial academic year of the new certificate structure, 2002-2003.

No comments were received regarding adoption of the rules.

The amendments and new rule are adopted under the following sections of the Education Code: §21.039(3), which authorizes SBEC's executive director to issue educator certificates approved by the Board; §21.041(b)(1), which requires the Board to propose rules providing for the regulation of educators and general administration of SBEC's statutes; §21.041(b)(5), which requires SBEC to propose rules that provide for the issuance of an educator certificate to a person who holds a similar certificate issued by another state; §21.048(a), which requires SBEC to propose rules prescribing comprehensive examinations for each class of certificate issued by the Board; §21.050, which establishes the nature of an academic degree required for certification; and §21.052, which authorizes SBEC to issue certificates to educators from other states, subject to certain minimum requirements.

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

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William Franz

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## SUBCHAPTER P. REQUIREMENTS FOR STANDARD CERTIFICATES AND SPECIALIZED ASSIGNMENTS OR PROGRAMS

### 19 TAC §230.483

The State Board for Educator Certification (SBEC or Board) adopts amendments to §230.483, relating to requirements for standard certificates and specialized assignments, without changes to the proposed text as published in the April 5, 2002, issue of the *Texas Register* (27 TexReg 2687) and will not be republished.

The following is a summary of the factual basis for the rules as adopted that demonstrates a rational connection between the factual basis for the rules and the rules as adopted:

The Board adopts the following amendments and new rule in 19 Texas Admin. Code §230.483:

Section 230.483(a): The proposed amendment to Subsection (a) of §230.483 would implement the recommendations made by the Board-appointed standards advisory committee for the health science technology certificate. Under the proposed amendments to Subsection (a), candidates for the health science technology certificate would be required to meet the following qualifications:

1. a bachelor's degree from an accredited institution;
2. current licensure, certification, or registration by a nationally recognized accrediting agency as a health professions practitioner based on a program requiring at least two years of formal education;
3. approval by the teacher preparation program of two years of wage earning experience; and
4. passing scores on new certification exams for pedagogy and health science technology and professional responsibilities for grades 8-12.

Moreover, candidates for the health science technology certificate will no longer be required to spend two years on an emergency permit. Teacher preparation programs will be allowed to develop internships for these candidates in the same manner as candidates for other teacher certificates. The new health science technology certificate would be issued for the first time beginning with the 2004-2005 school year.

Section 230.483(f): Proposed new Subsection (f) of §230.483 would implement the recommendations made by the Board-appointed standards advisory committee for the trade and industrial

education certificate. Under proposed new Subsection (f), candidates for the trade and industrial education certificate would be required to meet the following qualifications:

1. a high school diploma, associate's degree, or bachelor's degree from an accredited institution;
2. current licensure, certification, or registration by a state or nationally recognized accrediting agency as a professional practitioner that is based on a recognized test or measurement;
3. approval by the teacher preparation program of three years of wage earning experience within the past eight years for holders of either the associate or bachelor degrees or five years of wage earning experience within the past eight years for holders of a high school diploma (holders of a bachelor's degree may substitute experience gained through a formal documented internship for up to 18 months of wage earning experience); and
4. passing scores on new certification exams for trade and industrial education and pedagogy and professional responsibilities for grades 8-12.

Moreover, candidates for the trade and industrial education certificate will no longer be required to spend two years on an emergency permit. Teacher preparation programs will be allowed to develop internships for these candidates in the same manner as candidates for other teacher certificates. The new trade and industrial education certificate would be issued for the first time beginning with the 2003-2004 school year.

The health science technology and trade and industrial education certificates with their corresponding set of standards were developed, reviewed, and approved by a committee composed of Texas educators, administrators, educator preparation faculty, and content experts that represented the state geographically and ethnically. The Board approved the creation and membership of the development committees at its regular meetings in August 2000 and November 2000 (the committee rosters are available in those agendas). Drafts of the standards for the health science technology and trade and industrial education certificates were subsequently made available on the SBEC web site for public comment. Review and comments were also solicited from national experts. The standards were then revised as necessary to incorporate feedback from the public as well as the national experts.

The educator standards for these new health science technology and trade and industrial education certificates will be incorporated into educator preparation programs and will help assure that educator candidates will improve student performance by having been trained in the Texas Essential Knowledge and Skills (TEKS), which is required of all public school students, and by having gained subject matter knowledge and teaching skills in excess of the TEKS.

No comments were received regarding adoption of the rule.

The amendment is adopted under the following sections of the Education Code: §21.039(3), which authorizes SBEC's executive director to issue educator certificates approved by the Board; §21.041(b)(1), which requires the Board to propose rules providing for the regulation of educators and general administration of SBEC's statutes; §21.041(b)(4), which requires SBEC to propose rules that specify the requirements for the issuance and renewal of an educator certificate; §21.041(b)(6), which requires the Board to propose rules that provide for special or restricted certification of educators; §21.044, which requires SBEC to propose rules that establish the training requirements a person must

accomplish to obtain a certificate; §21.048(a), which requires SBEC to propose rules prescribing comprehensive examinations for each class of certificate issued by the Board; and §21.050, which establishes the nature of an academic degree required for certification.

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

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William Franz

Executive Director

State Board for Educator Certification

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For further information, please call: (512) 469-3011



## CHAPTER 233. CATEGORIES OF CLASSROOM TEACHING CERTIFICATES

### 19 TAC §§233.1 - 233.6

The State Board for Educator Certification adopts new Chapter 233, §§233.1 - 233.6, relating to categories of classroom teaching certificates, without changes to the proposed text as published in the April 5, 2002, issue of the *Texas Register* (27 TexReg 2691) and will not be republished.

The following is a summary of the factual basis for the rules as adopted that demonstrates a rational connection between the factual basis for the rules and the rules as adopted:

These adopted rules allow SBEC to issue new certificates based on updated and improved standards and examinations. Under the adopted rules, SBEC will cease issuing certain classroom teaching certificates and endorsements on September 1, 2003, as provided by the amendments. These superseded certificates will remain valid, and SBEC will not require educators who hold one of these credentials to obtain the corresponding new certificate. The adopted rules for the new certificates describe what broad curriculum areas or courses identified in the Texas Essential Knowledge and Skills (TEKS) the holder of each new certificate has been prepared to teach. The amendments and new rules would also allow for a one-year overlap of the superseded certificates and the new standards-based certificates. The major provisions of the amendments would accomplish the following:

Section 233.1: New §233.1 adds another method of organizing the kinds of educator certificates SBEC issues. "Category" is added to the certification groupings termed "class" and "type," which are described in Subchapter M of Chapter 232 of this title, relating to the types and classes of certificates issued. "Type" indicates how long a credential is valid: that is, whether it is temporary, renewable, or continuing. A "class" of certification broadly represents the kind of educator certificate issued: that is, whether the certificate authorizes the holder to be employed in the public schools as a classroom teacher, administrator, school librarian, school counselor, or other kind of educator. A "category" includes the different kinds of certificates within a class: that is, whether a classroom teacher's certificates authorizes the holder to teach elementary education or secondary subjects, such as mathematics, science, English, or other area.

The remaining sections of new Chapter 233 (§§233.2-233.6) present the latest certification categories for classroom teachers the Board has approved so far. As applicable, each certificate category is aligned with the Texas Essential Knowledge and Skills (TEKS) curriculum adopted by the State Board of Education. With the exception of the certificates for technology applications (grades 8-12) and computer science (grades 8-12), these new categories of classroom teachers' certificates will be issued for the first time beginning September 1, 2002. The technology applications and computer science certificates have been issued since June 1, 2001.

Section 233.2: New §233.2 establishes the following new classroom teachers' certificates: Generalist (early childhood - grade 4) (regular programs); and Generalist (grades 4-8) (regular programs).

Section 233.3: New §233.3 establishes the following new classroom teachers' certificates: English Language Arts and Reading (grades 4 - 8); Social Studies (grades 4 - 8); English Language Arts and Reading/ Social Studies (grades 4 - 8); English Language Arts and Reading (grades 8 - 12); Social Studies (grades 8 - 12); and History (grades 8 - 12).

Section 233.4: New §233.4 establishes the following new classroom teachers' certificates: Mathematics (grades 4 - 8); Science (grades 4 - 8); Mathematics/Science (grades 4 - 8); Mathematics (grades 8 - 12); Science (grades 8 - 12); Life Science (grades 8 - 12); and Physical Science (grades 8 - 12).

Section 233.5: New §233.5 establishes the following new classroom teachers' certificates: Technology Applications (grades 8 - 12); Technology Applications (early childhood - grade 12); and Computer Science (grades 8 - 12).

Section 233.6: New §233.6 establishes the following new classroom teachers' certificates: Bilingual Generalist (early childhood - grade 4); Bilingual Generalist (grades 4 - 8); Bilingual Education Supplemental (early childhood - grade 4); and Bilingual Education Supplemental (grades 4 - 8).

Section 21.031(b), Education Code, requires the Board to ensure that candidates for certification demonstrate the knowledge and skills necessary to improve the performance of all Texas students. The means for ensuring appropriate knowledge and skills of prospective educators is to:

1. develop standards for beginning educators that are based on the TEKS and that delineate what the beginning teacher should know and be able to do;
2. create a configuration of educator certificates that ensure teacher knowledge of the pivotal points in the developmental stages of children and in the continuum of curriculum as outlined in the TEKS; and
3. develop new certification examinations to reflect appropriate content and pedagogy.

The recommendations of the Advisory Committee on Educator Certificates, presented to the Board at its August 7, 1998, meeting, outlined a proposal for a certificate structure that grouped certificates according to EC-Grade 3, Grades 2-6, Grades 5-9, and Grades 7-12.

The Board discussed this proposal at its March 1999 meeting, and the Executive Director asked that a decision on certificates be deferred so that additional information could be gathered during the standards development process. The Board directed

staff to develop standards based on a tentative configuration of EC-Grade 3, Grades 4-8, and Grades 8-12.

During the meetings that were held to develop standards for reading/English language arts, mathematics, science, social studies, and professional development, Grade 4 emerged as a pivotal grade in terms of a shift in the development of the child, pedagogy, and TEKS content and focus.

An effective teacher of young children should be well grounded in the interrelated components of developmental reading as well as in the synthesis of these early skills into reading for comprehension. As shown in the following highlights from the TEKS, Grade 4 is a pivotal year in this transition and serves both as a culminating point in which early developmental reading skills come together and as a starting point for the use of analytical skills that a sophisticated reader must possess. Essential knowledge and skills in reading for grades 3 through 5 are presented below:

Grade 3 - read grade-level material fluently and with comprehension; begin to distinguish fact from opinion in texts; read in a variety of genres.

Grade 4 - read with a growing interest in a wide variety of topics and adjust reading approach to various forms of texts; read for meaning; paraphrase texts; connect, compare, and contrast ideas; identify and follow varied text structures, such as chronologies and cause and effect.

Grade 5 - read from classic and contemporary selections and informational texts; judge the internal consistency or logic of stories and texts; recognize the way an author organizes information; engage in more sophisticated analysis of characters, plots, and settings.

Grade 4 serves as a pivotal point in mathematics as well, in that students are making transitions from learning simple mathematical principles represented through concrete models to learning complex mathematical principles represented abstractly. Essential knowledge and skills in mathematics for grades 3 through 5 are set out below:

Grade 3 - construct concrete models of fractions; compare fractional parts of a whole or sets of objects in a problem situation using concrete models; construct concrete models of equivalent fractions for fractional parts of whole objects.

Grade 4 - generate equivalent fractions using concrete and pictorial models; compare and order fractions using concrete and pictorial models; relate decimals to fractions using models.

Grade 5 - generate equivalent fractions; compare two fractional quantities in problem-solving situations using a variety of methods, including common denominators; use models to relate decimals to fractions.

The adopted rules configure elementary and middle school certificates in two ways. Generalist certificates for both EC-Grade 4 and Grades 4-8 will allow for the assignment of teachers in self-contained settings. Grades 4-8 combinations of English language arts with social studies and mathematics with science will address the essential need for middle school teachers in departmentalized settings to have more specialized knowledge.

Teachers holding EC-Grade 4 and Grades 4-8 certificates will have demonstrated the content knowledge and pedagogical skills above and beyond the TEKS to teach students as indicated by the particular certificate awarded. Assignment to these levels is expected and should be reflected in assignment criteria to be delineated in future Board rules. When school district

administrators are unable to meet the assignment criteria due to staffing and hiring conditions within the district, the Board should include in future rules provisions for employing and supporting these teachers while they achieve certification in the areas in which they are assigned. A support structure, including a fully trained mentor, should be required for these individuals to ensure that student learning is not jeopardized as a result of assigning teachers outside their area of certification.

As to the middle and secondary school certificates created by new Chapter 233, the Board believes the levels and composition of certificates to teach grades 8-12 reflects the normal middle and secondary school grade structure, the developmental stages of children, and the logical combinations of content across the Texas Essential Knowledge and Skills (TEKS) for teaching early childhood through grade 12. Offering composite certificates rather than just multiple single-field certificates (that is, offering a "science" certificate rather than just separate physics, chemistry, and biology certificates) achieves the following:

1. gives school districts greater flexibility in assigning teachers to fulfill needs and therefore provides more efficient use of teacher resources; and
2. ensures teachers will have greater breadth and depth of knowledge across and within content areas as well as providing them more marketable certification.

Certification by examination will continue to be available to all previously certified individuals - additional certificates can be obtained by passing the appropriate certification exam. Certified teachers assigned outside their certificate area can at any time attempt the exam(s) for that area without completing any additional coursework or training.

No comments were received regarding adoption of the rules.

The new rules are adopted under the following sections of the Education Code: §21.031(b), which requires the Board to ensure that candidates for certification demonstrate the knowledge and skills necessary to improve the performance of all Texas students; §21.041(b)(2), which requires the State Board for Educator Certification (SBEC) to propose rules that specify the classes of educator certificates to be issued; §21.041(b)(4), which requires SBEC to propose rules that specify the requirements for the issuance and renewal of an educator certificate; §21.044, which requires SBEC to propose rules that establish the training requirements a person must accomplish to obtain a certificate; §21.048(a), which requires SBEC to propose rules prescribing comprehensive examinations for each class of certificate issued by the Board; and §21.050, which establishes the nature of an academic degree required for certification.

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

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William Franz

Executive Director

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CHAPTER 239. STUDENT SERVICES  
CERTIFICATES

SUBCHAPTER A. SCHOOL COUNSELOR  
CERTIFICATE

**19 TAC §239.30**

The State Board for Educator Certification (SBEC or Board) adopts amendments to §239.30, relating to school counselor certification, without changes to the proposed text as published in the April 5, 2002, issue of the *Texas Register* (27 TexReg 2693) and will not be republished.

The following is a summary of the factual basis for the rules as adopted that demonstrates a rational connection between the factual basis for the rules and the rules as adopted:

The amendments to 19 Texas Admin. Code §239.30 make the rules regarding the transition to the new school counselor certificate consistent with other policies regarding the transition to new certificates being implemented on September 1, 2002. Specifically, these amendments postpone the discontinuance of issuing the current counselor, special education counselor, and vocational counselor certificates from September 1, 2002, until September 1, 2003. Allowing this "overlap" year will remove an unnecessary barrier to certification for school counselor candidates who have partially met the requirements for certification and among those seeking additional certification by examination.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the following sections of the Education Code: §21.039(3), which authorizes the SBEC's executive director to issue educator certificates approved by the Board; §21.041(b)(2), which requires SBEC to propose rules that specify the classes of educator certificates to be issued; §21.041(b)(4), which requires SBEC to propose rules that specify the requirements for the issuance and renewal of an educator certificate; §21.044, which requires SBEC to propose rules that establish the training requirements a person must accomplish to obtain a certificate; §21.048(a), which requires SBEC to propose rules prescribing comprehensive examinations for each class of certificate issued by the Board; and §33.002, which requires SBEC to certify counselors for employment in the public schools.

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

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SUBCHAPTER B. SCHOOL LIBRARIAN  
CERTIFICATE

**19 TAC §239.70**

The State Board for Educator Certification (SBEC or Board) adopts amendments to §239.70, relating to school counselor certification, without changes to the proposed text as published in the April 5, 2002, issue of the *Texas Register* (27 TexReg 2694) and will not be republished.

The following is a summary of the factual basis for the rules as adopted that demonstrates a rational connection between the factual basis for the rules and the rules as adopted:

The amendments to 19 Texas Admin. Code §239.70 make the rules regarding the transition to the new school librarian certificate consistent with other policies regarding the transition to new certificates being implemented on September 1, 2002. Specifically, these amendments postpone the discontinuance of issuing the current learning resources specialist certificate and endorsement from September 1, 2002, until September 1, 2003. Allowing this "overlap" year will remove an unnecessary barrier to certification for school librarian candidates who have partially met the requirements for certification and among those seeking additional certification by examination.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the following sections of the Education Code: §21.039(3), which authorizes the SBEC's executive director to issue educator certificates approved by the Board; §21.041(b)(2), which requires SBEC to propose rules that specify the classes of educator certificates to be issued; §21.041(b)(4), which requires SBEC to propose rules that specify the requirements for the issuance and renewal of an educator certificate; §21.044, which requires SBEC to propose rules that establish the training requirements a person must accomplish to obtain a certificate; and §21.048(a), which requires SBEC to propose rules prescribing comprehensive examinations for each class of certificate issued by the Board.

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

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CHAPTER 245. CERTIFICATION OF  
EDUCATORS FROM OTHER COUNTRIES

**19 TAC §§245.1, 245.5, 245.10**

The State Board for Educator Certification (SBEC or Board) adopts amendments to §§245.1, 245.5, and 245.10, relating to certification of educators from other countries, without changes to the proposed text as published in the April 5, 2002,



issue of the *Texas Register* (27 TexReg 2695) and will not be republished.

The following is a summary of the factual basis for the rules as adopted that demonstrates a rational connection between the factual basis for the rules and the rules as adopted:

The Board adopts the following amendments to 19 Texas Admin. Code §§245.1, 245.5, and 245.10:

Section 245.1(a), (b), and (e): The adopted amendment to Subsection (a) of §245.1 recognizes the issuance of one-year certificates to educators from other countries not just standard certificates. The adopted deletion of the reference to §230.5 of this title, relating to educator assessment, implements the 77th Legislature's amendment of §21.052, Education Code, to allow the exemption of out-of-state educators from Texas certification exam requirements if they passed comparable certification exams in their jurisdiction of certification.

The adopted amendment to Subsection (b) of §245.1 clarifies that the academic degree obtained by an educator from another country who is seeking Texas certification must be comparable to the bachelor's degree or higher.

The adopted amendment to Subsection (e) of §245.1 clarifies that the Board has delegated to SBEC's executive director the authority to review the qualifications of educators from other countries and to issue certificates to such applicants found to be eligible for Texas certification. Section 21.041(b)(5), Education Code, requires the Board to propose rules providing for the issuance of a Texas certificate to an eligible educator another state or country, subject to Section 21.052, Education Code. Section 21.052 says specifically that the *Board* may issue a certificate to an eligible educator from another state or country. Section 21.039(3), Education Code, however, generally provides for the executive director to issue the certificates authorized by the Board. Accordingly, the adopted rules provide a legal and appropriate method of processing Texas certificates for educators from other states or territories for the following reasons:

1. it is not administratively efficient for the Board as a body to review each application from out-of-state educators and to issue each such approved certificate;
2. Section 21.041(b)(1) requires the Board to propose rules that provide for regulation of educators and the general administration of Chapter 21, Subchapter B, Education Code, in a manner consistent with this subchapter;
3. Section 21.039(3), Education Code, generally empowers the executive director to issue all certificates authorized under Chapter 21, Subchapter B, Education Code;
4. Section 21.040(6), Education Code, requires the Board to develop and implement policies that clearly define the respective responsibilities of the Board and the Board's staff; and
5. Section 21.039(1), Education Code, requires the executive director to perform duties assigned by the Board or specified by law.

Section 245.5(a), (e), and (f): The adopted amendment to Subsection (a) of §245.5 implements the Texas test exemption described above for educators from other countries who passed comparable certification exams in obtaining a certificate or license in a foreign jurisdiction. Subsequent subdivisions contained in the section are renumbered accordingly.

Adopted new Subsection (e) of §245.5 ratifies the limited extension of temporary credentials (one-year certificates) issued to certain educators from other countries under emergency rules that the Board adopted in August 2001 and that expired in February 2002. This extension was granted to allow eligible out-of-country educators extra time to find out if they are exempted from further testing under the results of SBEC's first phase of reviewing other jurisdictions' certification exams.

Adopted new Subsection (f) of §245.5 allows certain educators from outside Texas until August 31, 2003, to take the current EX-CET tests as determined by an SBEC review of credentials and receive the corresponding certificates that are slated to be discontinued, even though the replacement certificates will become available September 1, 2002.

Section 245.10(e): Adopted new Subsection (e) of §245.10 clarifies and iterates the executive director's authority, within statutory limits, to establish requirements for the submission of applications by foreign educators seeking Texas certification.

No comments were received regarding adoption of the rules.

The amendments are adopted under the following sections of the Education Code: §21.039(3), which authorizes SBEC's executive director to issue educator certificates approved by the Board; §21.041(b)(1), which requires the Board to propose rules providing for the regulation of educators and general administration of SBEC's statutes; §21.041(b)(5), which requires SBEC to propose rules that provide for the issuance of an educator certificate to a person who holds a similar certificate issued by another state; §21.048(a), which requires SBEC to propose rules prescribing comprehensive examinations for each class of certificate issued by the Board; §21.050, which establishes the nature of an academic degree required for certification; and §21.052, which authorizes SBEC to issue certificates to educators from other states, subject to certain minimum requirements.

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

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William Franz

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## **TITLE 22. EXAMINING BOARDS**

### **PART 1. TEXAS BOARD OF ARCHITECTURAL EXAMINERS**

#### **CHAPTER 1. ARCHITECTS**

##### **SUBCHAPTER D. CERTIFICATION AND ANNUAL REGISTRATION**

###### **22 TAC §1.68**

The Texas Board of Architectural Examiners adopts an amendment to rule §1.68 for Title 22, Chapter 1, Subchapter D, pertaining to inactive status for certificates of registration. The amendment is being adopted with changes. The proposal to amend this rule was first published in the April 12, 2002, *Texas Register*, (27 TexReg 2918) TRD #200202069. The amendment to this rule will allow inactive registrants to use the title "architect" and will allow an inactive architect who has been actively registered as an architect in Texas or in another jurisdiction for at least twenty years and has retired from the practice of architecture to use the title "Emeritus Architect" or "Architect Emeritus." The amended rule will better reflect the statutory provision that is its basis and that a retired architect will not have to maintain an active registration in order to continue to use the title "architect." The changes to the amendment as proposed occur in paragraph (i). The stipulation in paragraph (i) that a nonregistrant may not use the title "Emeritus Architect" or "Architect Emeritus" was moved to a separate, new paragraph (j). The word "valid" was removed from paragraph (i)(2).

The board received no comments regarding the proposal to amend this rule.

The amendment is adopted pursuant to Section 3(b) and Section 11A of Article 249a, Vernon's Texas Civil Statutes which provide the Texas Board of Architectural Examiners with authority to promulgate rules, including rules related to inactive status.

The amendment to this section does not affect any other statutes.

#### §1.68 Inactive Status

(a) An Architect whose registration is in good standing may apply for Inactive registration status on a form prescribed by the Board.

(b) An Inactive Architect may not Practice Architecture. The prohibition against the Practice of Architecture by Inactive Architects applies to architectural projects that may be designed by Nonregistrants as well as to projects that may be designed only by registered Architects. If an Inactive Architect engages in the Practice of Architecture, the Inactive Architect's registration may be suspended or revoked and the Inactive Architect may be fined as allowed by the Architects' Registration Law for each day that the Inactive Architect has engaged in the Practice of Architecture.

(c) An Inactive Architect shall not use his/her architectural seal during any period that his/her registration is Inactive.

(d) An Inactive Architect shall pay an annual fee as prescribed by the Board.

(e) In order to return his/her registration to active status, an Inactive Architect must:

- (1) apply on a form prescribed by the Board;
- (2) either submit proof that he/she has completed all continuing education requirements for each year the registration has been Inactive if continuing education was required for that year or, in lieu of completing the outstanding continuing education requirements, successfully complete all sections of the current registration examination during the five (5) years immediately preceding the return to active status; and

(3) pay a fee as prescribed by the Board.

(f) An Inactive Architect whose registration has been Inactive for a continuous period of five (5) years or longer must do the following before the Inactive Architect may return to active status:

(1) successfully complete all sections of the current registration examination during the five (5) years immediately preceding the return to active status; or

(2) furnish evidence that the Inactive Architect currently holds an architectural registration in another jurisdiction where the registration requirements are substantially equivalent to Texas architectural registration requirements and that the current architectural registration is in good standing.

(g) An application to return to active status may be rejected for any of the reasons that an initial application for registration may be rejected or that a registration may be revoked.

(h) The Board may require that an application to return to active status include verification that the applicant has complied with the laws governing the practice of architecture.

(i) An Inactive Architect may use the title "Emeritus Architect" or "Architect Emeritus" after filing the appropriate form with the board if:

(1) The Inactive Architect has been actively registered as an architect in Texas or in another jurisdiction for at least twenty (20) years and has retired from the practice of Architecture; or

(2) the Inactive Architect held an emeritus architectural registration on or before January 1, 2002, and has retired from the practice of Architecture.

(j) A Nonregistrant may not use the title "Emeritus Architect" or "Architect Emeritus."

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

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Cathy L. Hendricks, ASID/IIDA

Executive Director

Texas Board of Architectural Examiners

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## CHAPTER 3. LANDSCAPE ARCHITECTS SUBCHAPTER D. CERTIFICATION AND ANNUAL REGISTRATION

### 22 TAC §3.68

The Texas Board of Architectural Examiners adopts an amendment to rule §3.68 for Title 22, Chapter 3, Subchapter D, pertaining to inactive status for certificates of registration. The amendment is being adopted with changes. The proposal to amend this rule was first published in the April 12, 2002 *Texas Register*, (27 TexReg 2919) TRD #200202070. The amendment to this rule will allow inactive registrants to use the title "landscape architect" and allow an inactive landscape architect who has been actively registered as a landscape architect in Texas or in another jurisdiction for at least twenty years and has retired from the practice of landscape architecture to use the title "Emeritus Landscape Architect" or "Landscape Architect Emeritus." The amended rule will better reflect the statutory provision that is its basis and that a retired landscape architect will not have to maintain an active

registration in order to continue to use the title "landscape architect." The changes to the amendment as proposed occurs in paragraph (i). The stipulation that a nonregistrant may not use the title "Emeritus Landscape Architect" or "Landscape Architect Emeritus" was moved to a separate, new paragraph (j). The word "valid" was removed from paragraph (i)(2).

The board received no comments regarding the proposal to amend this rule.

The amendment is adopted pursuant to Section 4(a) and Section 6A of Article 249c, Vernon's Texas Civil Statutes which provide the Texas Board of Architectural Examiners with authority to promulgate rules, including rules related to inactive status.

The amendment to this section does not affect any other statutes.

### §3.68 *Inactive Status*

(a) A Landscape Architect whose registration is in good standing may apply for Inactive registration status on a form prescribed by the Board.

(b) An Inactive Landscape Architect may not practice Landscape Architecture. The prohibition against the practice of Landscape Architecture by Inactive Landscape Architects applies to landscape architectural projects that may be designed by Nonregistrants as well as to projects that may be designed only by registered Landscape Architects. If an Inactive Landscape Architect engages in the practice of Landscape Architecture, the Inactive Landscape Architect's registration may be suspended or revoked and the Inactive Landscape Architect may be fined as allowed by the Landscape Architects' Registration Law for each day that the Inactive Landscape Architect has engaged in the practice of Landscape Architecture.

(c) An Inactive Landscape Architect shall not use his/her landscape architectural seal during any period that his/her registration is Inactive.

(d) An Inactive Landscape Architect shall pay an annual fee as prescribed by the Board.

(e) In order to return his/her registration to active status, an Inactive Landscape Architect must:

(1) apply on a form prescribed by the Board;

(2) either submit proof that he/she has completed all continuing education requirements for each year the registration has been Inactive if continuing education was required for that year or, in lieu of completing the outstanding continuing education requirements, successfully complete all sections of the current registration examination during the five (5) years immediately preceding the return to active status; and

(3) pay a fee as prescribed by the Board.

(f) An Inactive Landscape Architect whose registration has been Inactive for a continuous period of five (5) years or longer must do the following before the Inactive Landscape Architect may return to active status:

(1) successfully complete all sections of the current registration examination during the five (5) years immediately preceding the return to active status; or

(2) furnish evidence that the Inactive Landscape Architect currently holds a landscape architectural registration in another jurisdiction where the registration requirements are substantially equivalent to Texas landscape architectural registration requirements and that the current landscape architectural registration is in good standing.

(g) An application to return to active status may be rejected for any of the reasons that an initial application for registration may be rejected or that a registration may be revoked.

(h) The Board may require that an application to return to active status include verification that the applicant has complied with the laws governing the practice of landscape architecture.

(i) An Inactive Landscape Architect may use the title "Emeritus Landscape Architect" or "Landscape Architect Emeritus" after filing the appropriate form with the Board if:

(1) the Inactive Landscape Architect has been actively registered as a landscape architect in Texas or in another jurisdiction for at least twenty (20) years and has retired from the practice of Landscape Architecture; or

(2) the Inactive Landscape Architect held an emeritus landscape architectural registration on or before January 1, 2002, and has retired from the practice of Landscape Architecture.

(j) Nonregistrants may not use the title "Emeritus Landscape Architect" or "Landscape Architect Emeritus."

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

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Texas Board of Architectural Examiners

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For further information, please call: (512) 305-8535



## CHAPTER 5. INTERIOR DESIGNERS SUBCHAPTER D. CERTIFICATION AND ANNUAL REGISTRATION

### 22 TAC §5.78

The Texas Board of Architectural Examiners adopts an amendment to rule §5.78 for Title 22, Chapter 5, Subchapter D, pertaining to inactive status for certificates of registration. The amendment is being adopted with changes. The proposal to amend this rule was first published in the April 12, 2002 issue of the *Texas Register*, (27 TexReg 2920) TRD-200202071. The amendment to this rule will allow inactive registrants to use the title "interior designer" and allow an inactive interior designer who has been actively engaged in the practice of interior design for at least 20 years and actively registered as an interior designer in Texas or in another jurisdiction for at least 10 of the 20 years and has retired from the practice of interior design to use the title "Emeritus Interior Designer" or "Interior Designer Emeritus." The amended rule will better reflect the statutory provision that is its basis and that a retired interior designer will not have to maintain an active registration in order to continue to use the title "interior designer." Changes to the amendment as proposed occur in paragraph (i). The stipulation in paragraph (i) that a nonregistrant may not use the title "Emeritus Architect" or "Architect Emeritus" was moved to a separate, new paragraph (j). The word "valid" was removed from paragraph (i)(2). Paragraph (k) was added in order to provide a timetable for the number of years of registration that will

be required in order for a registrant to use the title "Emeritus Interior Designer" or "Interior Designer Emeritus."

The board received no comments regarding the proposal to amend this rule.

The amendment is adopted pursuant to Section 5(d) and Section 13A of Article 249e, Vernon's Texas Civil Statutes which provide the Texas Board of Architectural Examiners with authority to promulgate rules, including rules related to inactive status.

The proposed amendment to this section does not affect any other statutes.

§5.78. *Inactive Status.*

(a) An Interior Designer whose registration is in good standing may apply for Inactive registration status on a form prescribed by the Board.

(b) An Inactive Interior Designer may not practice Interior Design. If an Inactive Interior Designer engages in the practice of Interior Design, the Inactive Interior Designer's registration may be suspended or revoked and the Inactive Interior Designer may be fined as allowed by the Interior Designers' Registration Law for each day that the Inactive Interior Designer has engaged in the practice of Interior Design.

(c) An Inactive Interior Designer shall not use or display his/her interior design seal during any period that his/her registration is Inactive.

(d) An Inactive Interior Designer shall pay an annual fee as prescribed by the Board.

(e) In order to return his/her registration to active status, an Inactive Interior Designer must:

(1) apply on a form prescribed by the Board;

(2) either submit proof that he/she has completed all continuing education requirements for each year the registration has been Inactive if continuing education was required for that year or, in lieu of completing the outstanding continuing education requirements, successfully complete all sections of the current registration examination during the five (5) years immediately preceding the return to active status; and

(3) pay a fee as prescribed by the Board.

(f) An Inactive Interior Designer whose registration has been Inactive for a continuous period of five (5) years or longer must do the following before the Inactive Interior Designer may return to active status:

(1) successfully complete all sections of the current registration examination during the five (5) years immediately preceding the return to active status; or

(2) furnish evidence that the Inactive Interior Designer currently holds an interior design registration in another jurisdiction where the registration requirements are substantially equivalent to Texas interior design registration requirements and that the current interior design registration is in good standing.

(g) An application to return to active status may be rejected for any of the reasons that an initial application for registration may be rejected or that a registration may be revoked.

(h) The Board may require that an application to return to active status include verification that the applicant has complied with the laws governing the registration of interior designers.

(i) An Inactive Interior Designer may use the title "Emeritus Interior Designer" or "Interior Designer Emeritus" after filing the appropriate form with the Board if:

(1) The Inactive Interior Designer has been actively registered as an interior designer in Texas or in another jurisdiction for at least ten (10) years and has retired from the practice of Interior Design; or

(2) the Inactive Interior Designer held an emeritus interior design registration on or before January 2, 2002, and has retired from the practice of Interior Design.

(j) Nonregistrants may not use the title "Emeritus Interior Designer" or "Interior Designer Emeritus."

(k) As of January 1, 2008, at least fifteen (15) years of registration shall be required under Subsection 5.78(i)(1). As of January 1, 2013, at least twenty (20) years of registration shall be required under Subsection 5.78(i)(1).

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

Filed with the Office of the Secretary of State on May 14, 2002.

TRD-200202982

Cathy L. Hendricks, ASID/IIDA

Executive Director

Texas Board of Architectural Examiners

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Proposal publication date: April 12, 2002

For further information, please call: (512) 305-8535



## PART 3. TEXAS BOARD OF CHIROPRACTIC EXAMINERS

### CHAPTER 73. LICENSES AND RENEWALS

#### 22 TAC §73.2

The Texas Board of Chiropractic Examiners adopts amendments to §73.2, relating to renewal of a chiropractic license, without changes to the proposed text as published in the February 22, 2002, issue of the *Texas Register* (27 TexReg 1259). The text of the rule as amended will not be republished.

The board currently is required to deny renewal to a licensee that is in default of a loan guaranteed by the Texas Guaranteed Student Loan Corporation (TGSCLC) or in breach of a repayment agreement, under §57.491 of the Education Code. Section 73.2(c) sets out the mandatory non-renewal requirement of §57.491 for TGSCLC loans. The legislature, in 2001, passed House Bill 1755 (HB 1755) (creating chapter 56 of the Occupations Code), which gives discretionary authority to certain occupational licensing agencies, including the board, to deny an application for a license or renewal or to discipline a licensee for default on student loans or breach of a loan repayment agreement or the service obligation in a scholarship contract. HB 1755 also permits a licensing agency to rescind its action upon receipt of information that the person has repaid the loan or otherwise made arrangements, which effectively place the person in good standing with regard to the loan, repayment or scholarship agreement. Likewise, HB 1755 authorizes a licensing agency to reinstate any action or take other disciplinary action upon notice

that the person is once again in default or in breach of contract relating to the loan, repayment or scholarship.

The board reads HB 1755 and §57.491 of the Education Code as giving it discretionary authority to take disciplinary action against a licensee or deny an application for licensure to a person, who is not in good standing with respect to a student loan, or repayment or scholarship agreement, including one guaranteed by the TGSLC. Under these statutes, the board only has discretionary authority to deny renewal with respect to a licensee with a non-TGSLC loan.

This rulemaking amends §73.2 to give notice to chiropractic licensees of the possible non-renewal if a licensee is not in good standing with regard to other student loans or scholarships. Other non-substantive changes have been made to update statutory references and for format.

By separate rulemakings, the board also amended §71.3, relating to applicants for licensure, and §74.2 and §74.3, relating to facility licenses, to provide similar notice to applicants and current facility licensees that the board may refuse to grant or renew a chiropractic or facility license if the person is not in good standing with regard to student loans or scholarships. Lastly, the board amended chapter 80 to provide notice to current licensees that the board may take disciplinary action against a person's chiropractic and facility license for the same reasons. The adopted amendments were published in the March 29, 2002, issue of the *Texas Register* (27 TexReg 2434)

These rules implement state policy to discourage defaults on student loans and scholarship obligation by providing sanctions against licensees who are in default. The rule provides greater assurance that chiropractors will meet their loan or scholarship commitments, thus, ensuring the integrity of student loan and scholarship programs.

No comments were received concerning the proposed amendments.

The amendments are adopted under the Occupations Code §201.152, 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 Chiropractic Act, and Occupations Code chapter 56, which the board interprets as authorizing it to adopt rules providing for implementation of the chapter by the board.

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

Filed with the Office of the Secretary of State on May 16, 2002.

TRD-200203034

Gary K. Cain, Ed.D.

Executive Director

Texas Board of Chiropractic Examiners

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Proposal publication date: February 22, 2002

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



## CHAPTER 75. RULES OF PRACTICE

### 22 TAC §75.7

The Texas Board of Chiropractic Examiners adopts an amendment to §75.7(a), relating to board fees without changes to the proposed text as published in the March 29, 2002, issue of the *Texas Register* (27 TexReg 2395). The text of the rule as amended will not be republished.

By this amendment, the board is increasing the renewal fees for chiropractic licensees by \$5 to cover the costs of participation in the Texas Online Project. Section 2054.252 of the Government Code creates the Project and requires the board and other licensing agencies to participate in the project, including establishing a profile system as provided in §2054.2606 of the Government Code. Subsection (d) of §2054.2606 authorizes the Texas Online Authority to prepare rules for adoption by the Department of Information Resources' (DIR) board that set the amount of fee that a participating licensing agency may charge its license holders. On February 20, 2002, the DIR approved on an emergency basis, rules setting the fee at \$5 pursuant to §2054.2606(d). Senate Bill 187, 77th Legislature, Regular Session, chapter 342, §11, requires licensing agencies to begin collecting the fee authorized by subsection (d), on January 1, 2002. However, the board did not meet that deadline due to the delay by the Online Authority and the DIR in setting the amount of the required fee. The DIR has informed the board that the profiling system will only cover chiropractors, and not other licensees of the agency. The board accordingly adopts the \$5 increase for renewal of a chiropractic license, under §2054.2606(d). The increase will be applied beginning with licensees whose licenses are renewed on July 1, 2002. The fee is intended to offset the additional administrative costs incurred by the agency from its participation in the Texas Online Project's profile system.

No comments were received concerning the proposed amendment.

The amendment is adopted under the Occupations Code, §201.152, 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, §201.153, which the board interprets as authorizing it to adopt necessary fees for administration of its programs, and Senate Bill 187, which mandates the fee increase.

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

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Executive Director

Texas Board of Chiropractic Examiners

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



## PART 22. TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY

### CHAPTER 513. REGISTRATION

#### SUBCHAPTER B. REGISTRATION OF CPA FIRMS

## 22 TAC §513.13

The Texas State Board of Public Accountancy adopts new §513.13, concerning Death of a Sole Proprietor with changes to the proposed text as published in the March 29, 2002, issue of the *Texas Register* (27 TexReg 2396). The change to the rule is in paragraph (2) where the word certification has been changed to certificate.

The new rule allows for less inconvenience to the sole proprietorship's clients through continuation of services by the sole proprietorship, and the sole proprietorship can be sold as a going concern.

The new rule will function by permitting a needed provision of repealed §513.86 to remain in effect. The new rule will address the limited continuance of a licensed sole proprietorship after the death of the sole proprietor.

No comments were received regarding adoption of the rule.

The new rule is adopted under the Public Accountancy Act, Tex. Occupations Code, Section 901.151 (Vernon 2001) which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

### §513.13. *Death of a Sole Proprietor.*

Upon written authorization from the executive director, a sole proprietorship may continue to operate for a period of up to 12 months following the death of the sole proprietor. The executive director, subject to ratification at the next board meeting, may permit the continued operation of the sole proprietorship when he has been provided with:

- (1) a certified copy of the sole proprietor's death certificate;
- (2) a copy of the power of attorney from the sole proprietor's executor, administrator, or heir designating a certificate or registration holder in good standing with the board to manage the sole proprietorship on behalf of such party. When such party is not a certificate or registration holder, the power of attorney must authorize a certificate or registration holder to manage the sole proprietorship on behalf of such party; and
- (3) written evidence that a disruption in the continuation of the sole proprietorship would jeopardize the survivability of the firm.

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

Filed with the Office of the Secretary of State on May 17, 2002.

TRD-200203064  
Amanda G. Birrell  
General Counsel  
Texas State Board of Public Accountancy  
Effective date: June 6, 2002  
Proposal publication date: March 29, 2002  
For further information, please call: (512) 305-7848



## CHAPTER 521. FEE SCHEDULE

### 22 TAC §521.13

The Texas State Board of Public Accountancy adopts an amendment to §521.13, concerning Firm License Fees without changes to the proposed text as published in the March 29, 2002, issue of the *Texas Register* (27 TexReg 2397).

The amendment reduces confusion among the board's licensees regarding firm license fees.

The amendment will function by changing language in the chart of this rule to reduce confusion regarding when a licensed CPA firm may pay only a flat licensing fee of \$50.00 a year.

No comments were received regarding adoption of the rule.

The amendment is adopted under the Public Accountancy Act, Tex. Occupations Code, Section 901.151 (Vernon 2001) which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate 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 May 17, 2002.

TRD-200203065  
Amanda G. Birrell  
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Texas State Board of Public Accountancy  
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For further information, please call: (512) 305-7848



## TITLE 28. INSURANCE

### PART 1. TEXAS DEPARTMENT OF INSURANCE

#### CHAPTER 1. GENERAL ADMINISTRATION SUBCHAPTER BB. FORMS PRIVACY NOTICE

##### 28 TAC §§1.2801 - 1.2803

The Commissioner of Insurance adopts new §§1.2801 - 1.2803, Subchapter BB, concerning forms privacy notice. The sections are adopted without changes to the proposed text as published in the April 5, 2002 issue of the *Texas Register* (27 TexReg 2737) and will not be republished.

These new sections are necessary to implement the provisions of House Bill 1922 enacted by the 77th Texas Legislature (2001), relating to the state government privacy policy requirements of Texas Government Code Chapter 559. These sections only apply to forms adopted directly or by reference under Title 28 of the Texas Administrative Code, and for which the department collects information about an individual by means of a form that the individual completes and files with the department in a paper format or in an electronic format including on the department's Internet site. The sections incorporate a standardized notice into those forms, thereby eliminating the need for departmental staff to separately amend each rule to include the notice required by Chapter 559.

These sections only apply to forms adopted directly or by reference under Title 28 of the Texas Administrative Code, and for which the department collects information about an individual by means of a form that the individual completes and files with the department in a paper format or in an electronic format including on the department's Internet site. The sections incorporate a standardized notice into those forms, thereby eliminating the

need for departmental staff to separately amend each rule to include the notice required by Chapter 559.

No comments were received.

The new sections are adopted under Texas Government Code Chapter 559 and Insurance Code §36.001. Texas Government Code §559.003 requires each state government body collecting information about an individual by means of a form that the individual completes and files with the governmental body in a paper format, or in an electronic format on an Internet site, to prominently state on the paper form certain statutorily required statements relating to the provision and correction of such information. Section 36.001 provides that the Commissioner of Insurance may adopt rules to execute the duties and functions of the Texas Department of Insurance as authorized by statute.

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

Filed with the Office of the Secretary of State on May 16, 2002.

TRD-200203046

Lynda H. Nesenholtz

General Counsel and Chief Clerk

Texas Department of Insurance

Effective date: June 5, 2002

Proposal publication date: April 5, 2002

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



## CHAPTER 5. PROPERTY AND CASUALTY INSURANCE

The Commissioner of Insurance adopts amendments to §§5.206 and 5.3700 concerning the designation of underserved areas for private passenger automobile insurance and residential property insurance, respectively. The amended sections are adopted without changes to the proposed text as published in the March 15, 2002 issue of the *Texas Register* (27 TexReg 1977) and will not be republished.

The amendments to §§5.206 and 5.3700 are necessary to eliminate subsections which have been declared invalid by final court judgments. Section 5.206(h) was declared invalid and of no force or effect in a court judgment on June 29, 2001 in the case styled and numbered, National Association of Independent Insurers, et al. v. John Cornyn, Attorney General of Texas, et al., cause no. 97-09206, in the 98th Judicial District of Travis County, Texas. Section 5.3700(g) was declared invalid and of no force or effect in a court judgment on July 24, 2001 in the case styled and numbered, National Association of Independent Insurers, et al. v. John Cornyn, Attorney General of Texas, et al., cause no. GN 00-1769, in the 201st Judicial District of Travis County, Texas. These judgments became final by operation of law after no appeals were taken from either of these judgments. It is necessary for the department to amend these sections by deleting the invalid subsections to comply with the Government Code §2002.058 which requires state agencies to repeal their rules that have been declared invalid by a final court judgment.

The adoption of these amendments will amend §5.206 by deleting subsection (h) and §5.3700 by deleting subsection (g) because both of these subsections have been declared invalid by final court judgments. The remaining subsections will not change.

Comment: One commenter asserted that the deletion of the subsections goes beyond the scope of the court judgments concerning the validity of §5.206(h) and §5.3700(g). The commenter asserted that the court findings did not invalidate the rules in their entirety and that the information required by these subsections would continue to be useful if presented in the aggregate rather than by company as these subsections require. The commenter also stated that the courts found that the company-specific data mentioned in §5.206(h) and §5.3700(g) are trade secrets. The commenter suggested that the words "by company" be eliminated from the subsections instead of deleting the subsections in their entirety.

Agency Response: The department disagrees with the commenter that the deletion of §5.206(h) and §5.3700(g) is unnecessary and goes beyond the scope of the court rulings. In reviewing the court judgments related to these two subsections the department found that the court judgment in National Association of Independent Insurers, et al. v. John Cornyn, Attorney General of Texas, et al., cause no. 97-09206, in the 98th Judicial District of Travis County, Texas says in pertinent part "IT IS THEREFORE ORDERED ADJUDGED AND DECREED that 28 Tex. Admin. Code §5.206(h) is invalid and of no force or effect" and in National Association of Independent Insurers, et al. v. John Cornyn, Attorney General of Texas, et al., cause no. GN 00-1769, in the 201st Judicial District of Travis County, Texas says "IT IS

THEREFORE ORDERED ADJUDGED AND DECREED that 28 Texas Administrative Code §5.3700(g) is invalid and of no force or effect." No appeals were taken from either of these judgments. The department believes that since the subsections have been declared invalid by final court judgments, the department is required to omit these invalid subsections from its rules.

The department disagrees with the commenter's assertion that the data was found to be a trade secret. Concerning §5.206(h), although the order in National Association of Independent Insurers, et al. v. John Cornyn, Attorney General of Texas, et al., cause no. 97-09206, in the 98th Judicial District of Travis County, Texas does not mention "trade secrets" specifically, the order states that all other claims appearing in the plaintiffs' pleadings are nonsuited. Concerning §5.3700(g), the order in National Association of Independent Insurers, et al. v. John Cornyn, Attorney General of Texas, et al., cause no. GN 00-1769, in the 201st Judicial District of Travis County, Texas states that all claims appearing in the plaintiffs' pleadings are nonsuited, specifically including "plaintiffs' claims that information on residential property insurance policies that insurers report to the Texas Department of Insurance is confidential commercial or financial information excepted from the public access requirements of the Public Information Act and trade secret information protected from disclosure and confidential under the Public Information Act and Texas common law." Consequently, the department believes that the courts did not rule that the company-specific data are trade secrets.

Against: Office of Public Insurance Counsel.

## SUBCHAPTER A. AUTOMOBILE INSURANCE

### DIVISION 3. MISCELLANEOUS INTERPRETATIONS

#### 28 TAC §5.206

The amendments are adopted under the Insurance Code §36.001 and the Texas Government Code §2002.058. The Texas Insurance Code §36.001 provides that the Commissioner of Insurance may adopt rules to execute the duties and functions of the Texas Department of Insurance as authorized by statute. The Texas Government Code §2002.058 requires that state agencies repeal any of their rules that have been declared invalid by a final court judgment.

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

Filed with the Office of the Secretary of State on May 16, 2002.

TRD-200203055

Lynda H. Nesenholtz

General Counsel and Chief Clerk

Texas Department of Insurance

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



## SUBCHAPTER D. FIRE AND ALLIED LINES INSURANCE

### DIVISION 8. UNDERSERVED AREAS FOR RESIDENTIAL PROPERTY INSURANCE

#### 28 TAC §5.3700

The amendments are adopted under the Insurance Code §36.001 and the Texas Government Code §2002.058. The Texas Insurance Code §36.001 provides that the Commissioner of Insurance may adopt rules to execute the duties and functions of the Texas Department of Insurance as authorized by statute. The Texas Government Code §2002.058 requires that state agencies repeal any of their rules that have been declared invalid by a final court judgment.

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

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TRD-200203054

Lynda H. Nesenholtz

General Counsel and Chief Clerk

Texas Department of Insurance

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



## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### PART 2. TEXAS PARKS AND WILDLIFE DEPARTMENT

#### CHAPTER 53. FINANCE

## SUBCHAPTER A. LICENSE FEES AND BOAT AND MOTOR FEES

### 31 TAC §53.6, §53.7

The Texas Parks and Wildlife Commission adopts amendments to §53.6, concerning Commercial Fishing Licenses and Tags, and §53.7, concerning Business Licenses and Permits. Section 53.6 and §53.7 are adopted with changes to the proposed text as published in the March 1, 2002, issue of the *Texas Register* (27 TexReg 1461). The change to §53.6 adds new subsections (a)(2)(B), (d)(2)(B), and (e)(2)(B) to address situations in which shrimp, crab, and finfish licenses are transferred to an heir following the death of a licensee. The commission views such transfers as special cases for which the full transfer fee is inappropriate, since the transfer of possession of the license results from an unavoidable circumstance (i.e., the death of the license holder), rather than from a commercial transaction on the open market. Because those changes need to take effect prior to the beginning of the fiscal year, language has been inserted as new subsection (f) to denote which provisions are to take effect September 1, 2002. The change to §53.7 also imposes an effective date of September 1, 2002.

The amendments are necessary in order to comply with the provisions of Senate Bill 1 (General Appropriations Act, Rider 22) as enacted by the 77th Legislature, which directs the department to better recover costs associated with administering and managing its commercial fisheries programs.

The amendments to §53.6 and 53.7 will function by increasing the fee amounts for commercial fishing and business licenses and related transfers and duplicates.

The department received 30 comments in opposition to adoption of the proposal. Six commenters wanted the department to table the adoption. Sixteen commenters opposed the adoption on the basis that the fee increase would impose too high an economic burden. The department disagrees with the comments and responds that the legislature has mandated that the department recover the costs of administering commercial fishing programs. No changes were made as a result of the comments.

The department received 62 comments supporting adoption of the proposed rules.

The amendments are adopted under Parks and Wildlife Code, §§47.002, 47.003, 47.007, 47.008, 47.009, 47.010, 47.011, 47.013, 47.014, 47.017, 47.031, 47.075, and 47.079, which authorize the commission to set fees for commercial fishing licenses; 66.017 and 66.020, which authorize the commission to set fees for fish, shellfish and aquatic plant permits; 67.0041, which authorizes the commission to set fees for permits for non-game species of fish; 76.1031 and 76.104, which authorize the commission to set fees for commercial oyster licenses; 77.031, 77.033, 77.035, 77.0351, 77.0361, 77.043 and 77.115, which authorize the commission to set fees for commercial shrimp licenses; 78.002 and 78.003, which authorize the commission to set fees for commercial mussel and clam licenses; and 78.105 and 78.109, which authorize the commission to set fees for commercial crab licenses.

§53.6. *Commercial Fishing Licenses and Tags.*

(a) Shrimping licenses:

(1) Licenses:

(A) resident commercial gulf shrimp boat -- \$450;



- (B) resident commercial bay shrimp boat -- \$348;
  - (C) resident commercial bait-shrimp boat -- \$348;
  - (D) resident commercial shrimp boat captain's -- \$30;
  - (E) nonresident commercial gulf shrimp boat -- \$1,350;
  - (F) nonresident commercial bay shrimp boat -- \$750;
  - (G) nonresident commercial bait-shrimp boat -- \$750;
- and
- (H) nonresident commercial shrimp boat captain's -- \$120.
- (2) License transfers:
    - (A) Transfers between living persons.
      - (i) resident commercial gulf shrimp boat license transfer -- \$10;
      - (ii) resident commercial bay shrimp boat license transfer -- \$348;
      - (iii) resident commercial bait-shrimp boat license transfer -- \$348;
      - (iv) nonresident commercial gulf shrimp boat license transfer -- \$10;
      - (v) nonresident commercial bay shrimp boat license transfer -- \$750; and
      - (vi) nonresident commercial bait-shrimp boat license transfer -- \$750.
    - (B) Transfers to heirs (as defined in Parks and Wildlife Code, §77.113).
      - (i) resident commercial bay shrimp boat -- \$10;
      - (ii) nonresident commercial bay shrimp boat -- \$10;
      - (iii) resident commercial bait shrimp boat -- \$10;
      - (iv) nonresident commercial bait shrimp boat -- \$10;
- (3) Replacement License plates:
    - (A) resident commercial gulf shrimp boat -- \$10;
    - (B) resident commercial bay shrimp boat -- \$10;
    - (C) resident commercial bait-shrimp boat -- \$10;
    - (D) nonresident commercial gulf shrimp boat -- \$10;
    - (E) nonresident commercial bay shrimp boat -- \$10; and
    - (F) nonresident commercial bait-shrimp boat -- \$10.
- (b) Oystering licenses.
    - (1) Licenses:
      - (A) resident commercial oyster boat -- \$420;
      - (B) resident sport oyster boat -- \$10;
      - (C) resident commercial oyster captain's -- \$30;
      - (D) resident commercial oyster fisherman's -- \$120;
      - (E) nonresident commercial oyster boat -- \$1,680;
      - (F) nonresident sport oyster boat -- \$40;
      - (G) nonresident commercial oyster boat captain's -- \$120; and
    - (H) nonresident commercial oyster fisherman's -- \$300.
    - (2) License transfers:
      - (A) resident commercial oyster boat transfer -- \$10; and
      - (B) nonresident commercial oyster boat transfer -- \$10.
    - (3) Replacement License plates:
      - (A) resident commercial oyster boat -- \$10; and
      - (B) nonresident commercial oyster boat -- \$10.
  - (c) General, finfish, menhaden, mussel, clam, and miscellaneous licenses.
    - (1) Licenses and permits.
      - (A) resident commercial fishing boat -- \$18;
      - (B) class A menhaden boat -- \$4,200;
      - (C) class B menhaden boat -- \$50;
      - (D) resident general commercial fisherman's -- \$24;
      - (E) resident commercial mussel and clam fisherman's -- \$36;
      - (F) resident shell buyer's -- \$120;
      - (G) nonresident commercial fishing boat -- \$72;
      - (H) nonresident general commercial fisherman's -- \$180;
      - (I) nonresident commercial mussel and clam fisherman's -- \$960;
      - (J) nonresident shell buyer's -- \$1,800;
      - (K) menhaden fish plant permit -- \$180;
      - (L) mussel dredge fee -- \$36; and
      - (M) permit to sell non-game fish -- \$60.
    - (2) License transfers.
      - (A) resident commercial fishing boat license transfer -- \$10; and
      - (B) nonresident commercial fishing boat license transfer -- \$10.
    - (3) Replacement license plates.
      - (A) resident commercial fishing boat -- \$10; and
      - (B) nonresident commercial fishing boat -- \$10.
    - (d) Crab licenses.
      - (1) Licenses and permits.
        - (A) resident commercial crab fisherman's -- \$600; and
        - (B) nonresident commercial crab fisherman's -- \$2,400.
      - (2) License transfers.
        - (A) Transfers between living persons.
          - (i) resident commercial crab fisherman's -- \$600; and
          - (ii) nonresident commercial crab fisherman's -- \$2,400.
        - (B) Transfers to heirs (as defined by Parks and Wildlife Code, §78.109).

- (i) resident commercial crab fisherman's -- \$10; and
- (ii) nonresident commercial crab fisherman's -- \$10.
- (3) Duplicate license plates.
  - (A) resident commercial crab fisherman's -- \$10; and
  - (B) nonresident commercial crab fisherman's -- \$10.
- (e) Finfish licenses.
  - (1) Licenses and permits.
    - (A) resident commercial finfish fisherman's -- \$360;
    - (B) nonresident commercial finfish fisherman's -- \$1,440.
  - (2) License transfers.
    - (A) Transfers between living persons.
      - (i) resident commercial finfish fisherman's -- \$360;
      - (ii) nonresident commercial finfish fisherman's -- \$1,440.
    - (B) Transfers to heirs. A license may be transferred to an heir or devisee of the deceased holder of the commercial finfish license, but only if the heir or devisee is a person who in the absence of a will would be entitled to all or a portion of the deceased's property.
      - (i) resident commercial finfish fisherman's -- \$10;
      - (ii) nonresident commercial finfish fisherman's -- \$10.
  - (3) Duplicate license plates.
    - (A) resident commercial finfish fisherman's -- \$10; and
    - (B) nonresident commercial finfish fisherman's -- \$10.
  - (f) The provisions of this section other than those contained in subsections (a)(2)(B), (d)(2)(B), and (e)(2)(B) of this section take effect September 1, 2002.

§53.7. *Business Licenses and Permits.*

Fish, bait, and shrimp licenses and tags.

- (1) Licenses.
  - (A) retail fish dealer's -- \$84;
  - (B) retail fish dealer's truck -- \$156;
  - (C) wholesale fish dealer's -- \$750;
  - (D) wholesale fish dealer's truck -- \$510;
  - (E) bait dealer's -- individual -- \$36;
  - (F) bait dealer-place of business/building -- \$36;
  - (G) bait dealer-place of business/motor vehicle -- \$36;
  - (H) bait shrimp dealer's -- \$204;
  - (I) finfish import -- \$90; and
  - (J) fishing guide -- \$75.
- (2) License transfers.
  - (A) retail fish dealer's license transfer -- \$10;
  - (B) retail fish dealer's truck license transfer -- \$10;

- (C) wholesale fish dealer's license transfer -- \$10;
- (D) wholesale fish dealer's truck license transfer -- \$10;
- (E) bait dealer's license transfer -- \$10;
- (F) bait dealer's-place of business/building license transfer -- \$10;
- (G) bait dealer's-place of business/motor vehicle license transfer -- \$10;
- (H) bait shrimp dealer's license transfer -- \$10;
- (I) finfish import license transfer -- \$10.
- (3) The fee for the saltwater trotline tag shall be \$3.00.
- (4) The provisions of this section take effect September 1, 2002.

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

Filed with the Office of the Secretary of State on May 14, 2002.

TRD-200203004

Gene McCarty

Chief of Staff

Texas Parks and Wildlife Department

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Proposal publication date: March 1, 2002

For further information, please call: (512) 389-4775



## CHAPTER 61. DESIGN AND CONSTRUCTION SUBCHAPTER E. GUIDELINES FOR ADMINISTRATION OF TEXAS LOCAL PARKS, RECREATION, AND OPEN SPACE FUND PROGRAM

### 31 TAC §§61.132, 61.136, 61.137

The Texas Parks and Wildlife Commission adopts an amendment to §61.132 and new §61.136 and §61.137, concerning the Texas Parks and Recreation Account Grants Program, without changes to the proposed text as published in the December 14, 2001, issue of the *Texas Register* (26 TexReg 10241).

The amendment and new sections are necessary to implement the new grant programs for Small Communities Grants and Regional Park Grants and therefore require changes to the Texas Recreation and Parks Account Grant Manual (which is adopted by reference) and adoption of the scoring criteria used to evaluate candidate projects for possible funding under these new programs.

The amendments and new sections will function by: adopting by reference revisions to the Texas Recreation and Parks Account Grant Manual, which provides communities with a comprehensive explanation of the program and instructions and requirements for participation; and by establishing the purpose, priorities, standards, and scoring system for grant awards for small communities grants and regional park grants projects submitted by communities.

The department received two comments concerning adoption of the proposed rules. Both commenters opposed the proposed

population threshold for the Small Communities Grant Program, requesting that the threshold be set at 50,000 rather than 20,000. The department disagrees with the comments and responds that the program is intended to benefit smaller communities that are generally at a competitive disadvantage for grants. A pilot review revealed that approximately 80% of the communities that would be applying for Small Community Grants would be communities of less than 20,000 in population. The department also responds that are additional grant programs for larger communities. No changes were made as a result of the comments.

The amendment and new sections are adopted under Parks and Wildlife Code, Chapter 24, which requires the department to adopt regulations for grant assistance.

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

Filed with the Office of the Secretary of State on May 15, 2002.

TRD-200203033

Gene McCarty

Chief of Staff

Texas Parks and Wildlife Department

Effective date: June 4, 2002

Proposal publication date: December 14, 2001

For further information, please call: (512) 389-4775



## CHAPTER 65. WILDLIFE

### SUBCHAPTER A. STATEWIDE HUNTING AND FISHING PROCLAMATION

The Texas Parks and Wildlife Commission adopts new §65.7 and amendments to §§65.3, 65.10, 65.19, 65.26, 65.28, 65.29, 65.42, 65.64, and 65.72, concerning the Statewide Hunting and Fishing Proclamation. Sections 65.3, 65.26, 65.42, 65.64, and 65.72 are adopted with changes to the proposed text as published in the February 22, 2002, issue of the *Texas Register* (27 TexReg 1266). Sections 65.7, 65.10, 65.19, 65.28, and 65.29 are adopted without changes and will not be republished.

The change to §65.3, concerning Definitions, rewords the definition of 'antler point' to prevent confusion.

The change to §65.26, concerning Managed Lands Deer (MLD) Permits, clarifies that all lawful means and methods are allowed on Level 1 MLD properties, and that stamp requirements for the archery and muzzleloader seasons apply.

The change to §65.42, concerning Deer, removes Hall County from the group of counties in subsection (b)(4)(C) because the county was proposed for an increased doe harvest by mistake, exempts properties with Level II or III MLD permits in Austin, Colorado, Fayette, Lavaca, Lee, and Washington counties from the antler restrictions created by subsection (b)(5)(F)(iv), and rewords antlerless permit requirements in subsection (b)(8) and (9) to preserve grammatical and structural consistency with similar provisions located in other subdivisions. The change also adds language to subsection (b) to preserve the limit of two buck deer, in the aggregate, from all counties with a two-buck limit. In the past, the aggregate buck limit was a consequence of validity limitations printed on license tags. Since the new tags are generic, the aggregate bag limit must be imposed explicitly. The change also redesignates subsection (b)(5)(G) as subsection (b)(4)(E)

in order to consolidate East Zone one-buck counties in one subparagraph and West Zone one-buck counties in another.

The change to §65.64, concerning Turkey, eliminates proposed new subsection (a), which has become unnecessary due to a separate rulemaking.

The change to §65.72, concerning Fish, rewords subsection (a)(3)(C) for clarity's sake and adds new (b)(2)(C)(3), in light of changes to bag and size limit restrictions in border waters, to make clear that any fish caught in federal waters under a federal management plan may be landed in Texas. The change also alters the table in subsection (b)(2)(B) to list the goliath grouper as 'Grouper, goliath,' and adds language to subsection (b)(2)(C)(i) to note that Possum Kingdom reservoir is in Stephens and Young counties.

The amendment to §65.3, concerning Definitions, is necessary to provide a precise description of what constitutes an antler point, which in turn is necessary to inform hunters as to what are or are not lawful bucks in certain counties.

New §65.7, concerning Harvest Log for Deer, is necessary because the department will introduce a new and simplified license format for the next license year, which will require a license log to ensure that no person exceeds the statewide, regional, or county bag limits.

The amendment to §65.10, concerning Possession of Wildlife Resources, is necessary to make the regulation more user-friendly while still preserving enforcement efficiency.

The amendment to §65.19, concerning Hunting Deer with Dogs, is necessary because the department has determined that the practice of hunting deer with dogs (i.e., the use of dogs to hunt deer, rather than track wounded deer), which originally prompted a ban on the use of dogs in some counties, has declined in the named counties to the point that the regulation is no longer required.

The amendment to §65.26, concerning Managed lands Deer Permits, is necessary to correct ramifications of an earlier rulemaking that unintentionally precluded the take of buck deer during the archery season and the take of spike bucks during the extended season on MLD Level II properties, and to clarify what is meant by the term 'appropriate tag'.

The amendment to §65.28, concerning Landowner Assisted Permit System (LAMPS), is necessary to prevent confusion.

The amendment to §65.29, concerning Bonus Tags, is necessary to clarify the intent of the regulation.

The amendment to §65.42, concerning Deer, is necessary because Parks and Wildlife Code, §61.057, states that a proclamation allowing the hunting of antlerless deer without a permit must be specific as to the county or portion of a county to which it applies; thus, the required language has been added at the appropriate places. Also added as appropriate are explicit statements denoting which one-buck counties are in the East Zone and which are in the West Zone. The amendment to subsection (b)(4)(C) is necessary because department investigations indicate that antlerless harvest in the affected counties is very conservative despite the current harvest opportunity and that populations could easily sustain considerably more harvest. The amendment to subsection (b)(5)(A)(4) is necessary to eliminate confusion concerning the applicability of countywide restrictions to MLD properties in Grayson County. The amendment to subsection (b)(5)(F)(iv) is necessary to reduce hunting pressure in

order to manage the age structure of the buck segment of the deer herd in the affected counties. Finally, the amendment to subsection (b)(10)(B) is necessary to prevent depletion of the doe segment of the deer herd in counties where doe harvest has been restricted.

The amendment to §65.64, concerning Turkey, is necessary to implement commission policy of providing additional hunting opportunity whenever biological data indicate that it can be done without threat of depletion or waste.

The amendment to §65.72, concerning Fish, consists of several actions. The amendment affecting regulations for sunfish on Pur-tis Creek State Park Lake is necessary to improve consistency of regulations. The amendment affecting largemouth bass on Gibbons Creek Reservoir is necessary to allow some harvest of smaller stock size bass as well as trophy largemouth bass. The amendment affecting regulations for largemouth bass on Brushy Creek Lake is necessary to protect 14-18 inch bass from being over harvested, thereby preventing a decrease in the quality of the fishery when the park is opened to the public. The amend-ment affecting regulations for red drum on Coletto Creek Reser-voir is necessary to allow fish to reach a harvestable size and spread the resource among more anglers. The amendment af-fecting regulations for largemouth bass on Lake Alan Henry is necessary to reduce the overall abundance of largemouth bass, resulting in an increased growth rates and condition of the large-mouth bass population. The amendment affecting regulations for largemouth bass on Lake Proctor is necessary to enhance large-mouth bass fishing and provide more and larger bass for a longer period of time. The amendment affecting regulations on Possum Kingdom Lake for largemouth, striped, and hybrid striped bass is necessary to provide protection for future largemouth bass brood fish in the population and to help rebuild population abundance after the negative impacts of last spring's golden algae outbreak. The amendment requiring all fish landed in Texas to conform to Texas size and bag limits is necessary to address concerns about equitable harvest, law enforcement, and over harvest of fish in border waters of the state. Finally, the amendment chang-ing the common name of the jewfish to goliath grouper is neces-sary to maintain conformity with current nomenclature.

The amendment to §65.3 will function by adding a new definition of 'antler point' and altering the definition of 'spike-buck deer' to conform with that definition, which will be used to differentiate legal bucks from illegal bucks in counties where the buck harvest is restricted based on physical characteristics of antlers.

New §65.7 will function by requiring a hunter to record certain information on the hunting license, ensuring that no person ex-ceeds the statewide, regional, or county bag limits.

The amendment to §65.10 will function by altering the proof-of-sex stipulations for white-tailed deer to eliminate the requirement that the head remain unskinned.

The amendment to §65.19 will function by allowing not more than two dogs to be used to trail wounded deer in 10 northeast-Texas counties.

The amendment to §65.26 will function by providing that bucks may be taken by means of archery on Level II MLD properties during the archery season, that the term 'appropriate tag' means a tag that is appropriate for the sex of the deer that has been taken (i.e., a buck tag can only be used on a buck deer, and an antlerless tag can only be used on an antlerless deer), and that spike bucks are legal to take during the early portion of the extended season.

The amendment to §65.28 will function by adding language to make it clear that no LAMPS permit is required for antlerless deer legally killed on a LAMPS property by lawful archery equipment during an archery-only season.

The amendment to §65.29 will function by making nonsubstan-tive changes to clarify the intent of the regulation. The amend-ment makes clear that the term 'appropriate tag' means a tag that is appropriate for the sex of the deer that has been taken (i.e., a buck tag can only be used on a buck deer, and an antler-less tag can only be used on an antlerless deer).

The amendment to §65.42 will function by: explicitly stating which one-buck counties are in the East Zone and which are in the West Zone; adding clarifying language in certain sub-sections, as necessary, to denote the counties and portions of counties where antlerless deer may be taken without antlerless permits; increasing the number of 'doe days' in 16 Panhandle counties from 16 to 30; clarifying that all hunting in Grayson County, including MLD properties, is by archery only; creating a special regulation restricting the take of buck deer in six south-central counties; and by altering the late youth-only deer season to require antlerless permits for the take of antlerless deer in counties where permits are required during any part of the general season open season.

The amendment to §65.64 will function by establishing a Fall sea-son for Rio Grande turkey in Hill County, and opening a standard Spring season for Eastern turkey in five additional counties.

The amendment to §65.72, concerning Fish, will function by: eliminating minimum length and daily bag limits for sunfish on Pur-tis Creek State Park Lake; implementing a 14-24 inch slot length limit and a five fish daily bag (of which only one fish 24 inches or greater may be harvested per day) for largemouth bass on Gibbons Creek Reservoir; implementing an 18-inch minimum length limit and five fish daily bag limit for largemouth bass on Brushy Creek Lake; implementing a 20-inch minimum length limit and a three fish daily bag limit for red drum on Coletto Creek Reservoir; eliminating the minimum length limit for largemouth bass on Lake Alan Henry but allowing only two largemouth bass less than 18 inches to be harvested, while continuing a daily bag limit for the three bass species in the reservoir (largemouth, smallmouth, and spotted) of five bass in any combination; im-plement a 16-inch minimum length limit for largemouth bass on Lake Proctor; implementing a 16-inch minimum length limit for largemouth bass and a two-fish daily bag limit for striped and hybrid striped bass on Possum Kingdom Lake; implementing a requirement for all fish landed in Texas conform with Texas size and bag limits; and by changing the common name of the jewfish to Goliath grouper.

The department received 3,924 comments concerning adoption of the proposed rules.

One hundred and sixteen commenters opposed adoption of the amendment imposing antler restrictions in Austin, Colorado, Fayette, Lavaca, Lee, and Washington counties. Of those commenting opposition, 31 stated that the regulation would confuse hunters and lead to enforcement problems. The agency disagrees with the comments and responds that the regulations are clear as to what constitutes a legal buck, and that to be sure hunters are aware of the new regulations, the department will conduct intensive public outreach in the affected counties. No changes were made as a result of the comments. Fifteen commenters opposed adoption of the proposed rule on the basis that trophy management should be up to the individual

landowner and not dictated by the state. The agency disagrees with the comments and responds that the regulations are not aimed at trophy management and do not abrogate any right enjoyed by landowners. The intent of the regulation is to provide an ample reproductive supply of older buck deer by preventing over harvest of young bucks. No changes were made as a result of the comments. One commenter opposed adoption by stating that if the majority of the buck harvest historically has been yearling deer and yet there continues to be a harvestable surplus of animals, then there is no harm being done to the resource and thus no reason for the regulation. The commenter also stated that the protection of surplus animals for two to three years would result in unnecessary and undesirable impacts on habitat. The department disagrees with the comment and responds that while there may be a short-term decrease in annual harvest, the protection of young bucks will eventually result in a shift of the age structure such that the harvestable surplus will be similar to the current situation, but composed of older animals. No changes were made as a result of the comment. The department received 427 comments in support of adoption of the proposed amendment.

The department received 77 comments opposing adoption of the amendment that would allow wounded deer to be trailed with dogs in certain counties where the practice is currently prohibited. Fourteen of the commenters stated that unscrupulous people would abuse the liberalization and would use dogs to hunt deer rather than to trail them. The department disagrees with the comments and responds that it is illegal to hunt deer with dogs anywhere in this state, but that in the majority of counties people are allowed to trail wounded deer with dogs and do so without problems. The department believes that the likelihood of abuse is minimal in the named counties. No changes were made as a result of the comments. Two of the commenters stated that dogs used to trail deer should be required to be kept on a leash. The department disagrees with the comments and responds that the regulation, by allowing no more than two dogs to be used, serves the same purpose, since that number is insufficient to hunt deer effectively. No changes were made as a result of the comments. Two of the commenters stated opposition because of concern that dogs do not respect private property distinctions. The department disagrees with the comments and responds that the sorts of problems historically associated with large numbers of dogs used to hunt are quite different than the case of using two or fewer dogs to trail. No changes were made as a result of the comments. The department received 97 comments supporting adoption of the proposed amendment.

The department received 33 comments opposing adoption of an amendment that would allow the take of spike bucks by gun in October on properties for which MLD Level II permits have been issued. Two of the commenters stated that the amendment would interfere with archery season. The department disagrees with the comments and responds that under current regulations, gun hunting already is allowed for antlerless deer on Level II properties, and that in any event, target shooting and other hunting activities employing firearms are lawful during that time period. No changes were made as a result of the comments. The department received 140 comments supporting adoption of the proposed amendment.

The department received 20 comments opposing adoption of an amendment that would allow the take of buck deer by means of archery on Level II MLD properties during the archery-only open season. The department received 148 comments supporting adoption of the proposed amendments.

The department received 32 comments opposing an amendment that would increase the number of 'doe days' for white-tailed deer in selected Panhandle counties. Four commenters stated that the deer populations were not large enough to withstand additional harvest. The department disagrees with the comments and responds that biological data gathered from the affected counties indicates that given the hunting pressure and population trend survey data, the population in the affected counties can easily withstand additional harvest without stressing the population. No changes were made as a result of the comments. One commenter stated that the season was long enough as it is. The department disagrees with the comment and responds that commission policy is to create as much hunting opportunity as possible without causing depletion, and that given the biological data, a longer doe season is justifiable. No changes were made as a result of the comment. The department received 135 comments in support of adoption of the proposed amendment.

The department received 63 comments opposing adoption of an amendment that would require antlerless deer to be taken by permit in the late youth-only season in counties where antlerless permits are required during the general season. One commenter stated that because the harvest by youth hunters is low enough to be biologically inconsequential, there should be no permit requirement, which would encourage more youth to go hunting. The department disagrees with the comment and responds that the regulation is intended to establish consistency in hunting regulations by maintaining antlerless permit requirements across the board in counties where antlerless deer are protected by permit requirements. No changes were made as a result of the comment. One commenter opposed the amendment because it would lead to the harvest of pregnant does. The department disagrees with the comments and responds that deer seasons are established in large part based on breeding chronology data and are intended to take place after the majority of breeding has taken place. No changes were made as a result of the comment. The department received 118 comments supporting adoption of the proposed amendment.

The department received 29 comments opposing adoption of an amendment that would eliminate the requirement that the head accompanying the carcass of a white-tailed deer be unskinned. Two commenters stated that elimination of the requirement would lead to abuse. The department disagrees with the comment and responds that the sex of a deer is distinguishable based on the skull alone. No changes were made as a result of the comment. One commenter stated that the regulation was confusing. The department disagrees with the comment and responds that the amendment should make the regulation both easier to understand and to comply with. No changes were made as a result of the comment. The department received 159 comments in support of adoption of the proposed amendment.

The department received 10 comments opposing adoption of an amendment that would establish a fall season for Rio Grande turkey in Fall County. One hundred and forty six persons commented in favor of adoption of the proposed amendment.

The department received nine comments in opposition to adoption of an amendment that would establish a season for Eastern turkey in four additional counties. One hundred and thirty four persons supported adoption of the proposed amendment.

The department received 51 comments opposing adoption of an amendment that would create a white-tailed deer log on the hunting license. Fifteen commenters stated that they were opposed to additional paperwork that if improperly done would create the

possibilities of being cited. The department disagrees with the comment and responds that given the trade-off in complexity associated with selecting the proper tag for use in any given situation under the previous system, the simplified tag format presents fewer difficulties. No changes were made as a result of the comments. Three commenters stated that by eliminating county-specific tags, a potential for abuse would be created. The department disagrees with the comments and responds that it is unlawful to fail to immediately fill out the license log upon kill, just as it is unlawful to fail to fill out a tag upon kill. No changes were made as result of the comments. One commenter stated that the three-buck bag limit should be eliminated. The department disagrees with the commenter and responds that the statewide bag limit has no bearing on the license log issue. No changes were made as a result of the comment. The department received 156 comments in support of adoption of the proposed amendment.

The department received no comments opposing an amendment to change harvest regulations for sunfish on Purtil Creek State Park Lake. Seventy-four comments supported adoption of the proposed amendment.

The department received four comments opposing an amendment to change harvest regulations for red drum on Coletto Creek Reservoir. The commenters stated that the regulation would impact spawning red drum. The department disagrees with the comments and responds that red drum do not spawn in fresh water. No changes were made as a result of the comments. Sixty-one commenters supported adoption of the proposed amendment.

The department received nine comments opposing an amendment to change harvest regulations for largemouth bass on Gibbons Creek Reservoir. The commenters objected to the amendment on the basis that it was too stringent. The department disagrees with the comments and responds that the regulation is intended to allow some harvest of smaller stock size bass as well as trophy largemouth bass, and to renew angling interest in Gibbons Creek Reservoir and increase visitation to the reservoir. No changes were made as a result of the comments. The department received 70 comments supporting adoption of the proposed amendment.

The department received ten comments opposing an amendment to change harvest regulations for largemouth bass on Brushy Creek Lake. The commenters stated that the minimum length limit was too high and requested the statewide minimum. The department disagrees with the comments and responds that the 18-inch minimum has been proven to be an effective technique to prevent initial over harvest in new reservoirs such as Brushy Creek, which is in the long-term best interest of this fishery. No changes were made as a result of the comments. The department received 60 comments supporting adoption of the proposed amendment.

The department received 20 comments opposing an amendment to change harvest regulations for largemouth bass on Possum Kingdom. The commenters stated that the regulations would negatively impact bass angling tournaments. The department disagrees with the comments and responds that the additional harvest protection is needed in the reservoir to help fish populations to recover from a severe golden algae outbreak in 2001. No changes were made as a result of the comments. The department received 65 comments in support of adoption of the proposed amendment.

The department received 16 comments opposing an amendment to change harvest regulations for striped bass and hybrid striped bass on Possum Kingdom Reservoir. The commenters requested more stringent regulations. The department disagrees with the comments and responds that more stringent regulations would result in additional, unnecessary negative impact on fishing activity on the reservoir. No changes were made as a result of the comments. The department received 72 comments in support of adoption of the proposed amendment.

The department received 16 comments opposing an amendment to change harvest regulations for largemouth bass on Lake Alan Henry. The commenters stated that the regulations were too complex. Staff disagrees with the comments and responds that the regulation is necessary to reduce the overall abundance of largemouth bass and allow the prey base a chance to rebound, resulting in increased growth rates and condition of the remaining largemouth bass population. In addition, by allowing the harvest of some smaller bass, the "stockpiling" of largemouth bass below the 18-inch minimum length limit will be avoided. No changes were made as a result of the comments. The department received 54 comments supporting adoption of the proposed amendment.

The department received 11 comments opposing an amendment to change harvest regulations for largemouth bass on Lake Proctor. The commenters stated that the amendment would negatively impact angling tournaments. The department disagrees with the comments and responds that the amendment is intended to take advantage of recent excellent spawning conditions in the reservoir and is expected to have long-term, beneficial impacts to the bass fishery by protecting younger age-class fish. No changes were made as a result of the comments. The department received 59 comments in support of adoption of the proposed amendment.

The department received 657 comments opposing adoption of a proposed amendment that would require all fish landed in Texas from border waters to conform to Texas size and bag limits. Two commenters stated that the regulation would reduce angling opportunities for youth. The department disagrees and responds while youth participation is crucial, there is no evidence to suggest that youth will be discouraged by having to comply with Texas size and bag limits. No changes were made as a result of the comments. One commenter stated that Sabine Lake is not a bay system but a lake, and that fish migrate to the Gulf and do not return. The department disagrees with the comment and responds that although the name is misleading, Sabine Lake is by any reasonable biological or geomorphologic definition a marine embayment, and that the marine resources contained within the system behave as such organisms behave in all other bay systems of the state. No changes were made as a result of the comment. The department received 721 comments supporting adoption of the proposed amendment.

The department received one comment opposing adoption of the proposed rules, stating that since the department prohibits the feeding of corn to deer on state parks, the prohibition should be extended statewide. The department disagrees with the comment and responds that the feeding prohibition in state parks is safety related, designed to prevent congregations of wild animals where they would constitute a safety hazard to park visitors. No changes were made as a result of the comment.

## **DIVISION 1. GENERAL PROVISIONS**

**31 TAC §§65.3, 65.7, 65.10, 65.19, 65.26, 65.28, 65.29**

The amendments and new section are adopted under the authority of Parks and Wildlife Code, Chapter 61, Uniform Wildlife Regulatory Act (Wildlife Conservation Act of 1983), which provides the Commission with authority to establish wildlife resource regulations for this state.

§65.3. *Definitions.*

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. All other words and terms in this chapter shall have the meanings assigned in the Texas Parks and Wildlife Code.

(1) Agent--A person authorized by a landowner to act on behalf of the landowner. For the purposes of this chapter, the use of the term "landowner" also includes the landowner's agent.

(2) Annual bag limit--The quantity of a species of a wildlife resource that may be taken from September 1 of one year to August 31 of the following year.

(3) Antlerless deer--A deer having no hardened antler protruding through the skin.

(4) Antler point--A projection that extends at least one inch from the edge of a main beam or another tine. The tip of a main beam is also a point.

(5) Artificial lure--Any lure (including flies) with hook or hooks attached that is man-made and is used as a bait while fishing.

(6) Bait--Something used to lure any wildlife resource.

(7) Baited area--Any area where minerals, vegetative material or any other food substances are placed so as to lure a wildlife resource to, on, or over that area.

(8) Bearded hen--A female turkey possessing a clearly visible beard protruding through the feathers of the breast.

(9) Buck deer--A deer having a hardened antler protruding through the skin.

(10) Cast net--A net which can be hand-thrown over an area.

(11) Coastal waters boundary--All public waters east and south of the following boundary are considered coastal waters: Beginning at the International Toll Bridge in Brownsville, thence northward along U.S. Highway 77 to the junction of Paredes Lines Road (F.M. Road 1847) in Brownsville, thence northward along F.M. Road 1847 to the junction of F.M. Road 106 east of Rio Hondo, thence westward along F.M. Road 106 to the junction of F.M. Road 508 in Rio Hondo, thence northward along F.M. Road 508 to the junction of F.M. Road 1420, thence northward along F.M. Road 1420 to the junction of State Highway 186 east of Raymondville, thence westward along State Highway 186 to the junction of U.S. Highway 77 near Raymondville, thence northward along U.S. Highway 77 to the junction of the Aransas River south of Woodsboro, thence eastward along the south shore of the Aransas River to the junction of the Aransas River Road at the Bonnie View boat ramp; thence northward along the Aransas River Road to the junction of F.M. Road 629; thence northward along F.M. Road 629 to the junction of F.M. Road 136; thence eastward along F.M. Road 136 to the junction of F.M. Road 2678; then northward along F.M. Road 2678 to the junction of F.M. Road 774 in Refugio, thence eastward along F.M. Road 774 to the junction of State Highway 35 south of Tivoli, thence northward along State Highway 35 to the junction of State Highway 185 between Bloomington and Seadrift, thence northward along State Highway 185 to the junction of F.M. Road 616 in Bloomington, thence northeastward along F.M. Road 616 to the junction of State Highway 35 east of Blessing, thence southward along State

Highway 35 to the junction of F.M. Road 521 north of Palacios, thence northeastward along F.M. Road 521 to the junction of State Highway 36 south of Brazoria, thence southward along State Highway 36 to the junction of F.M. Road 2004, thence northward along F.M. Road 2004 to the junction of Interstate Highway 45 between Dickinson and La Marque, thence northwestward along Interstate Highway 45 to the junction of Interstate Highway 610 in Houston, thence east and northward along Interstate Highway 610 to the junction of Interstate Highway 10 in Houston, thence eastward along Interstate Highway 10 to the junction of State Highway 73 in Winnie, thence eastward along State Highway 73 to the junction of U.S. Highway 287 in Port Arthur, thence northward along U.S. Highway 287 to the junction of Interstate Highway 10 in Beaumont, thence eastward along Interstate Highway 10 to the Louisiana State Line. The waters of Spindletop Bayou inland from the concrete dam at Russels Landing on Spindletop Bayou in Jefferson County; public waters north of the dam on Lake Anahuac in Chambers County; the waters of Taylor Bayou and Big Hill Bayou inland from the saltwater locks on Taylor Bayou in Jefferson County; Lakeview City Park Lake, West Guth Park Pond, and Waldron Park Pond in Nueces County; Galveston County Reservoir and Galveston State Park ponds #1-7 in Galveston County; Lake Burke-Crenshaw and Lake Nassau in Harris County; Fort Brown Resaca, Resaca de la Guerra, Resaca de la Palma, Resaca de los Cuates, Resaca de los Fresnos, Resaca Rancho Viejo, and Town Resaca in Cameron County; and Little Chocolate Bayou Park Ponds #1 and #2 in Calhoun County are not considered coastal waters for purposes of this subchapter.

(12) Community fishing lake--All public impoundments 75 acres or smaller located totally within an incorporated city limits or a public park, and all impoundments of any size lying totally within the boundaries of a state park.

(13) Crab line--A baited line with no hook attached.

(14) Daily bag limit--The quantity of a species of a wildlife resource that may be lawfully taken in one day.

(15) Day--A 24-hour period of time that begins at midnight and ends at midnight.

(16) Dip net--A mesh bag suspended from a frame attached to a handle.

(17) Final processing--the cleaning of a dead wildlife resource for cooking or storage purposes.

(18) Fish--

(A) Game fish--Blue catfish, blue marlin, broadbill swordfish, brown trout, channel catfish, cobia, crappie (black and white), flathead catfish, Guadalupe bass, king mackerel, largemouth bass, longbill spearfish, pickerel, red drum, rainbow trout, sailfish, sauger, sharks, smallmouth bass, snook, Spanish mackerel, spotted bass, spotted seatrout, striped bass, tarpon, wahoo, walleye, white bass, white marlin, yellow bass, and hybrids or subspecies of the species listed in this subparagraph.

(B) Non-game fish--All species not listed as game fish, except endangered and threatened fish, which are defined and regulated under separate proclamations.

(19) Fishing--Taking or attempting to take aquatic animal life by any means.

(20) Fish length--That straight-line measurement (while the fish is lying on its side) from the tip of the snout (jaw closed) to the extreme tip of the tail when the tail is squeezed together or rotated to produce the maximum overall length.

(21) Fish species names--The names of fishes are those prescribed by the American Fisheries Society in the most recent edition of "A List of Common and Scientific Names of Fishes of The United States and Canada."

(22) Fully automatic firearm--Any firearm that is capable of firing more than one cartridge in succession by a single function of the trigger.

(23) Gaff--Any hand-held pole with a hook attached directly to the pole.

(24) Gear tag--A tag constructed of material as durable as the device to which it is attached. The gear tag must be legible, contain the name and address of the person using the device, and, except for saltwater trotlines and crab traps, the date the device was set out.

(25) Gig--Any hand-held shaft with single or multiple points.

(26) Jug line--A fishing line with five or less hooks tied to a free-floating device.

(27) Lawful archery equipment--Longbow, recurved bow, and compound bow.

(28) License year--The period of time for which an annual hunting or fishing license is valid.

(29) Muzzleloader--Any firearm that is loaded only through the muzzle.

(30) Natural bait--A whole or cut-up portion of a fish or shellfish or a whole or cut-up portion of plant material in its natural state, provided that none of these may be altered beyond cutting into portions.

(31) Permanent residence--One's principal or ordinary home or dwelling place. This does not include a temporary abode or dwelling such as a hunting/fishing club, or any club house, cabin, tent, or trailer house used as a hunting/fishing club, or any hotel, motel, or rooming house used during a hunting, fishing, pleasure, or business trip.

(32) Pole and line--A line with hook, attached to a pole. This gear includes rod and reel.

(33) Possession limit--The maximum number of a wildlife resource that may be lawfully possessed at one time.

(34) Purse seine (net)--A net with flotation on the corkline adequate to support the net in open water without touching bottom, with a rope or wire cable strung through rings attached along the bottom edge to close the bottom of the net.

(35) Sail line--A type of trotline with one end of the main line fixed on the shore, the other end of the main line attached to a wind-powered floating device or sail.

(36) Sand Pump--A self-contained, hand-held, hand-operated suction device used to remove and capture Callianassid ghost shrimp (*Callichirus islagrande*, formerly *Callianassa islagrande*) from their burrows.

(37) Seine--A section of non-metallic mesh webbing, the top edge buoyed upwards by a floatline and the bottom edge weighted.

(38) Silencer or sound-suppressing device--Any device that reduces the normal noise level created when the firearm is discharged or fired.

(39) Spear--Any shaft with single or multiple points, barbed or barbless, which may be propelled by any means, but does not include arrows.

(40) Spear gun--Any hand-operated device designed and used for propelling a spear, but does not include the crossbow.

(41) Spike-buck deer--A buck deer with no antler having more than one point.

(42) Throwline--A fishing line with five or less hooks and with one end attached to a permanent fixture. Components of a throwline may also include swivels, snaps, rubber and rigid support structures.

(43) Trap--A rigid device of various designs and dimensions used to entrap aquatic life.

(44) Trawl--A bag-shaped net which is dragged along the bottom or through the water to catch aquatic life.

(45) Trotline--A nonmetallic main fishing line with more than five hooks attached and with each end attached to a fixture.

(46) Umbrella net--A non-metallic mesh net that is suspended horizontally in the water by multiple lines attached to a rigid frame.

(47) Upper-limb disability--A permanent loss of the use of fingers, hand or arm in a manner that renders a person incapable of using a longbow, compound bow or recurved bow.

(48) Wildlife resources--All game animals, game birds, and aquatic animal life.

(49) Wounded deer--A deer leaving a blood trail.

#### *§65.26. Managed Lands Deer (MLD) Permits.*

(a) MLD permits may be issued only to a landowner who has a current WMP in accordance with §65.25 of this title (relating to Wildlife Management Plan). In the case that a landowner is otherwise in fulfillment of the provisions of §65.25 of this title but does not have current survey data, the department may conditionally authorize partial issuance of MLD permits, not to exceed 30 per cent of the total MLD permits to be issued for that property during the affected license year, with the balance of MLD permits to be issued upon submission of the required survey data.

(b) An applicant may request the issuance of any type of MLD listed in this section.

(1) Level 1. Level 1 MLD permits authorize only the take of antlerless white-tailed or antlerless mule deer. A Level 1 MLD permit is valid during any open season in the county for which it is issued, the bag limit for antlerless deer in that county applies, and the provisions of §65.42(b)(8) of this title (relating to Archery-Only Open Season), §65.42(b)(9) of this title (relating to Muzzleloader-Only Open Season), and the stamp requirements of Parks and Wildlife Code, Chapter 43, Subchapters I and Q, apply.

(2) Level 2.

(A) Level 2 MLD permits authorize the take of buck or antlerless white-tailed deer as specified by the permit.

(i) A Level 2 antlerless permit is valid from the Saturday closest to September 30 through the last Sunday in January and during any open season on the property for which it is issued;

(ii) A Level 2 buck permit is valid:

(I) for spike bucks taken by any lawful means and for bucks taken by means of lawful archery equipment: from the



Saturday closest to September 30 through the last Sunday in January, and during any open season on the property for which it is issued; and

(II) for any buck, irrespective of means: from the opening day of the general open season in the county for which it is issued through the last Sunday in January, and during any open season other than the archery-only open season on the property for which it is issued.

(B) On all tracts of land for which Level 2 MLD permits have been issued:

(i) the bag limit shall be five deer, no more than three bucks, regardless of the county bag limit; and

(ii) the provisions of §65.42(b)(8) of this title (relating to Archery-Only Open Season), §65.42(b)(9) of this title (relating to Muzzleloader-Only Open Season), and the stamp requirements of Parks and Wildlife Code, Chapter 43, Subchapters I and Q, do not apply.

(C) By acceptance of Level 2 MLD permits a landowner agrees to accomplish at least two habitat management recommendations contained in the WMP within three years of permit issuance, and agrees to maintain the habitat management practices for as long as Level 2 permits are accepted thereafter. A landowner who fails to accomplish at least two habitat management recommendations of the WMP within three years is not eligible for Level 2 permits the following year, but is eligible for Level 1 MLD permits or may choose to cease accepting MLD permits.

(3) Level 3. Level 3 MLD permits authorize the take of buck and antlerless white-tailed deer as specified by the permit. A Level 3 MLD permit is valid from the Saturday nearest September 30 through the last Sunday in January and during any open season on the property for which it is issued. On all tracts of land for which Level 3 MLD permits have been issued:

(A) the bag limit shall be five deer, no more than three bucks, regardless of the county bag limit; and

(B) the provisions of §65.42(b)(8) of this title, §65.42(b)(9) of this title, and the stamp requirements of Parks and Wildlife Code, Chapter 43, Subchapters I and Q, do not apply.

(C) By acceptance of Level 3 MLD permits a landowner agrees to accomplish at least four habitat management recommendations contained in the WMP within three years of permit issuance, and agrees to maintain the habitat management practices for as long as Level 3 permits are accepted thereafter. A landowner who fails to accomplish at least four habitat management recommendations of the WMP within three years is not eligible for Level 3 permits the following year, but may be eligible for other levels of MLD permits or may choose to cease accepting MLD permits.

(c) The number of MLD permits distributed to a hunter shall be at the discretion of the landowner.

(d) Except for deer taken under an Antlerless and Spike-Buck Control Permit, all deer harvested by MLD permit must immediately be tagged with an appropriate tag (i.e., buck tag for buck deer, antlerless tag for antlerless deer) from the hunting license of the person who killed the deer or a valid bonus tag. If an appropriate MLD permit is not attached immediately at the time of kill, the person who killed the deer shall immediately take the carcass to a location on the property where an appropriate MLD tag shall be attached.

(e) If a landowner in possession of MLD permits does not wish to abide by the harvest quota or habitat management practices specified

by the WMP, the landowner must return all MLD permits to the department by the Saturday closest to September 30.

(f) In the event that unforeseeable developments such as floods, droughts, or other natural disasters make the attainment of recommended habitat management practices impractical or impossible, the department may, on a case-by-case basis, waive the requirements of this section.

(g) The department reserves the right to deny further issuance of MLD permits to a landowner who exceeds the harvest quota specified by the WMP or who does not otherwise abide by the WMP. A property for which the department denies further permit issuance under this subsection is ineligible to receive MLD permits for a period of three years from the date of denial.

(h) Administratively complete applications received by the department before August 15 of each year shall be approved or denied by October 1 of the same year.

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

Filed with the Office of the Secretary of State on May 14, 2002.

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Texas Parks and Wildlife Department

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For further information, please call: (512) 389-4775



## DIVISION 2. OPEN SEASONS AND BAG LIMITS--HUNTING PROVISIONS

### 31 TAC §65.42, §65.64

The amendments are adopted under the authority of Parks and Wildlife Code, Chapter 61, Uniform Wildlife Regulatory Act (Wildlife Conservation Act of 1983), which provides the Commission with authority to establish wildlife resource regulations for this state.

§65.42. *Deer.*

(a) Except as provided in §65.27 of this title (relating to Antlerless and Spike-Buck Deer Control Permits) or §65.29 of this title (relating to Bonus Tags), no person may exceed the annual bag limit of five white-tailed deer (no more than three bucks) and two mule deer (no more than one buck).

(b) White-tailed deer. The open seasons and annual bag limits for white-tailed deer shall be as follows. No person may take more than two bucks, in the aggregate, from the counties listed in paragraphs (1), (2), and (6) of this subsection.

(1) In Brewster, Culberson, Jeff Davis, Pecos, Presidio, Reeves, Terrell, and Upton (that southeastern portion located both south of U.S. Highway 67 and east of State Highway 349) counties, there is a general open season.

(A) Open season: first Saturday in November through the first Sunday in January.

(B) Bag limit: four deer, no more than two bucks.

(C) No permit is required to hunt antlerless deer unless MLD permits have been issued for the tract of land.

(2) In Bandera, Bexar, Blanco, Brown, Burnet, Coke, Coleman, Comal (west of Interstate 35), Concho, Crockett, Edwards, Gillespie, Glasscock, Hays (west of Interstate 35), Howard, Irion, Kendall, Kerr, Kimble, Kinney (north of U.S. Highway 90), Llano, Mason, McCulloch, Medina (north of U.S. Highway 90), Menard, Mills, Mitchell, Nolan, Real, Reagan, Runnels, San Saba, Schleicher, Sterling, Sutton, Tom Green, Travis (west of Interstate 35), Uvalde (north of U.S. Highway 90) and Val Verde (north of U.S. Highway 90; and that portion located both south of U.S. 90 and west of Spur 239) counties, there is a general open season.

(A) Open season: first Saturday in November through the first Sunday in January.

(B) Bag limit: five deer, no more than two bucks.

(C) Special Late General Season. In the counties listed in this paragraph there is a special late general season for the take of antlerless and spike-buck deer only.

(i) Open season: 14 consecutive days starting the first Monday following the first Sunday in January.

(ii) Bag limit: five antlerless or spike-buck deer in the aggregate, no more than two of which may be spike bucks.

(D) No permit is required to hunt antlerless deer unless MLD antlerless permits have been issued for the tract of land.

(3) In Aransas, Atascosa, Bee, Brooks, Calhoun, Cameron, Dimmit, Duval, Frio, Hidalgo, Jim Hogg, Jim Wells, Kenedy, Kinney (south of U.S. Highway 90), Kleberg, LaSalle, Live Oak, Maverick, McMullen, Medina (south of U.S. Highway 90), Nueces, Refugio, San Patricio, Starr, Uvalde (south of U.S. Highway 90), Val Verde (that southeastern portion located both south of U.S. Highway 90 and east of Spur 239), Webb, Willacy, Zapata, and Zavala counties, there is a general open season.

(A) Open season: the first Saturday in November through the third Sunday in January.

(B) Bag limit: five deer, no more than three bucks.

(C) Special Late General Season. In the counties listed in this paragraph there is a special late general season for the take of antlerless and spike-buck deer only.

(i) Open season: 14 consecutive days starting the first Monday following the third Sunday in January.

(ii) Bag limit: five antlerless or spike-buck deer in the aggregate, no more than three of which may be spike bucks.

(D) No permit is required to hunt antlerless deer unless MLD antlerless permits have been issued for the tract of land.

(4) No person may take or attempt to take more than one buck deer per license year from the counties (or portions of counties), in the aggregate, listed within this paragraph, except as provided in subsection (a) of this section or authorized under the provisions of §65.26 of this title (relating to Managed Land Deer Permits). For counties appearing both in this paragraph and paragraph (5) of this subsection, the bag limit is one buck deer, irrespective of the portion of the county in which take or attempted take occurs.

(A) The following counties are in the West 1-buck Zone. In Archer, Baylor, Bosque, Callahan, Clay, Comanche, Coryell, Eastland, Erath, Hamilton, Hood, Jack, Lampasas, Montague, Palo

Pinto, Parker, Shackelford, Somervell, Stephens, Taylor, Throckmorton, Wise, and Young counties, there is a general open season.

(i) Open season: first Saturday in November through the first Sunday in January.

(ii) Bag limit: three deer, no more than one buck and no more than two antlerless.

(iii) No permit is required to hunt antlerless deer unless MLD antlerless permits have been issued for the tract of land.

(B) The following counties are in the West 1-Buck Zone. In Armstrong, Borden, Briscoe, Carson, Crosby, Fisher, Floyd, Foard, Hall, Hansford, Hardeman, Hutchinson, Jones, Knox, Ochiltree, Randall, Stonewall, Swisher, Wichita, and Wilbarger counties, there is a general open season.

(i) Open season: first Saturday in November through the first Sunday in January.

(ii) Bag limit: three deer, no more than one buck and no more than two antlerless.

(iii) During the first 16 days of the general season, antlerless deer may be taken without antlerless deer permits unless MLD permits have been issued for the tract of land. After the first 16 days, antlerless deer may be taken only by MLD antlerless permits.

(C) The following counties are in the West 1-Buck Zone. In Childress, Collingsworth, Cottle, Dickens, Donley, Garza, Gray, Haskell, Hemphill, Kent, King, Lipscomb, Motley, Roberts, Scurry, and Wheeler counties, there is a general open season.

(i) Open season: first Saturday in November through the first Sunday in January.

(ii) Bag limit: three deer, no more than one buck and no more than two antlerless.

(iii) From opening day through the Sunday immediately following Thanksgiving Day, antlerless deer may be taken without antlerless deer permits unless MLD antlerless permits have been issued for the tract of land. If MLD antlerless permits have been issued, they must be attached to all antlerless deer harvested on the tract of land. From the Monday following Thanksgiving, antlerless deer may be taken only by MLD antlerless permit.

(D) The following counties are in the West 1-Buck Zone. In Dallam, Hartley, Moore, Oldham, Potter, and Sherman Counties, there is a general open season.

(i) Open season: Saturday before Thanksgiving for 16 consecutive days.

(ii) Bag limit: three deer, no more than one buck and no more than two antlerless.

(iii) Antlerless deer may be taken only by MLD antlerless permits.

(E) The following counties are in the West 1-Buck Zone. In Crane, Ector, Loving, Midland, Upton (that portion located north of U.S. Highway 67; and that area located both south of U.S. Highway 67 and west of state highway 349), and Ward counties, there is a general open season.

(i) Open season: first Saturday in November through the first Sunday in January.

(ii) Bag limit: three deer, no more than one buck and no more than two antlerless.

(iii) Antlerless deer may be taken only by MLD antlerless permits.

(5) No person may take or attempt to take more than one buck deer per license year from the counties (or portions of counties), in the aggregate, listed within this paragraph, except as provided in subsection (a) of this section or authorized under the provisions of §65.26 of this title (relating to Managed Land Deer Permits). For counties appearing both in this paragraph and paragraph (4) of this subsection, the bag limit is one buck deer, irrespective of the portion of the county in which take or attempted take occurs.

(A) The following counties are in the East 1-Buck Zone. In Bell (west of IH 35), Grayson, McLennan, and Williamson (west of IH 35) counties, there is a general open season.

(i) Open season: first Saturday in November through the first Sunday in January.

(ii) Bag limit: three deer, no more than one buck and no more than two antlerless.

(iii) No permit is required to hunt antlerless deer unless MLD antlerless permits have been issued for the tract of land.

(iv) Special regulation. In Grayson County:

(I) lawful means are restricted to lawful archery equipment and crossbows only, including MLD properties; and

(II) antlerless deer shall be taken by MLD permit only, except on the Hagerman National Wildlife Refuge.

(B) The following counties are in the East 1-Buck Zone. In Brazoria, Fort Bend, Goliad (south of U.S. Highway 59), Harris, Jackson (south of U.S. Highway 59), Matagorda, Victoria (south of U.S. Highway 59), and Wharton (south of U.S. Highway 59) counties, there is a general open season.

(i) Open season: first Saturday in November through the first Sunday in January.

(ii) Bag limit: three deer, no more than one buck and no more than two antlerless.

(iii) During the first 23 days of the general season, antlerless deer may be taken without antlerless deer permits unless MLD permits have been issued for the tract of land. If MLD permits have been issued, they must be attached to all antlerless deer harvested on the tract of land. After the first 23 days, antlerless deer may be taken only by MLD antlerless permits.

(C) The following counties are in the East 1-Buck Zone. In Cooke, Denton, Hill, Johnson, and Tarrant counties, there is a general open season.

(i) Open season: first Saturday in November through the first Sunday in January.

(ii) Bag limit: three deer, no more than one buck and no more than two antlerless.

(iii) During the first nine days of the general season, antlerless deer may be taken without antlerless deer permits unless MLD permits have been issued for the tract of land. After the first nine days, antlerless deer may be taken only by MLD antlerless permits.

(D) The following counties are in the East 1-Buck Zone. In Anderson, Bowie, Brazos, Burleson, Camp, Cherokee, Delta, Fannin, Franklin, Freestone, Gregg, Grimes, Henderson, Hopkins, Houston, Hunt, Lamar, Leon, Limestone, Madison, Morris, Navarro, Rains, Red River, Robertson, Rusk, Smith, Titus, Upshur, Van Zandt, and Wood counties, there is a general open season.

(i) Open season: first Saturday in November through the first Sunday in January.

(ii) Bag limit: three deer, no more than one buck and no more than two antlerless.

(iii) Antlerless deer may be taken only by MLD antlerless permits or LAMPS permits. On National Forest lands, the take of antlerless deer shall be by permit only.

(E) The following counties are in the East 1-Buck Zone. In Cass, Harrison, Marion, Nacogdoches, Panola, Sabine, San Augustine and Shelby Counties, there is a general open season.

(i) Open season: first Saturday in November through the first Sunday in January.

(ii) Bag limit: three deer, no more than one buck and no more than two antlerless.

(iii) From Thanksgiving Day through the Sunday immediately following Thanksgiving Day, antlerless deer may be taken without antlerless deer permits unless MLD, LAMPS, or Wildlife Management Area permits have been issued for the tract of land. On National Forest, Corps of Engineers, and Sabine River Authority lands, the take of antlerless deer shall be by permit only. If MLD or LAMPS permits have been issued, they must be attached to all antlerless deer harvested on the tract of land. From the first Saturday in November through the day before Thanksgiving Day, and from the Monday immediately following Thanksgiving Day through the first Sunday in January, antlerless deer may be taken only by MLD antlerless deer permits or LAMPS permits.

(F) The following counties are in the East 1-Buck Zone. In Austin, Bastrop, Bell (east of Interstate 35), Caldwell, Colorado, Comal (east of Interstate 35), DeWitt, Ellis, Falls, Fayette, Goliad (north of U.S. Highway 59), Gonzales, Guadalupe, Hays (east of Interstate 35), Jackson (north of U.S. Highway 59), Karnes, Kaufman, Lavaca, Lee, Milam, Travis (east of Interstate 35), Victoria (north of U.S. Highway 59), Waller, Washington, Wharton (north of U.S. Highway 59), Williamson (east of Interstate 35), and Wilson counties, there is a general open season.

(i) Open season: first Saturday in November through the first Sunday in January.

(ii) Bag limit: three deer, no more than one buck and no more than two antlerless.

(iii) Antlerless deer may be taken only by MLD antlerless permits.

(iv) Special regulation. Except on properties for which MLD level II or III permits have been issued, no person may take a buck deer in Austin, Colorado, Lavaca, Fayette, Lee, and Washington counties unless the deer meets one of the following criteria:

(I) one unbranched antler;

(II) one antler with at least six antler points; or

(III) a distance between the main antler beams of 13 inches or greater.

(6) In Angelina, Chambers, Hardin, Jasper, Jefferson, Liberty, Montgomery, Newton, Orange, Polk, San Jacinto, Trinity, Tyler, and Walker counties, there is a general open season.

(A) Open season: first Saturday in November through the first Sunday in January.

(B) Bag limit: four deer, no more than two bucks and no more than two antlerless.

(C) From opening day through the Sunday immediately following Thanksgiving, antlerless deer may be taken without antlerless deer permits unless MLD, LAMPS, or Wildlife Management Area permits have been issued for the tract of land. On National Forest, Corps of Engineers, Sabine River Authority, and Trinity River Authority lands, the take of antlerless deer shall be by permit only. If MLD or LAMPS permits have been issued, they must be attached to all antlerless deer harvested on the tract of land. From the Monday following Thanksgiving, antlerless deer may be taken only by MLD antlerless permits or LAMPS permits. On tracts of land for which LAMPS permits have been issued, no LAMPS permit is required for the harvest of antlerless deer during the archery-only or muzzleloader-only open season.

(7) In Andrews, Bailey, Castro, Cochran, Collin, Dallas, Dawson, Deaf Smith, El Paso, Gaines, Galveston, Hale, Hockley, Hudspeth, Lamb, Lubbock, Lynn, Martin, Parmer, Rockwall, Terry, Winkler, and Yoakum counties, there is no general open season.

(8) Archery-only open seasons. In all counties where there is a general open season for white-tailed deer, there is an archery-only open season during which either sex of white-tailed deer may be taken as provided for in §65.11(2) and (3) of this title (relating to Means and Methods).

(A) Open season: the Saturday closest to September 30 for 30 consecutive days.

(B) Bag limit: the bag limit in any given county is as provided for that county during the general open season.

(C) No permit is required to hunt antlerless deer unless MLD permits have been issued for the property.

(9) Muzzleloader-only open seasons, and bag and possession limits shall be as follows.

(A) In Brewster, Culberson, Jeff Davis, Pecos, Presidio, Reeves, Terrell, and Upton (that portion located both south of U.S. Highway 67 and east of state highway 349) counties, there is an open season during which only antlerless and spike-buck deer may be taken only with a muzzleloader.

(i) Open Season: from the first Saturday following the closing of the general open season for nine consecutive days.

(ii) Bag limit: four antlerless or spike-buck deer in the aggregate, no more than two spike bucks.

(B) In Angelina, Chambers, Hardin, Jasper, Jefferson, Liberty, Montgomery, Newton, Orange, Polk, and Tyler counties, there is an open season during which only antlerless and spike-buck deer may be taken only with a muzzleloader.

(i) Open Season: from the first Saturday following the closing of the general open season for nine consecutive days.

(ii) Bag limit: four antlerless or spike-buck deer in the aggregate, no more than two spike bucks and no more than two antlerless.

(C) No permit is required to hunt antlerless deer unless MLD permits have been issued for the property.

(10) Special Youth-Only Seasons. Except on properties for which Level III MLD permits have been issued, there shall be special youth-only general hunting seasons in all counties where there is a general open season for white-tailed deer.

(A) early open season: the Saturday and Sunday immediately before the first Saturday in November.

(i) Bag limits, provisions for the take of antlerless deer, and special requirements in the individual counties listed in paragraphs (1)-(6) of this subsection shall be as specified for the first two days of the general open season in those counties, except as provided in clause (ii) of this subparagraph.

(ii) Provisions for the take of antlerless deer in the individual counties listed in paragraph (5)(E) of this subsection shall be as specified in those counties for the period of time from Thanksgiving Day through the Sunday immediately following Thanksgiving Day.

(B) late antlerless-only open season: the third weekend (Saturday and Sunday) in January, during which only antlerless deer may be taken. The bag limit shall be as specified for antlerless deer in the county by paragraphs (1)-(6) of this subsection. In counties where the hunting of antlerless deer is by permit only during any portion of the general season, an antlerless permit is required for the take of antlerless deer during the season established by this subparagraph. This subparagraph does not apply:

(i) in counties where the general season, special late season, or muzzleloader-only season is open; or

(ii) on properties for which Level II or III MLD permits have been issued.

(C) Only licensed hunters 16 years of age or younger may hunt deer by means of firearms during the season established by subparagraph (A) of this paragraph; all other deer hunting shall be by means of lawful archery equipment and crossbows only.

(D) Only licensed hunters 16 years of age or younger may hunt deer during the season established by subparagraph (B) of this paragraph.

(E) The stamp requirements of Parks and Wildlife Code, Chapter 43, Subchapters I and Q, do not apply during the seasons established by this paragraph.

(c) Mule deer. The open seasons and annual bag limits for mule deer shall be as follows.

(1) In Armstrong, Borden, Briscoe, Carson, Childress, Coke, Collingsworth, Cottle, Crosby, Dallam, Deaf Smith, Dickens, Donley, Fisher, Floyd, Foard, Garza, Gray, Hall, Hardeman, Hartley, Hemphill, Hutchinson, Kent, King, Lipscomb, Moore, Motley, Ochiltree, Oldham, Potter, Randall, Roberts, Scurry, Stonewall, and Swisher counties, there is a general open season.

(A) Open season: Saturday before Thanksgiving for 16 consecutive days.

(B) Bag limit: two deer, no more than one buck.

(C) Antlerless deer may be taken only by Antlerless Mule Deer or MLD Permits.

(2) In Brewster, Crane, Crockett, Culberson, Ector, El Paso, Hudspeth, Jeff Davis, Loving, Midland, Pecos, Presidio, Reagan, Reeves, Terrell, Upton, Val Verde, Ward, and Winkler counties, there is a general open season.

(A) Open season: last Saturday in November for 16 consecutive days.

(B) Bag limit: two deer, no more than one buck.

(C) Antlerless deer may be taken only by Antlerless Mule Deer or MLD Permits.

(3) In Andrews (west of U.S. Highway 385), Bailey, Cochran, Hockley, Lamb, Terry, and Yoakum counties, there is a general open season.

(A) Open season: Saturday before Thanksgiving for nine consecutive days.

(B) Bag limit: two deer, no more than one buck.

(C) Antlerless deer may be taken only by Antlerless Mule Deer or MLD Permits.

(4) In all other counties, there is no general open season for mule deer.

(5) Archery-only open seasons and bag and possession limits shall be as follows. During an archery-only open season, deer may be taken only as provided for in §65.11(2) and (3) of this title (relating to Means and Methods). No antlerless permit is required unless MLD antlerless permits have been issued for the property.

(A) In Armstrong, Borden, Briscoe, Carson, Childress, Coke, Collingsworth, Cottle, Crane, Crockett, Crosby, Culberson, Dallam, Deaf Smith, Dickens, Donley, Ector, El Paso, Fisher, Floyd, Foard, Garza, Gray, Hall, Hardeman, Hartley, Hemphill, Hudspeth, Hutchinson, Jeff Davis, Kent, King, Lipscomb, Loving, Midland, Moore, Motley, Ochiltree, Oldham, Potter, Presidio, Randall, Reagan, Reeves, Roberts, Scurry, Stonewall, Swisher, Upton, Val Verde, Ward, and Winkler counties, there is an open season.

(i) Open season: from the Saturday closest to September 30 for 30 consecutive days.

(ii) Bag limit: one buck deer.

(B) In Brewster, Pecos, and Terrell counties, there is an open season.

(i) Open season: from the Saturday closest to September 30 for 30 consecutive days.

(ii) Bag limit: two deer, no more than one buck.

(C) In all other counties, there is no archery-only open season for mule deer.

#### §65.64. Turkey.

(a) The annual bag limit for Rio Grande and Eastern turkey, in the aggregate, is four, no more than one of which may be an Eastern turkey.

(b) Rio Grande Turkey. The open seasons and bag limits for Rio Grande turkey shall be as follows.

(1) Fall seasons and bag limits:

(A) In Archer, Bandera, Bell, Bexar, Blanco, Bosque, Burnet, Clay, Comal, Comanche, Cooke, Coryell, Erath, Gillespie, Goliad, Gonzales, Hamilton, Hays, Hill, Hood, Jack, Karnes, Kendall, Kerr, Lampasas, Llano, McLennan, Medina (only north of U.S. Highway 90), Montague, Palo Pinto, Parker, Real, Somervell, Stephens, Travis, Wichita, Williamson, Wilson, Wise, and Young counties, there is a fall general open season.

(i) Open season: first Saturday in November through the first Sunday in January.

(ii) Bag limit: four turkeys, gobblers or bearded hens.

(B) In Aransas, Atascosa, Bee, Calhoun, Dimmit, Duval, Frio, Hidalgo, Jim Hogg, Jim Wells, LaSalle, Live Oak, Maverick, McMullen, Medina (south of U.S. Highway 90), Nueces, Refugio, San

Patricio, Starr, Webb, and Zavala counties, there is a fall general open season.

(i) Open season: first Saturday in November through the third Sunday in January.

(ii) Bag limit: four turkeys, gobblers or bearded hens.

(C) In Kinney (south of U.S. Highway 90) and Uvalde (south of U.S. Highway 90), and Val Verde (in that southeastern portion located both south of U.S. Highway 90 and east of Spur 239) counties, there is a fall general open season.

(i) Open season: first Saturday in November through the third Sunday in January.

(ii) Bag limit: four turkeys, either sex.

(D) In Brooks, Kenedy, Kleberg, and Willacy counties, there is a fall general open season.

(i) Open season: first Saturday in November through the last Sunday in February.

(ii) Bag limit: four turkeys, either sex.

(E) In Armstrong, Baylor, Borden, Briscoe, Brown, Callahan, Carson, Childress, Coke, Coleman, Collingsworth, Concho, Cottle, Crane, Crockett, Crosby, Dawson, Dickens, Donley, Eastland, Ector, Edwards, Fisher, Floyd, Foard, Garza, Glasscock, Gray, Hall, Hardeman, Hartley, Haskell, Hemphill, Howard, Hutchinson, Irion, Jones, Kent, Kimble, King, Kinney (north of U.S. Highway 90), Knox, Lipscomb, Lynn, Martin, Mason, McCulloch, Menard, Midland, Mills, Mitchell, Moore, Motley, Nolan, Ochiltree, Oldham, Pecos, Potter, Randall, Reagan, Roberts, Runnels, Sutton, San Saba, Schleicher, Scurry, Shackelford, Sterling, Stonewall, Swisher, Taylor, Terrell, Throckmorton, Tom Green, Upton, Uvalde (north of U.S. Highway 90), Ward, Wheeler, Wilbarger, and Val Verde (that portion located north of U.S. Highway 90; and that portion located both south of U.S. 90 and west of Spur 239) counties, there is a fall general open season.

(i) Open season: first Saturday in November through the first Sunday in January.

(ii) Bag limit: four turkeys, either sex.

(2) Archery-only season and bag limits. In all counties where there is a general fall season for turkey there is an open season during which turkey may be taken only as provided for in §65.11(2) and (3) of this title (relating to Means and Methods).

(A) Open season: from the Saturday closest to September 30 for 30 consecutive days.

(B) Bag limit: in any given county, the annual bag limit is as provided by this section for the fall general season in that county.

(3) Spring season and bag limits.

(A) In Archer, Armstrong, Bandera, Baylor, Bell, Blanco, Borden, Bosque, Brewster, Briscoe, Brown, Burnet, Callahan, Carson, Childress, Clay, Coke, Coleman, Collingsworth, Comal, Comanche, Concho, Cooke, Coryell, Cottle, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Donley, Eastland, Ector, Edwards, Ellis, Erath, Fisher, Floyd, Foard, Garza, Gillespie, Glasscock, Gray, Hall, Hamilton, Hardeman, Hartley, Haskell, Hays, Hemphill, Hill, Hood, Howard, Hutchinson, Irion, Jack, Jeff Davis, Johnson, Jones, Kendall, Kerr, Kimble, King, Knox, Lampasas, Lipscomb, Llano, Lynn, Martin, Mason, McCulloch, McLennan, Menard, Midland, Mills, Mitchell, Montague, Moore, Motley, Nolan, Ochiltree, Oldham,

Palo Pinto, Parker, Pecos, Potter, Randall, Reagan, Real, Roberts, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Swisher, Tarrant, Taylor, Terrell, Throckmorton, Tom Green, Travis, Upton, Val Verde, Ward, Wheeler, Wichita, Wilbarger, Williamson, Wise, and Young counties, there is a spring general open season.

(i) Open season: first Saturday in April for 37 consecutive days.

(ii) Bag limit: four turkeys, gobblers only.

(B) In Bastrop, Caldwell, Colorado, De Witt, Fayette, Guadalupe, Jackson, Lavaca, Lee, Milam, and Victoria counties, there is a spring general open season.

(i) Open season: first Saturday in April for 37 consecutive days.

(ii) Bag limit: one turkey, gobblers only.

(C) In Aransas, Atascosa, Bee, Bexar, Brooks, Calhoun, Dimmit, Duval, Frio, Goliad, Gonzales, Hidalgo, Jim Hogg, Jim Wells, Karnes, Kenedy, Kinney, Kleberg, LaSalle, Live Oak, Maverick, McMullen, Medina, Nueces, Refugio, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, and Zavala counties, there is a spring general open season.

(i) Open season: last Saturday in March for 37 consecutive days.

(ii) Bag limit: four turkeys, gobblers only.

(4) Special Youth-Only Season.

(A) There shall be a special youth-only general hunting season in all counties where there is a fall general open season.

(i) open season : the weekend (Saturday and Sunday) immediately preceding the first Saturday in November, and the third weekend (Saturday and Sunday) in January.

(ii) bag limit: as specified for individual counties in paragraph (1) of this subsection.

(B) Only licensed hunters 16 years of age or younger may hunt during the season established by this subsection.

(c) Eastern turkey. The open seasons and bag limits for Eastern turkey shall be as follows. In Angelina, Bowie, Brazoria, Camp, Cass, Cherokee, Delta, Fannin, Fort Bend, Franklin, Grayson, Gregg, Harrison, Hopkins, Houston, Hunt, Jasper, Lamar, Marion, Matagorda, Montgomery (north of State Hwy. 105), Morris, Nacogdoches, Newton, Panola, Polk, Rains, Red River, Rusk, Sabine, San Augustine, San Jacinto, Shelby, Smith, Titus, Trinity, Tyler (north of U.S. Hwy. 190), Upshur, Walker, Wharton, and Wood counties, there is a spring season during which both Rio Grande and Eastern turkey may be lawfully hunted.

(1) Open season: the Monday nearest April 14 for 14 consecutive days.

(2) Bag limit (both species combined): one turkey, gobbler only.

(3) In the counties listed in this subsection:

(A) it is unlawful to hunt turkey by any means other than a shotgun, lawful archery equipment, or crossbows;

(B) it is unlawful for any person to take or attempt to take turkeys by the aid of baiting, or on or over a baited area; and

(C) all turkeys harvested during the open season must be registered at designated check stations within 24 hours of the time of kill. Harvested turkeys may be field dressed but must otherwise remain intact.

(d) In all counties not listed in subsection (b) or (c) of this section, the season is closed for hunting turkey.

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

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Gene McCarty

Chief of Staff

Texas Parks and Wildlife Department

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For further information, please call: (512) 389-4775



### DIVISION 3. SEASONS AND BAG LIMITS--FISHING PROVISIONS

#### 31 TAC §65.72

The amendment is adopted under the authority of Parks and Wildlife Code, Chapter 61, Uniform Wildlife Regulatory Act (Wildlife Conservation Act of 1983), which provides the Commission with authority to establish wildlife resource regulations for this state.

§65.72. *Fish.*

(a) General rules.

(1) There are no public waters closed to the taking and retaining of fish, except as provided in this subchapter.

(2) Game fish may be taken only by pole and line, except as provided in this subchapter.

(3) It is unlawful:

(A) to take or attempt to take, or possess fish within a protected length limit, in greater numbers, by other means, or at any time or place, other than as permitted under this subchapter;

(B) while fishing on or in public waters to have in possession fish in excess of the daily bag limit or fish within a protected length limit as established for those waters;

(C) to land by boat or person any fish within a protected length limit, or in excess of the daily bag limit or possession limit established for those fish;

(D) to use game fish or any part thereof as bait;

(E) to possess a finfish of any species, except broadbill swordfish, shark or king mackerel, taken from public water that has the head or tail removed until such person finally lands the catch on the mainland, a peninsula, or barrier island not including jetties or piers and does not transport the catch by boat;

(F) to use airboats or jet-driven devices to pursue and harass or hARRY fish; or

(G) to release into the public waters of this state a fish with a device or substance implanted or attached that is designed, constructed or adapted to produce an audible, visual, or electronic signal

used to monitor, track, follow, or in any manner aid in the location of the released fish.

(4) Finfish tags: Prohibited Acts.

(A) No person may purchase or use more finfish (red drum or tarpon) tags during a license year than the number and type authorized by the commission, excluding duplicate tags issued under Parks and Wildlife Code, §46.006.

(B) It is unlawful to:

(i) use the same finfish tag for the purpose of tagging more than one finfish;

(ii) use a finfish tag in the name of another person;

(iii) use a tag on a finfish for which another tag is specifically required;

(iv) catch and retain a finfish required to be tagged and fail to immediately attach and secure a tag, with the day and month of catch cut out, to the finfish at the narrowest part of the finfish tail, just ahead of the tail fin;

(v) have in possession both a Red Drum Tag and a Duplicate Red Drum Tag issued to the same license or salt water stamp holder;

(vi) have in possession both a Red Drum Tag or a Duplicate Red Drum Tag and a Bonus Red Drum Tag issued to the same license or salt water stamp holder;

(vii) have in possession both an Exempt Red Drum Tag and a Duplicate Exempt Red Drum Tag issued to the same license holder; or

(viii) have in possession both an Exempt Red Drum Tag or a Duplicate Exempt Red Drum Tag and a Bonus Red Drum Tag issued to the same holder.

(5) Commercial fishing seasons.

(A) The commercial seasons for finfish species listed in this paragraph and caught in Texas waters shall run concurrently with commercial seasons established for the same species caught in federal waters of the Exclusive Economic Zone (EEZ).

(B) The commercial fishing season in the EEZ will be set by the National Marine Fisheries Service for:

(i) red snapper under guidelines established by the Fishery Management Plan for Reef Fish Resources for the Gulf of Mexico;

(ii) king mackerel under guidelines established by the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; and

(iii) sharks (all species, their hybrids and subspecies) under guidelines established by the Fishery Management Plan for Highly Migratory Species).

(C) When federal and/or state waters are closed, it will be unlawful to:

(i) purchase, barter, trade or sell finfish species listed in this paragraph landed in this state;

(ii) transfer at sea finfish species listed in this paragraph caught or possessed in the waters of this state; and

(iii) possess finfish species listed in this paragraph in excess of the current recreational bag or possession limit in or on the waters of this state.

(6) In Brewster, Crane, Crockett, Culberson, Ector, El Paso, Jeff Davis, Hudspeth, Loving, Pecos, Presidio, Reeves, Terrell, Upton, Val Verde, Ward, and Winkler counties, the only fishes that may be used or possessed for bait while fishing are common carp, fathead minnows, gizzard and threadfin shad, sunfish (*Lepomis*), goldfish, golden shiners, Mexican tetra, Rio Grande cichlid, and silversides (*Atherinidae* family).

(b) Bag, possession, and length limits.

(1) The possession limit does not apply to fish in the possession of or stored by a person who has an invoice or sales ticket showing the name and address of the seller, number of fish by species, date of the sale, and other information required on a sales ticket or invoice.

(2) There are no bag, possession, or length limits on game or non-game fish, except as provided in these rules.

(A) Possession limits are twice the daily bag limit on game and non-game fish except as provided in these rules.

(B) Statewide daily bag and length limits shall be as follows:

Figure: 31 TAC §65.72(b)(2)(B)

(C) Exceptions to statewide daily bag, possession, and length limits shall be as follows:

(i) The following is a figure:

Figure: 31 TAC §65.72(b)(2)(C)(i)

(ii) Bag and possession limits for black drum and sheepshead do not apply to the holder of a valid Commercial Finfish Fisherman's License.

(iii) Fish caught in federal waters in compliance with a federal fishery management plan may be landed in Texas.

(c) Devices, means and methods.

(1) In fresh water only, it is unlawful to fish with more than 100 hooks on all devices combined.

(2) In community fishing lakes and in sections of rivers lying totally within the boundaries of state parks, game and non-game fish may be taken by pole and line only.

(3) It is unlawful to take, attempt to take, or possess fish caught in public waters of this state by any device, means, or method other than as authorized in this subsection.

(4) In salt water only, it is unlawful to fish with any device that is marked with a buoy made of a plastic bottle(s) of any color or size.

(5) Device restrictions.

(A) Cast net. It is unlawful to use a cast net exceeding 14 feet in diameter.

(i) Only non-game fish may be taken with a cast net.

(ii) In salt water, non-game fish may be taken for bait purposes only.

(B) Dip net.

(i) It is unlawful to use a dip net except:

(I) to aid in the landing of fish caught on other legal devices; and

(II) to take non-game fish.

(ii) In salt water, non-game fish may be taken for bait purposes only.

(C) Gaff.

(i) It is unlawful to use a gaff except to aid in landing fish caught by other legal devices, means or methods.

(ii) Fish landed with a gaff may not be below the minimum, above the maximum, or within a protected length limit.

(D) Gig. Only non-game fish may be taken with a gig.

(E) Jugline. For use in fresh water only. Non-game fish, channel catfish, blue catfish and flathead catfish may be taken with a jugline. It is unlawful to use a jugline:

(i) with invalid gear tags. Gear tags must be attached within six inches of the free-floating device, are valid for 30 days after the date set out, and must include the number of the permit to sell non-game fish taken from freshwater, if applicable;

(ii) for commercial purposes that is not marked with an orange free-floating device;

(iii) for non-commercial purposes that is not marked with a white free-floating device;

(iv) in Lake Bastrop in Bastrop County, Bellwood Lake in Smith County, Lake Bryan in Brazos County, Boerne City Park Lake in Kendall County, Lakes Coffee Mill and Davy Crockett in Fannin County, Dixieland Reservoir in Cameron County, Gibbons Creek Reservoir in Grimes County, and Tankersley Reservoir in Titus County.

(F) Lawful archery equipment. Only non-game fish may be taken with lawful archery equipment or crossbow.

(G) Minnow trap. For use in fresh water only.

(i) Only non-game fish may be taken with a minnow trap.

(ii) It is unlawful to use a minnow trap that exceeds 24 inches in length or with a throat larger than one by three inches.

(H) Perch traps. For use in salt water only.

(i) Perch traps may be used only for taking non-game fish.

(ii) Perch traps may not exceed 18 cubic feet.

(iii) Perch traps must be marked with floating visible orange buoy not less than six inches in height and six inches in width. The buoy must have a gear tag attached. Gear tags are valid for 30 days after date set out.

(I) Pole and line.

(i) Game and non-game fish may be taken by pole and line. It is unlawful to take or attempt to take fish with one or more hooks attached to a line or artificial lure used in a manner to foul-hook a fish (snagging or jerking). A fish is foul-hooked when caught by a hook in an area other than the fish's mouth.

(ii) Game and nongame fish may be taken by pole and line. It is unlawful to take fish with a hand-operated device held underwater except that a spear gun and spear may be used to take nongame fish.

(iii) Game and non-game fish may be taken by pole and line, except that in the Guadalupe River in Comal County from the second bridge crossing on River Road upstream to the easternmost bridge crossing on F.M. Road 306, rainbow and brown trout may not be retained when taken by any method except artificial lures. Artificial lures cannot contain or have attached either whole or portions, living or dead, of organisms such as fish, crayfish, insects (grubs, larvae, or

adults), or worms, or any other animal or vegetable material, or synthetic scented materials. This does not prohibit the use of artificial lures that contain components of hair or feathers. It is an offense to possess rainbow and brown trout while fishing with any other device in that part of the Guadalupe River defined in this paragraph.

(J) Purse seine (net).

(i) Purse seines may be used only for taking menhaden, only from that portion of the Gulf of Mexico within the jurisdiction of this state extending from one-half mile offshore to nine nautical miles offshore, and only during the period of time beginning the third Monday in April through the first day in November each year.

(ii) Purse seines used for taking menhaden may not be used within one mile of any jetty or pass.

(iii) The purse seine, not including the bag, shall not be less than three-fourths inch square mesh.

(K) Sail line. For use in salt water only.

(i) Non-game fish, red drum, spotted seatrout, and sharks may be taken with a sail line.

(ii) Line length shall not exceed 1,800 feet from the reel to the sail.

(iii) The sail and most shoreward float must be a highly visible orange or red color. All other floats must be yellow.

(iv) No float on the line may be more than 200 feet from the sail.

(v) A weight of not less than one ounce shall be attached to the line not less than four feet or more than six feet shoreward of the last shoreward float.

(vi) Reflectors of not less than two square inches shall be affixed to the sail and floats and shall be visible from all directions for sail lines operated from 30 minutes after sunset to 30 minutes before sunrise.

(vii) There is no hook spacing requirement for sail lines.

(viii) No more than one sail line may be used per fisherman.

(ix) Sail lines may not be used by the holder of a commercial fishing license.

(x) Sail lines must be attended at all times the line is fishing.

(xi) Sail lines may not have more than 30 hooks and no hook may be placed more than 200 feet from the sail.

(L) Seine.

(i) Only non-game fish may be taken with a seine.

(ii) It is unlawful to use a seine:

(I) which is not manually operated.

(II) with mesh exceeding 1/2-inch square.

(III) that exceeds 20 feet in length.

(iii) In salt water, non-game fish may be taken by seine for bait purposes only.

(M) Shad trawl. For use in fresh water only.

(i) Only non-game fish may be taken with a shad trawl.



(ii) It is unlawful to use a shad trawl longer than six feet or with a mouth larger than 36 inches in diameter.

(iii) A shad trawl may be equipped with a funnel or throat and must be towed by boat or by hand.

(N) Spear. Only non-game fish may be taken with a spear.

(O) Spear gun. Only non-game fish may be taken with spear gun.

(P) Throwline. For use in fresh water only.

(i) Non-game fish, channel catfish, blue catfish and flathead catfish may be taken with a throwline.

(ii) It is unlawful to use a throwline in Lake Bastrop in Bastrop County, Bellwood Lake in Smith County, Lake Bryan in Brazos County, Boerne City Park Lake in Kendall County, Lakes Coffee Mill and Davy Crockett in Fannin County, Dixieland Reservoir in Cameron County, Gibbons Creek Reservoir in Grimes County, and Tankersley Reservoir in Titus County.

(Q) Trotline.

(i) Non-game fish, channel catfish, blue catfish, and flathead catfish may be taken by trotline.

(ii) It is unlawful to use a trotline:

(I) with a mainline length exceeding 600 feet;

(II) with invalid gear tags. Gear tags must be attached within three feet of the first hook at each end of the trotline and are valid for 30 days after date set out, except on saltwater trotlines, a gear tag is not required to be dated;

(III) with hook interval less than three horizontal feet;

(IV) with metallic stakes; or

(V) with the main fishing line and attached hooks and stagings above the water's surface.

(iii) In fresh water, it is unlawful to use a trotline:

(I) with more than 50 hooks;

(II) in Gibbons Creek Reservoir in Grimes County, Lake Bastrop in Bastrop County, Lakes Coffee Mill and Davy Crockett in Fannin County, Fayette County Reservoir in Fayette County, Pinkston Reservoir in Shelby County, Lake Bryan in Brazos County, Bellwood Lake in Smith County, Dixieland Reservoir in Cameron County, Boerne City Park Lake in Kendall County, and Tankersley Reservoir in Titus County.

(iv) In salt water:

(I) it is unlawful to use a trotline:

(-a-) in or on the waters of the Gulf of Mexico within the jurisdiction of this state;

(-b-) from which red drum, sharks or spotted seatrout caught on the trotline are retained or possessed;

(-c-) placed closer than 50 feet from any other trotline, or set within 200 feet of the edge of the Intracoastal Waterway or its tributary channels. No trotline may be fished with the main fishing line and attached hooks and stagings above the water's surface;

(-d-) baited with other than natural bait, except sail lines;

(-e-) with hooks other than circle-type hook with point curved in and having a gap (distance from point to shank)

of no more than one-half inch, and with the diameter of the circle not less than five-eighths inch. Sail lines are excluded from the restrictions imposed by this clause; or

(-f-) in Aransas County in Little Bay and the water area of Aransas Bay within one-half mile of a line from Hail Point on the Lamar Peninsula, then direct to the eastern end of Goose Island, then along the southern shore of Goose Island, then along the causeway between Lamar Peninsula and Live Oak Peninsula, then along the eastern shoreline of the Live Oak Peninsula past the town of Fulton, past Nine-Mile Point, past the town of Rockport to a point at the east end of Talley Island, including that part of Copano Bay within 1,000 feet of the causeway between Lamar Peninsula and Live Oak Peninsula.

(II) No trotline or trotline components, including lines and hooks, but excluding poles, may be left in or on coastal waters between the hours of 1 p.m. on Friday through 1:00 p.m. on Sunday of each week, except that attended sail lines are excluded from the restrictions imposed by this clause. Under the authority of the Texas Parks and Wildlife Code, §66.206(b), in the event small craft advisories or higher marine weather advisories issued by the National Weather Service are in place at 8:00 a.m. on Friday, trotlines may remain in the water until 6:00 p.m. on Friday. If small craft advisories are in place at 1:00 p.m. on Friday, trotlines may remain in the water until Saturday. When small craft advisories are lifted by 8:00 a.m. on Saturday, trotlines must be removed by 1:00 p.m. on Saturday. When small craft advisories are lifted by 1:00 p.m. on Saturday, trotlines must be removed by 6:00 p.m. on Saturday. When small craft advisories or higher marine weather advisories are still in place at 1:00 p.m. on Saturday, trotlines may remain in the water through 1:00 p.m. on Sunday. It is a violation to tend, bait, or harvest fish or any other aquatic life from trotlines during the period that trotline removal requirements are suspended under this provision for adverse weather conditions. For purposes of enforcement, the geographic area customarily covered by marine weather advisories will be delineated by department policy.

(III) It is unlawful to fish for commercial purposes with:

(-a-) more than 20 trotlines at one time;

(-b-) any trotline that is not marked with yellow flagging attached to stakes or with a floating yellow buoy not less than six inches in height, six inches in length, and six inches in width attached to end fixtures;

(-c-) any trotline that is not marked with yellow flagging attached to stakes or with a yellow buoy bearing the commercial finfish fisherman's license plate number in letters of a contrasting color at least two inches high attached to end fixtures;

(-d-) any trotline that is marked with yellow flagging or with a buoy bearing a commercial finfish fisherman's license plate number other than the commercial finfish fisherman's license plate number displayed on the finfish fishing boat;

(IV) It is unlawful to fish for non-commercial purposes with:

(-a-) more than 1 trotline at any time; or

(-b-) any trotline that is not marked with a floating yellow buoy not less than six inches in height, six inches in length, and six inches in width, bearing a two-inch wide stripe of contrasting color, attached to end fixtures.

(R) Umbrella net.

(i) Only non-game fish may be taken with an umbrella net.

(ii) It is unlawful to use an umbrella net with the area within the frame exceeding 16 square feet.

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

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Gene McCarty

Chief of Staff

Texas Parks and Wildlife Department

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For further information, please call: (512) 389-4775



## TITLE 34. PUBLIC FINANCE

### PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

#### CHAPTER 3. TAX ADMINISTRATION

##### SUBCHAPTER O. STATE SALES AND USE TAX

###### 34 TAC §3.281

The Comptroller of Public Accounts adopts an amendment to §3.281, concerning records required; information required, without changes to the proposed text as published in the March 29, 2002, issue of the *Texas Register* (27 TexReg 2417).

This section is amended to implement Senate Bill 1123, 77th Legislature, 2001, which amends Tax Code, §151.023 and §151.025. Subsections (a)(1) and (b) of the adopted rule reflect the changes to Tax Code, §151.025, which describes the kinds of records and information that certain persons must keep. Subsection (f) of the adopted rule reflects the changes to Tax Code, §151.023, which describes the authority of the comptroller to inspect, copy, photograph, and require the production of records that certain persons hold. Subsection (e) is added to clarify the length of time that records and resale or exemption certificates must be retained. Finally, the adoption made to subsections (a)(2), (c), and (d) are for the purpose of clarity.

No comments were received regarding adoption of the amendment.

This amendment is proposed under 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 Tax Code, Title 2.

The amendment implements Tax Code, §151.023.

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

Filed with the Office of the Secretary of State on May 17, 2002.

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Martin Cherry

Deputy General Counsel for Taxation

Comptroller of Public Accounts

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For further information, please call: (512) 475-0387



###### 34 TAC §3.282

The Comptroller of Public Accounts adopts an amendment to §3.282, concerning auditing taxpayer records, without changes to the proposed text as published in the March 29, 2002, issue of the *Texas Register* (27 TexReg 2419).

This amendment implements Senate Bill 1037, 77th Legislature, 2001. Senate Bill 1037 adds Tax Code, §151.0232, which allows the comptroller to establish by rule a program in which a taxpayer may hire a certified public accountant (CPA) who is not employed by the comptroller to perform an audit to determine a taxpayer's liability for sales and use tax. The adopted section defines the CPA Audit Program in subsection (a)(1) and provides a reference in subsection (g) to a new rule regarding the CPA Audit Program. The other amendments to the section are for the purpose of clarity.

No comments were received regarding adoption of the amendment.

This amendment is proposed under 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 Tax Code, Title 2.

The amendment implements Tax Code, §151.0232.

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

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## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### PART 1. TEXAS DEPARTMENT OF PUBLIC SAFETY

#### CHAPTER 13. CONTROLLED SUBSTANCES SUBCHAPTER C. PEYOTE

###### 37 TAC §§13.41, 13.42, 13.44, 13.45, 13.47, 13.48, 13.50, 13.52, 13.54, 13.58

The Texas Department of Public Safety adopts amendments to §§13.41, 13.42, 13.44, 13.45, 13.47, 13.48, 13.50, 13.52, 13.54, and 13.58, concerning Controlled Substances, without changes

to the proposed text as published in the March 22, 2002, issue of the *Texas Register* (27 TexReg 2202).

The amendments are necessary to clarify the definition of an Indian to conform to requirements the Federal American Indian Religious Freedom Act (AIRFA) places upon Texas; to clarify the identification requirements for individuals purchasing peyote; and to revise or eliminate requirements for documentation of the source of peyote.

No comments were received regarding adoption of the amendments.

The amendments are proposed pursuant to Texas Government Code, §411.006(4), which provides that the director of the department shall adopt rules, subject to commission approval, considered necessary for the control of the department; and Health and Safety Code, §481.003(a), which authorizes the director to adopt rules to administer and enforce the Texas Controlled Substances 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 May 14, 2002.

TRD-200202985

Thomas A. Davis, Jr.

Director

Texas Department of Public Safety

Effective date: June 3, 2002

Proposal publication date: March 22, 2002

For further information, please call: (512) 424-2135



## SUBCHAPTER M. DENIAL, REVOCATION AND RELATED DISCIPLINARY ACTION

### 37 TAC §13.273, §13.276

The Texas Department of Public Safety adopts amendments to §13.273 and §13.276, concerning Controlled Substances - Denial, Revocation, and Related Disciplinary Action, without changes to the proposed text as published in the March 22, 2002, issue of the *Texas Register* (27 TexReg 2204).

Amendment to §13.273 clarifies grounds for denial and corrects cross-reference that was in error. Amendment to §13.276 also corrects cross-reference that was in error due to renumbering of a previous version of the rules.

No comments were received regarding adoption of the amendments.

The amendments are adopted pursuant to Texas Government Code, §411.006(4), which provides that the director of the department shall adopt rules, subject to commission approval, considered necessary for the control of the department; and Health and Safety Code, §481.003(a), which authorizes the director to adopt rules to administer and enforce the Texas Controlled Substances 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 May 14, 2002.

TRD-200202984

Thomas A. Davis, Jr.

Director

Texas Department of Public Safety

Effective date: June 3, 2002

Proposal publication date: March 22, 2002

For further information, please call: (512) 424-2135



## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### PART 1. TEXAS DEPARTMENT OF HUMAN SERVICES

#### CHAPTER 3. TEXAS WORKS

#### SUBCHAPTER K. EMPLOYMENT SERVICES

##### 40 TAC §3.1101

The Texas Department of Human Services (DHS) adopts an amendment to §3.1101, in its Texas Works chapter. The amendment is adopted with changes to the proposed text published in the February 15, 2002, issue of the *Texas Register* (27 TexReg 1119).

Justification for the amendment is to define which Temporary Assistance for Needy Families (TANF) recipients are exempt from participation in the Choices program. TANF recipients are required by federal regulations to participate in the Choices program unless they meet exemption criteria. In addition to the state-mandated exemptions described in Human Resources Code, §31.012, DHS has the option of allowing additional exemptions.

DHS received a single letter of comment that was cosigned by two members of the state legislature. A summary of the comments and the department's responses follow.

Comment: The letter encouraged DHS to revise the amendment to reaffirm the importance of the work requirement, retain needed flexibility for work exemptions, and guarantee that support services are offered to all clients.

Response: DHS agrees and has changed §3.1101(a).

Comment: The letter indicated that work should be affirmed for caretakers, even if they are only able to work part-time.

Response: DHS agrees and has, therefore, not proposed exemptions based upon limited availability for work, such as on a part-time basis. Current policies would not exempt individuals who are disabled but who are able to work even part-time. DHS exempts disabled individuals only if a physician indicates they are unable to work. These individuals, as well as others who qualify for exemptions under the amendment, are encouraged by DHS to volunteer for work activities, if they are able to do so.

Comment: The letter encouraged DHS to modify the rules to ensure that all TANF recipients are expected to work, as allowed by their abilities.

Response: DHS agrees and has changed §3.1101(b)(2) to clarify that a disabling condition must be expected to last more than 180 days for a caretaker or second parent to receive an exemption for caring for a disabled adult. This is consistent with the 180 days cited when a disabled adult recipient claims a personal

disability. Before determining work exemptions, DHS considered opinions solicited from a variety of sources, and considered the merits of part-time work for exempt adults.

In addition to the changes indicated above, DHS made minor editorial changes to the rule to improve clarity and understanding.

The amendment is adopted under the Human Resources Code, Title 2, Chapter 31, which authorizes DHS to administer financial assistance programs.

The amendment implements the Human Resources Code, §§31.001-31.0325.

§3.1101. *Who is Required to Participate.*

(a) The Texas Department of Human Services (DHS) is committed to the concept that work is the surest route to independence, recognizing that flexibility is needed in work requirement exemptions and the need for adequate support services. Each certified Temporary Assistance for Needy Families (TANF) recipient who lives in a Choices county must participate in any Choices component required by the Texas Workforce Commission (TWC), except as noted in subsection (b) of this section.

(b) DHS exempts from Choices participation a:

(1) caretaker relative of a child as specified in Human Resources Code, §31.012 (relating to Mandatory Work or Participation in Employment Activities Through the Job Opportunities and Basic Skills Program);

(2) caretaker or second parent who is needed in the home to care for a disabled adult in the household who is disabled for more than 180 days;

(3) single grandparent age 50 or over who is a caretaker for a child under age three;

(4) caretaker or second parent who is disabled for more than 180 days;

(5) pregnant caretaker or second parent who is unable to work as a result of pregnancy;

(6) caretaker or second parent who is age 60 or older;

(7) recipient under age 16 who is not a caretaker or second parent; and

(8) recipient who is 16 through 18 years old attending elementary, secondary, vocational, or technical school full-time; and who is not a caretaker or second parent.

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

Filed with the Office of the Secretary of State on May 14, 2002.

TRD-200202990

Paul Leche

General Counsel, Legal Services

Texas Department of Human Services

Effective date: June 3, 2002

Proposal publication date: February 15, 2002

For further information, please call: (512) 438-3734



## PART 9. TEXAS DEPARTMENT ON AGING

### CHAPTER 270. GENERAL SERVICE REQUIREMENTS

#### 40 TAC §270.23

The Texas Department on Aging adopts new §270.23, concerning Respite Voucher Program, without changes to the proposed text as published in the March 8, 2002, issue of the *Texas Register* (27 TexReg 1688) and will not be republished.

The new rule establishes the requirements for implementation by area agencies on aging of a respite voucher program.

No comments were received regarding adoption of the new rule.

The new rule is adopted under Texas Government Code, §2161.003, which provides the Texas Department on Aging with the authority to promulgate rules governing the operation of the Department.

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

Filed with the Office of the Secretary of State on May 14, 2002.

TRD-200202986

Gary Jessee

Director of the Office AAA Support and Operations

Texas Department on Aging

Effective date: June 3, 2002

Proposal publication date: March 8, 2002

For further information, please call: (512) 424-6857



# TEXAS DEPARTMENT OF INSURANCE

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## 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.

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### Texas Department of Insurance

#### Proposed Action on Rules

##### EXEMPT FILING NOTIFICATION PURSUANT TO THE INSURANCE CODE CHAPTER 5, SUBCHAPTER L, ARTICLE 5.96

Notice is given that the Commissioner of Insurance will consider a proposal made in a staff petition which seeks amendments of the Texas Automobile Rules and Rating Manual (the Manual), to adopt new and/or adjusted 2003 model Private Passenger Automobile Physical Damage Rating Symbols and revised identification information. Staff's petition (Ref. No. A-0502-16-I), was filed on May 20, 2002.

The new and/or adjusted symbols for the Manual's Symbols and Identification Section reflect data compiled on damageability, repairability, and other relevant loss factors for the listed 2003 model vehicles.

A copy of the petition, including an exhibit with the full text of the proposed amendments to the Manual is 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 Sylvia Gutierrez at (512) 463-6327; refer to (Ref. No. A-0502-16-I).

Comments on the proposed changes must be submitted in writing no later than 5:00 p.m. on July 1, 2002 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 Marilyn Hamilton, Associate Commissioner, Property & Casualty Program, Texas Department of Insurance, P. O. Box 149104, MC 104-PC, Austin, Texas 78714-9104.

A public hearing on this matter will not be held unless a separate request for a hearing is submitted to the Office of the Chief Clerk during the comment period defined above.

This notification is made pursuant to Insurance Code Article 5.96, which exempts it from the requirements of the Government Code, Chapter 2001 (Administrative Procedure Act).

TRD-200203117

Lynda H. Nesenholtz

General Counsel and Chief Clerk

Texas Department of Insurance

Filed: May 21, 2002

#### Proposed Action on Rules

##### EXEMPT FILING NOTIFICATION PURSUANT TO THE INSURANCE CODE CHAPTER 5, SUBCHAPTER L, ARTICLE 5.96

Notice is given that the Commissioner of Insurance will consider a filing by the Insurance Services Office, Inc. (referred to as ISO) that requests the approval of six new residential property policy forms which include form no. HO 00 02 (Homeowners 2-Broad Form), form no. HO 00 03 (Homeowners 3-Special Form), form no. HO 00 04 (Homeowners 4-Contents Broad Form), form no. HO 00 05 (Homeowners 5-Comprehensive Form), form no. HO 00 06 (Homeowners 6-Unit-Owners Form), and form no. HO 00 08 (Homeowners 8-Modified Coverage Form) and further requests the adoption of ninety-five new endorsements for use in the State of Texas.

A public hearing on this matter will not be held unless a separate request for a hearing is submitted to the Office of the Chief clerk during the comment period as defined herein.

The ISO policy forms and endorsements were filed pursuant to the Texas Insurance Code Article 5.35 (c), which provides that the Commissioner may approve the use of policy forms and endorsements adopted by a national organization of insurance companies, if such forms or endorsements are filed with and are approved by the Commissioner. ISO conforms to the definition of a national organization of insurance companies and is, therefore, authorized to file its policies and endorsements with the Texas Department of Insurance to be considered by the Commissioner for approval.

ISO's original submission on this matter was received on July 16, 1997, and requested the approval of ISO's 1991 homeowners insurance program. ISO's subsequent filing on this matter, was received on March 4, 2002, and requested the approval ISO's 2000 homeowners insurance program consisting of form no. HO 00 02 (Homeowners 2-Broad Form), form no. HO 00 03 (Homeowners 3-Special Form), form no. HO 00 04 (Homeowners 4-Contents Broad Form), form no. HO 00 05 (Homeowners 5-Comprehensive Form), form no. HO 00 06 (Homeowners 6-Unit-Owners Form), and form no. HO 00 08 (Homeowners 8-Modified Coverage Form) and further requested the approval of ninety-three new endorsements. Since the original submission, ISO

and Department staff have engaged in discussions and dialogue relating to the proposed forms and endorsements. ISO has made several modifications to the policy forms and endorsements, as originally submitted, as a result of discussions with Department staff. ISO first amended its March 4, 2002, filing on March 19, 2002, by providing Fleisch reading scores for each proposed policy form and endorsement, and an updated edition of endorsement no. HO 24 82 Personal Injury to replace an out of date edition of the Personal Injury endorsement that had been inadvertently included in the original filing. ISO made a second amendment to the March 4, 2002, filing on March 22, 2002, by providing a narrative comparison of the ISO forms to the Texas forms. A third amendment to the March 4, 2002, filing was made on May 3, 2002, that contained new and amended endorsements, which incorporated changes the Department had requested by a letter dated March 28, 2002. A fourth amendment to the March 4, 2002, filing was also made on May 3, 2002, that provided a general description of the coverage provided by the proposed ISO policies and provided a new complete set of policy forms and endorsements that incorporated all of the previous changes.

I. HO 00 02 (Homeowners 2-Broad Form). This form is similar to the Homeowners 3-Special Form, described herein, except that building and other structures are insured on a named peril basis. This form is analogous to the Texas Homeowners Policy-Form A with the Additional Extended Coverage Endorsement (HO-170) attached.

II. HO 00 03 (Homeowners 3-Special Form). The following is a general description of the coverage provided by this proposed ISO homeowners policy. This form is analogous to the Texas Homeowners Policy Form-B.

A. Section I-Property Coverages.

1. The policy covers the dwelling and other private structures on the premises against the risk of direct physical loss, with certain exceptions.
2. It covers personal property on and away from the premises against certain named perils including but not limited to losses by fire or lightning, windstorm or hail, explosion, riot or civil commotion, aircraft, vehicular impact, smoke, vandalism or malicious mischief, and theft.
3. It provides loss of use which covers additional living expenses when the residence becomes uninhabitable and fair rental value when part of the premises is rented to others.

B. Section II-Liability Coverages.

1. Coverage E-Personal Liability. The policy covers payment on behalf of the insured of all sums, up to the stipulated limit, which the insured is legally liable to pay as damages because of bodily injury or property damage arising out of the residence premises or personal activities.
2. Coverage F-Medical Payments to Others. The policy covers medical and related expenses, subject to the stipulated limit, arising out of accidents to persons other than the insured and residents of the premises.
3. Additional Coverages. Additional coverage is provided for claim expenses, first aid expenses, and damage to property of others.

III. HO 00 05 (Homeowners 5-Comprehensive Form). This form is similar to the Homeowners 3-Special Form except that Coverage C-Personal Property is insured against the risk of direct physical loss with certain exceptions. This form is analogous to the Texas Homeowners Policy-Form C.

IV. HO 00 04 (Homeowners 4-Contents Broad Form). This form is issued to a tenant (non-owner) of a dwelling or an apartment situated in any building or mobile home, or an owner-occupant of a dwelling,

cooperative unit of a building containing an apartment not otherwise eligible for a Homeowner Policy Form 2, 3, or 8. The residence premises occupied by the insured must be used exclusively for residential purposes, with specified exceptions, and is not occupied by more than one additional family or more than two boarders or roomers. This is a tenants policy that covers personal property on and away from the premises against certain named perils including but not limited to losses by fire or lightning, windstorm or hail, explosion, riot or civil commotion, aircraft, vehicular impact, smoke, vandalism or malicious mischief, and theft. This policy also contains loss of use, additional coverages, and liability coverage provisions that are the same as those described for the Homeowners 3-Special Form. The breadth of coverage is like that provided in Coverage C-Personal Property in Forms 00 02, and 00 03, except under the Additional Coverages, Building Additions and Alterations coverage for tenant acquired or tenant made improvements replaces the Landlords Furnishings coverage not needed by tenants. This form is analogous to the Texas Homeowners Tenant Policy-Form B.

V. HO 00 06 (Homeowners 6-Unit-Owners Form). This form is issued to an owner of a condominium or cooperative unit used for residential purposes. This policy for condominium unit owners covers items of real property which are the insured's responsibility under the governing rules of a condominium association. This policy contains loss of use, additional coverages, and liability coverage provisions that are the same as those described for the Homeowners 3-Special Form. This policy also covers personal property on and away from the premises against certain named perils including but not limited to losses by fire or lightning, windstorm or hail, explosion, riot or civil commotion, aircraft, vehicular impact, smoke, vandalism or malicious mischief, and theft similar to Form 4 except there is no Additional Coverage for Landlord Furnishings or Building Additions and Alterations. Instead, all building and structural items in the unit or on the premises containing the unit for which the unit owner is solely responsible, are covered under Coverage A-Dwelling for a basic limit of \$5,000. This limit can be increased to meet the unit owner's exposure need. This form is analogous to the Texas Homeowners Condominium Policy-Form B.

VI. HO 00 08 (Homeowners 8-Modified Coverage Form). This form is for insuring owner occupied dwellings but it combines certain characteristics of the Homeowners 3 and Homeowners 2 forms. This is an owners policy that covers the dwelling, other structures, and personal property on and away from the premises against certain named perils including but not limited to losses by fire or lightning, windstorm or hail, explosion, riot or civil commotion, aircraft, vehicles, smoke and vandalism or malicious mischief, and theft. The peril of theft is limited to loss of property on-premises for an amount up to \$1,000. By attaching Endorsement HO 04 03-Theft Coverage Increase, the on-premises theft limit may be increased to \$3,000 or \$5,000 and coverage for loss to property off the residence premises may be added for an amount up to \$1,000. This policy also contains loss of use, additional coverages, and liability coverage provisions that are the same as those contained in the HO 00 03. However, the loss settlement provisions for buildings in this policy are more restrictive than in the other Homeowners Forms. Under all of the other Homeowners Forms, loss settlements for buildings are on a replacement cost basis if the Coverage A-Property limit of liability, at the time of loss, is at least 80% of replacement value. If it is less than 80%, the loss settlement is based on the ratio that replacement value of the building bears to the insured amount, but not less than actual cash value of the structure. However, under Form 8, if the insured elects to repair or replace the damaged building, loss settlement is based on the repair or replacement cost of the damaged building up to the policy limits. If the insured elects not to repair or replace, loss settlement is based on the least of: the limit of liability; the market value; or the actual cash value.

VII. Comparison of the Proposed ISO Policies to the Currently Prescribed Texas Homeowners Policy-Form B (HO-B). The HO-B has traditionally been the predominant policy form issued in Texas for owner occupied dwellings. In the course of staff's review of ISO's proposed homeowners, tenant, and condominium unit owners policies, staff has noted several differences in the coverage provided in the HO-B and that provided in the proposed ISO policy forms. Since the proposed HO 00 04 (tenants policy) contains the same coverages as the proposed HO 00 03 (except the tenants policy does not provide the dwelling coverage) and the proposed HO 00 06 (condominium unit owners policy) contains the same coverages as the proposed HO 00 03 (except that the dwelling coverage is much more limited in the condominium unit owners policy) the restrictions and enhancements in coverage will be discussed in terms of a comparison between the HO 00 03 and the HO-B. However, it should be noted that most of the comparisons of coverage also apply to the ISO tenants and condominium unit owners policies.

VIII. Restrictions In Coverage. The following is a list of some of the restrictions in coverage that are contained in the proposed homeowners policy as compared to the existing HO-B. This list is not intended to cover every restriction in coverage that is contained in the proposed ISO policy forms. If more detailed coverage information is desired, a side by side comparison of the ISO HO 00 03 homeowners policy and the HO-B is available from the Department upon request.

#### A. Coverage for Boats, Boat Trailers, and Other Trailers.

The ISO HO 00 03 policy provides up to \$1,500 in coverage for watercraft, including their trailers, furnishings, equipment and outboard motors and other trailers or semitrailers not used with watercraft for losses that occur on and off premises for named perils. (See Section I-Property Coverages, Coverage C-Personal Property, Special Limits of Liability, items c. and d.) The ISO HO 00 03 policy provides theft coverage for watercraft, including their trailers, furnishings, equipment and outboard motors and other trailers, semitrailers and campers if the theft occurs on the residence premises; however, if the theft occurs off of the residence premises, theft coverage is excluded. (See Section 1-Perils Insured Against, Coverage C - Personal Property, paragraph 9.) The ISO HO 00 03 policy provides windstorm and hail coverage for boats and their trailers, furnishings, equipment, and outboard engines or motors, only if they are inside a fully enclosed building. (See Section 1-Perils Insured Against, Coverage C - Personal Property, paragraph 2.) The HO-B provides coverage up to the limits of liability that apply to Coverage B (Personal Property) for boats and boat trailers while located on land on the residence premises for all perils insured against. Additionally, the HO-B provides coverage up to the limits of liability that apply to Coverage B (Personal Property) for trailers designed for use principally off public roads (e.g., travel trailers) whether on or off premises. (See Section 1-Property Coverage, Coverage B (Personal Property), Property Not Covered, paragraphs 4. and 6.)

#### B. Coverage for Firearms.

The ISO HO 00 03 policy limits the coverage for firearms to losses by the peril of theft with a maximum limit of liability of \$2,500. (See Section I-Property Coverages, Coverage C-Personal Property, Special Limits of Liability, item f.) The HO-B provides coverage for firearms to the extent described under the Perils Insured Against section of the policy, including the peril of theft, up to the limits of liability that apply to Coverage B (Personal Property).

#### C. Coverage for Goldware and Silverware.

The ISO HO 00 03 policy limits the coverage for goldware, gold-plated ware, silverware, silver-plated ware, platinumware, platinum-plated ware and pewterware (this includes flatware, hollowware, tea sets, trays and trophies made of or including silver, gold or pewter) to losses by the peril of theft with a maximum limit of liability of \$2,500. (See

Section I-Property Coverages, Coverage C-Personal Property, Special Limits of Liability, item g.) The HO-B provides coverage for goldware and silverware to the extent described under the Perils Insured Against section of the policy, including the peril of theft, up to the limits of liability that apply to Coverage B (Personal Property).

#### D. Coverage for Golf Carts.

The ISO HO 00 03 policy only covers golf carts if they are used solely to service the residence premises. (See Section I - Property Coverages, Coverage C - Personal Property, Property Not Covered, c. 2.) The HO-B provides coverage for golf carts up to the limits of liability that apply to Coverage B (Personal Property) to the extent described under the Perils Insured Against section of the policy. (See Section I - Property Coverage, Coverage B (Personal Property) Property Not Covered, paragraph 3.c.)

#### E. Coverage for Tree Debris Removal.

The ISO HO 00 03 policy limits the coverage for the removal of debris from fallen trees to \$1,000 in any one loss regardless of the number of trees, but no more than \$500 for the removal of any one tree. (See Section I-Property Coverages, Additional Coverages, item 1, b.) The HO-B provides coverage for removal of debris from a fallen tree to the extent described under the Extensions of Coverage section of the policy up to the limits of liability that apply to the damaged property. (See Extensions of Coverage, paragraph 1.)

#### F. Coverage for Water Damage.

1. The ISO HO 00 03 policy as amended by the proposed Special Provisions-Texas endorsement does not include coverage for losses to a dwelling and other structures caused by constant or repeated seepage or leakage from within a plumbing, heating, air conditioning or automatic fire protective sprinkler system or from within a household appliance. (See Special Provisions-Texas Endorsement No. HO 01 42 06 02, Section I-Perils Insured Against) The HO-B provides coverage for water damage from repeated and continuous seepage or leakage of water or steam from a plumbing system, heating or air conditioning system, or household appliance which occurs over a period of time. (See Section 1-Perils Insured Against, paragraph 9.)

2. The ISO HO 00 03 policy does not cover losses to the dwelling and other structures caused by water which backs up through sewers or drains or which overflows from a sump pump, sump well, or similar device designed to drain water from the foundation area. (See Section I - Exclusions, A, 3, b) Further, the ISO HO 00 03 policy does not cover losses to personal property caused by water which overflows from a sump pump, sump, or related equipment or a roof drain, gutter, downspout or similar fixtures or equipment, and it does not cover losses to personal property on the residence premises caused by accidental discharge or overflow which occurs off the residence premises. (See Section I - Perils Insured Against, Coverage C - Personal Property, number 12.) The HO-B provides coverage for damage to property covered under Coverage A (Dwelling) or Coverage B (Personal Property) for a loss caused by back up or overflow from a sewer, drain, or sump pump of sewage or water even if it is from outside the residence premises. Property covered under Coverage B (Personal Property) is specifically insured for loss caused by accidental discharge, leakage, or overflow of water or steam from within a plumbing system, heating or air conditioning system, or household appliance which may include a loss caused by water or sewage from outside the residence premises that backs up or overflows from a sewer, drain, or sump pump. (See Section 1-Perils Insured Against, Coverage B-Personal Property, paragraph 9.)

#### G. ISO HO 00 03 Policy Exclusions.

1. The ISO HO 00 03 policy does not cover loss caused by fungi or microbes. (See Special Provisions-Texas Endorsement No. HO 01 42 06 02, Section I Exclusions 10.) Pursuant to Commissioner's Order No. 01-1105, the HO-B modified by endorsement no. HO-162A provides coverage for removal of ensuing mold, fungi, or other microbial losses caused by sudden and accidental discharge, leakage or overflow of water if the water loss is a covered loss. However, the modified HO-B does not provide coverage for the remediation of mold or fungus.

2. The ISO HO 00 03 policy excludes loss caused by faulty, inadequate or defective planning, zoning, development, surveying, siting, design, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction; materials used in repair, construction, renovation, remodeling or maintenance of part or all of the property whether on or off of the residence premises. (See Section I-Exclusions, item B. 3.) The HO-B does not contain this exclusion.

3. The ISO HO 00 03 does not cover settling, shrinking, bulging or expansion, including resultant cracking of bulkheads, pavements, patios, footings, foundations, walls, floors, roofs or ceilings. (See Section I - Perils Insured Against, A, 2, c, (6), (f)). The HO-B provides coverage for an ensuing loss caused by a covered water loss to foundations, walls, floors, ceilings, roof structures, walks, drives, curbs, fences, retaining walls or swimming pools. (See Section I - Exclusions 1. h.) In contrast, the HO-B provides dwelling foundation coverage limits up to the total amount of insurance for Coverage A (Dwelling).

#### H. Coverage for Personal Property.

The ISO HO 00 03 policy does not provide coverage for business data stored in books of account, drawings or other paper records, or computers and related equipment. (See Section I-Property Coverages, Coverage C-Personal Property, item 4, i.) The HO-B does not contain this exception.

IX. Coverage Enhancements. The following is a list of some of the areas where the proposed ISO HO 00 03 homeowners policy provides coverage that is broader than the coverage provided in the HO-B. This list is not intended to cover every enhancement in coverage that is contained in the proposed ISO policy forms. If more detailed coverage information is desired, a side by side comparison of the ISO HO 00 03 homeowners policy and the HO-B is available from the Department on request.

#### A. Personal Property, Special Limits of Liability.

1. The ISO HO 00 03 policy provides a \$200 limit of liability for losses of money, bank notes, bullion, gold other than goldware, silver other than silverware, platinum other than platinumware, coins, medals, scrip, stored value cards and smart cards. (See Section I-Property Coverages, Coverage C-Personal Property, Special Limits of Liability, item a.) The HO-B provides a \$100 limit of liability for losses of money. (See Section I-Property Coverage, Coverage B (Personal Property), Special Limits of Liability, paragraph 1.)

2. The ISO HO 00 03 policy provides a \$1500 limit of liability for loss of securities, accounts, deeds, evidences of debt, letters of credit, notes other than bank notes, manuscripts, personal records, passports, tickets, and stamps. (See Section I-Coverages, Coverage C-Personal Property, Special Limits of Liability, item b.) The HO-B provides a \$500 limit of liability for "Bullion/Valuable Papers". (See Section I-Property Coverage, Coverage B (Personal Property), Special Limits of Liability, paragraph 2.)

3. The ISO HO 00 03 policy provides a \$1500 limit of liability for watercraft of all types, including their trailers, furnishings, equipment, and outboard engines or motors and other trailers or semi-trailers not used with watercraft while away from the residence premises. (See Section I-Coverages, Coverage C-Personal Property, Special Limits of

Liability, items c. and d.) The HO-B excludes coverage for boats and boat trailers while away from the residence premises. (See Section I-Property Coverage, Property Not Covered, paragraphs 4. b. and 6.)

4. The ISO HO 00 03 policy provides \$1,500 coverage for loss by theft of jewelry, watches, precious and semi-precious stones, and furs. (See Section I-Coverages, Coverage C-Personal Property, Special Limits of Liability, item e.) The HO-B provides a \$500 limit of liability for loss by theft of gems, watches, jewelry or furs. (See Section I-Property Coverage, Coverage B (Personal Property), Special Limits of Liability, paragraph 3.)

5. The ISO HO 00 03 policy provides \$500 coverage for business property away from the residence. (See Section I-Coverages, Coverage C-Personal Property, Special Limits of Liability, item i.) The HO-B does not provide coverage for business property away from the residence.

#### B. Additional Coverages.

1. The ISO HO 00 03 policy provides an additional 5% of the limit of liability that applies to the damaged property for debris removal if the actual property damage and debris removal exceeds the limit of liability for the damaged property. (See Section I-Property Coverages, Additional Coverages, item 1, a.) The HO-B's debris removal coverage is included in the limit of liability that applies to the damaged property and does not add additional coverage. (See Section I-Property Coverage, Coverage B (Personal Property), Extensions of Coverage, paragraph 1.)

2. The ISO HO 00 03 policy provides up to \$500 for covered damage to any one tree, shrub or plant. (See Section I-Property Coverages, Additional Coverages, item 3.) The HO-B provides up to \$250 for covered damage to any one tree, shrub or plant. (See Section I-Property Coverage, Coverage B (Personal Property), Extensions Of Coverage, paragraph 4.)

3. The ISO HO 00 03 policy pays up to \$500 in the aggregate for loss and defense costs relating to the theft or unauthorized use of credit cards, electronic fund transfer cards or access devices, forgery of checks or negotiable instruments, and acceptance in good faith of counterfeit money. This coverage is additional insurance and no deductible applies. (See Section I-Property Coverages, Additional Coverages, paragraph 6.) The HO-B provides a \$100 limit of liability (subject to a deductible) for loss by theft or unauthorized use of bank fund transfer cards. (See Section I-Property Coverage, Coverage B (Personal Property), Special Limits of Liability, paragraph 1.)

4. The ISO HO 00 03 policy provides coverage up to \$1,000 for the insured's share of a loss assessment charged during the policy period by a corporation or association of property owners when the assessment is made as a result of direct loss to the property owned by all members collectively that was caused by a covered peril. (See Section I-Property Coverages, Additional Coverages, item 7.) The HO-B does not provide this coverage.

5. The ISO HO 00 03 policy provides up to \$5,000 for grave markers, including mausoleums, on or away from the residence premises for loss caused by a peril insured against. (See Section I -Property Coverages, Additional Coverages, item 12.) The HO-B does not provide similar coverage.

6. The ISO HO 00 03 policy provides up to \$2,500 for appliances, carpeting and other household furnishings, in each apartment on the residence premises regularly rented or held for rent by an insured, for loss caused by a peril insured against. (See Section I -Property Coverages, Additional Coverages, item 10.)

The HO-B does not provide this coverage.



### C. Coverage for Vandalism and Malicious Mischief

The ISO HO 00 03 policy excludes coverage for loss caused by vandalism and malicious mischief if the dwelling has been vacant for more than 60 consecutive days immediately before the loss. (See Section I - Perils Insured Against, A., 2., C., (4)) The HO-B suspends all coverage under Coverage A (Dwelling) effective 60 days after the dwelling becomes vacant. (See Section I - Conditions, 13.) The ISO HO 00 03 policy also provides coverage for loss caused by vandalism and malicious mischief to trees, shrubs and other plants, in an amount up to 5% of the limit of liability that applies to the dwelling, but no more than \$500 for any one tree, shrub or plant. (See Section I - Property Coverages, Additional Coverages, item 3).

### D. Coverage for Loss of Use

The ISO HO 00 03 policy provides Loss of Use coverage for additional living expenses and fair rental value if a covered loss makes the residence premises where the insured resides unfit to live in. Payment will be for the shortest time required to repair or replace the damage. If the insured relocates, payment will be for the shortest time required for the insured's household to settle elsewhere. Loss of Use coverage is also provided if a civil authority prohibits use of the residence premises as a result of direct damage to neighboring premises by a peril insured against, to no more than two weeks. (See Section - I Property Coverages, D.) The HO-B provides Loss of Use coverage for additional living expenses and fair rental value if a covered loss makes the residence premises wholly or partially untenantable. Payment will be for the reasonable time required to repair or replace the damaged property up to 20% of the Coverage A (Dwelling) limit of limit of liability. (See Section I - Property Coverages, Extensions of Coverage 2.)

X. ISO Homeowners Endorsements. In addition to the six proposed policy forms filed for approval, ISO has filed ninety-five endorsements for approval pursuant to Article 5.35 (c). Since the proposed ISO policies contain notable restrictions in the water damage coverage and the dwelling foundation coverage as compared to the coverage contained in the HO-B, a general description of the coverage that will be provided by the proposed ISO Foundation Coverage-Texas Endorsement and Water Damage Coverage-Texas Endorsement is provided. Additionally, a description of the coverage that will be provided by the proposed ISO Limited Fungi or Microbes Coverage-Texas Endorsement is provided.

#### A. Foundation Coverage-Texas Endorsement.

The proposed endorsement provides coverage for settling, cracking, shrinking, bulging, or expansion of foundations, floor slab or footings that support the dwelling caused by seepage or leakage of water or steam from within a plumbing, heating, air conditioning, or automatic fire protective sprinkler system. The coverage includes the cost of tearing out and replacing any part of the building necessary to repair the system from which the water or steam escaped. The loss to the system from which the water or steam escaped is not covered. The endorsement limits coverage to 15% of the amount of insurance for Coverage A-Dwelling on the date of loss.

#### B. Water Damage Coverage-Texas Endorsement.

The proposed endorsement provides coverage for deterioration, wet rot, or dry rot to Coverage A-Dwelling, Coverage B-Other Structures, and Coverage C-Personal Property caused by a constant or repeated seepage or leakage of water or steam from within a heating, air conditioning system or automatic fire sprinkler system, household appliance or plumbing system. The coverage includes the cost of tearing out and replacing any part of the building necessary to repair the system from which the water or steam escaped. The loss to the system or appliance from which the water or steam escaped is not covered. The endorsement does not cover loss caused by, consisting of, or resulting from

fungi or microbes, specifically fungi or microbes which are the result of constant or repeated seepage or leakage of water or steam or the presence or condensation of humidity or vapor from within a heating, air conditioning system or automatic fire sprinkler system, household appliance or plumbing system. In addition, the coverage provided in the endorsement does not increase the limit of liability that applies to the damaged covered property.

#### C. Limited Fungi or Microbes Coverage-Texas Endorsement.

The proposed endorsement provides coverage for: (1) the cost to remove fungi or microbes from property covered under Section I-Property Coverages; (2) the cost to tear out and replace any part of the building or other covered property as needed to gain access to the fungi or microbes; (3) the cost of testing of air or property to confirm the absence, presence, or level of fungi or microbes whether performed prior to, during or after the removal, repair, restoration, or replacement.; and (4) the total of the loss payable under Coverage D-Loss of Use, if the fungi or microbes render the residence premises unfit to live in. The endorsement specifies that the exclusion in the policy Fungi or Microbes (Exclusion A. 10. ) does not apply to the coverage provided in the Limited Fungi or Microbes Coverage Endorsement. The coverage described in this endorsement only applies when such loss or cost are the result of a Peril Insured Against that occurs during the policy period and only if all reasonable means were used to save and preserve the property from further damage following a covered loss. The endorsement specifies that the scheduled amount shown on the endorsement is the most the insurer will under this Additional Coverage regardless of : (1) the number of Perils Insured Against that combine or contribute to the presence of the fungi or microbes; (2) the number of locations insured under the endorsement; or (3) the number of claims made during the policy period. The additional coverage in the endorsement does not apply to fungi or microbes which are the result of constant or repeated seepage or leakage of water or steam or the presence or condensation of humidity, moisture, or vapor over a period of weeks, months, or years. Further, the coverage does not increase the limit of liability applying to the damaged covered property.

XI. Requirements for Insurers To Implement the Proposed Residential Property Insurance Forms. Any insurer that makes a filing for approval with the Department to use any of the proposed ISO residential property insurance forms will be required as part of the filing to:

A. Provide the Department with detailed information on the implementation of the new ISO residential property insurance forms for both new business and existing business including (but not limited to) when the new policy forms will be phased in for use with their policyholders and if the policy forms promulgated by TDI will be discontinued for use with their policyholders.

#### B. New Business.

Provide the Department with a detailed plan outlining how the insurer intends to phase in the new ISO policies with the new business that the insurer writes. The proposed policy forms limit coverage for dwelling foundation losses and water damage losses and exclude mold damage losses. At the time each new residential property policy is written, the insurer will be required to offer the Foundation Coverage-Texas Endorsement, the Water Damage Coverage-Texas Endorsement, and the Limited Fungi or Microbes-Texas Coverage Endorsement to the applicant subject to insurer's current underwriting guidelines. The insurer will also be required to include information regarding whether these endorsements will be offered on a one time basis or whether they will continue to be available for purchase in the future after the initial offer subject to the insurer's underwriting guidelines. The insurer will be required to inform a policyholder in the consumer disclosure letter that if he/she desires to continue the dwelling foundation coverage (subject

to the 15% cap), the water damage coverage, and the mold coverage that the policyholder essentially has under the HO-B, the Foundation Coverage-Texas, Water Damage Coverage-Texas, and Limited Fungi or Microbes Coverage-Texas endorsements must be purchased for an additional premium.

C. Existing Business.

1. Provide the Department with a detailed plan outlining how the insurer intends to phase in the new ISO policies with the insurer's existing business. The insurer will be required to explain its phase in plan for each type of promulgated form (HO-B, HO-A, HO-BT, etc.) that it intends to convert to the new ISO forms.

2. Consumer Disclosures. The insurers must agree in the filing to provide an explanatory letter and a summary of coverages expressly noting where there is less coverage, or in some cases a change in coverage, in the ISO policies than in the currently prescribed policies to the policyholders who are being converted from the currently prescribed Texas forms to the new ISO forms. This notice letter will be sent to the policyholders sixty (60) days in advance of the policy conversion date. This notice letter will be provided to the Department for its review prior to the insurer's use of this letter.

D. Rating Information.

The insurers will agree in the filing to file their initial rates and any rate changes for policies written through any of their Lloyds companies or reciprocal exchanges with the Department on an informational basis for a period of two years to allow the Department to monitor the rates on the new ISO policies. The filing shall include detailed information showing the rate change and rate reduction that consumers would receive if they purchased the ISO policy (HO 00 030) as compared to purchasing the HO-B. The insurers must also agree in the filing to provide the Department with a copy of their loss cost analyses during the time period they are providing the rating information.

The Commissioner has jurisdiction of this matter pursuant to the Insurance Code, Articles 5.35 and 5.96.

A copy of the filing, including the exhibits with the full text of the proposed policy forms and endorsements and the side by side comparison of the proposed ISO HO 00 03 and the HO-B, and a copy of the exempt filing notice 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, side by side comparisons, and the exempt filing notice, please contact Sylvia Gutierrez at (512) 463-6327; refer to (Ref. No. P-0302-11).

Comments on the proposed changes must be submitted in writing no later than 5:00 p.m. on July 1, 2002, 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 the comments is to be submitted to Marilyn Hamilton, Associate Commissioner, Property & Casualty Program, Texas Department of Insurance, P. O. Box 149104, MC 104-PC, Austin, Texas 78714-9104.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Government Code, Chapter 2001 (Administrative Procedure Act).

TRD-200203147

Lynda Nesenholtz

General Counsel and Chief Clerk

Texas Department of Insurance

Filed: May 22, 2002



Final Action on Rules

EXEMPT FILING NOTIFICATION PURSUANT TO THE INSURANCE CODE CHAPTER 5, SUBCHAPTER L, ARTICLE 5.96

The Commissioner of Insurance has adopted two new residential property policy forms which include form no. HO-3RTX (homeowners policy form), and form no. HO-6RTX (condominium unit owners policy) filed by United States Automobile Association and USAA Lloyds (collectively referred to as USAA) and further has adopted fifty-one new endorsements that may be attached to the new residential property policy forms for use in the State of Texas.

The Commissioner has jurisdiction over this matter pursuant to Texas Insurance Code Article 5.35. Article 5.35(b) provides in pertinent part that the Commissioner may adopt policy forms and endorsements of a national insurer, which is defined as an insurer subject to that article that, either directly or together with its affiliates as part of an insurance holding company system as defined by Article 21.49-1, is licensed to do business and write the kinds of insurance that are subject to Texas Insurance Code Chapter 5, Subchapter C (fire and allied lines) in 26 or more states and maintains minimum annual direct written premiums for residential property insurance of \$750 million in the aggregate for all states. Based on information furnished to the Department, USAA is a national insurer under this section and is thus authorized to file its policies and endorsements with the Texas Department of Insurance to be considered by the Commissioner for adoption.

Article 5.35(g) establishes the standards by which a policy form or endorsement filed under that statute will be judged. That subsection provides, in pertinent part, that "The Commissioner may disapprove a policy form or endorsement filed under this article, or withdraw any previous approval thereof, if the policy form or endorsement:

(A) violates or does not comply with the Insurance Code, or any valid rule related thereto duly adopted by the Commissioner, or is otherwise contrary to law; or

(B) contains provisions or has any titles or headings which are unjust, encourage misrepresentation, are deceptive, or violate public policy."

USAA's original petition on this matter, filed on September 2, 1997, requested the adoption of a new Texas homeowners policy and condominium unit owners policy. USAA subsequently made several modifications to the homeowners policy, as originally filed, as a result of discussions with Department staff. On February 27, 2002, USAA amended the petition to reflect the modifications that had been discussed by USAA and Department staff. On April 3, 2002, USAA made additional amendments to the petition to reflect modifications to certain endorsements in response to discussions with Department staff. Potential action on these policy forms and endorsements was noticed in the *Texas Register* (27 TexReg 2077) on March 15, 2002, and a public hearing under Docket No. 2518 was held on April 16, 2002 to solicit comments.

After review of USAA's filings and supporting documentation and other information, public comments, and recommendations by Texas Department of Insurance staff, the Commissioner finds that the policy forms, endorsements, and the agreed-upon conditions as detailed herein meet the requirements of Article 5.35, and should be adopted subject to the following provisos. Article 5.35 requires that a filed policy form or endorsement shall not contain provisions that are unjust, encourage misrepresentation, are deceptive, or violate public policy. Under these circumstances, as noted earlier, the Commissioner may disapprove a policy form or endorsement, or withdraw any previous approval of a form or endorsement. The Commissioner believes that there is a reasonable expectation on the part of insureds that the offer of a new policy with less coverage would be at a lower cost than a policy offered by the same company with more coverage, and that if this were not the case the filing would not come within the standards of Article

5.35, including the public policy requirement. This is especially true as the current insurance market transitions from a single, prescribed policy to individually filed policies. Accordingly, the Commissioner's adoption of USAA's filing is predicated on information and representations provided to the Department by USAA, including the preliminary determination that insureds purchasing the new basic policy forms and endorsements can reduce their homeowners premium from 23% to 62% from the amount they otherwise would have paid for the basic HO-B, depending upon geographic location and coverage selection. The Commissioner's adoption is also predicated on the requirement in this order, which USAA has agreed to, that USAA file its initial rates and any subsequent rate changes/reductions with the Department for a two year period beginning on the date the policies are first sold, in order that the Department may monitor impacts related to the policy form adoption, including compliance with Article 5.35.

I. USAA Homeowners Policy. The following is a general description of the coverage provided by the new USAA homeowners policy that is adopted by the Commissioner pursuant to Article 5.35 (b).

A. Section 1-Property Coverages.

1. The policy covers the dwelling and other private structures on the premises against the risk of direct physical loss, with certain exceptions.

2. It covers personal property on and away from the premises against losses by fire or lightning, windstorm or hail, explosion, riot or civil commotion, aircraft, vehicular impact, smoke, vandalism or malicious mischief, and theft.

3. It provides loss of use which covers additional living expenses when the residence becomes uninhabitable and fair rental value when part of the premises is rented to others.

B. Section 2-Liability Coverages.

1. Coverage L-Personal Liability. The policy covers payment on behalf of the insured of all sums, up to a specified limit, which the insured is legally liable to pay as damages because of bodily injury or property damage arising out of the residence premises or personal activities.

2. Coverage M-Medical Payments to Others. The policy covers medical and related expenses, subject to the specified limit, arising out of accidents to persons other than the insured and residents of the premises.

3. Additional Coverages. Additional coverage is provided for claim expenses, first aid expenses, and damage to property of others.

II. USAA Condominium Unit Owners Policy. This policy for condominium unit owners covers items of real property which are the insured's responsibility under the governing rules of a condominium association against the risk of direct physical loss, with certain exceptions. This policy covers personal property on and away from the premises against losses by fire or lightning, windstorm or hail, explosion, riot or civil commotion, aircraft, vehicular impact, smoke, vandalism or malicious mischief, and theft. This policy also contains loss of use, additional coverages, and liability coverage provisions that are the same as those described for the USAA homeowners policy.

III. Changes To the Policies as Proposed. As a result of comments on the proposal, the Commissioner has adopted the homeowners and condominium unit owners policies with changes to the policies as proposed. Form no. HO-3RTX (homeowners policy form) and form no. HO-6RTX (condominium unit owners policy) were adopted with the following changes:

1. With respect to both policies, under Section II-Exclusions, 1. Coverage E-Personal Liability and Coverage F-Medical Payments to Others

item k. (pollutant exclusion) has been deleted. In addition, under Section II-Exclusions, 2. Coverage E-Personal Liability, new item g. has been added to exclude liability for property damage that arises from pollutants. The purpose of these changes is to limit the exclusion for liability arising out of the discharge of pollutants. This was achieved by deleting the current pollution exclusion that excluded liability for both bodily injury and property damage and then adding a new pollution exclusion to the Personal Liability exclusions that only excludes liability for property damage that arises from pollutants. 2. With respect to both policies, under Section II-Exclusions, 1. Coverage E-Personal Liability and Coverage F-Medical Payments to Others item m. (microbial organism exclusion) has been deleted. Since both policies were amended to delete this exclusion, the homeowner and condominium unit owner are afforded Personal Liability and Medical Payments to Others coverage arising out of exposure to microbial organisms including mold. USAA is willing to extend this liability coverage arising out of exposure to microbial organisms to the homeowner or condominium unit owner with respect to the house or condominium that the owner occupies. However, USAA is not willing to extend this coverage to the additional residences that a homeowner or condominium owner rents to others. To accomplish this purpose, USAA amended the HO-70 entitled "Additional Residence Rented to Others" to create the HO-70TX that will be used in place of the HO-70. The HO-70TX includes a Section II exclusion for liability arising out of exposure to mold on the premises that are rented to others. In addition, item l. has been "re-lettered" as item k. to reflect the new sequence of the exclusions that resulted from the above referenced deletion of policy exclusions (k) and (m).

IV. Comparison of the USAA Policies to the Currently Prescribed Texas Homeowners Policy-Form B (HO-B). The HO-B has traditionally been the predominant policy form issued in Texas for owner occupied dwellings. In the course of staff's review of USAA's homeowners and condominium unit owners policies, staff has noted several differences in the coverage provided in the HO-B and that provided in the USAA policy forms. Since the condominium unit owners policy contains the same coverages as the homeowners policy (except that the dwelling coverage is much more limited) the restrictions and enhancements in coverage will be discussed in terms of a comparison between the USAA homeowners policy and the HO-B. However, it should be noted that most of the comparisons of coverage also apply to the condominium unit owners policies.

V. Restrictions In Coverage. The following is a list of some of the restrictions in coverage that are contained in the USAA homeowners policy as compared to the existing HO-B. This list is not intended to cover every restriction in coverage that is contained in the USAA policy forms. More detailed coverage information is contained in a side by side comparison of the USAA homeowners policy and the HO-B and a side by side comparison of the USAA condominium unit owners policy and the HO-B-CON, which were a part of the record in the hearing on USAA's petition, and which are available from the Department upon request.

A. Coverage for Boats, Boat Trailers, and Other Trailers.

The USAA policy provides up to \$1,000 in coverage for watercraft, including their trailers, furnishings, equipment and outboard motors and other trailers not used with watercraft for losses that occur on and off premises for named perils. (See Section I-Property Coverages, Coverage C-Personal Property, Special Limits of Liability, items 3. and 4.) The USAA policy provides theft coverage for watercraft, including their trailers, furnishings, equipment and outboard motors or trailers and campers if the theft occurs on the residence premises; however, if the theft occurs off of the residence premises, theft coverage is excluded. (See Section I-Perils Insured Against, paragraph 9) The USAA policy provides windstorm and hail coverage for boats and their trailers

only if they are inside a fully enclosed building. (See Section 1-Perils Insured Against, paragraph 2.) The HO-B provides coverage up to the limits of liability that apply to Coverage B (Personal Property) for boats and boat trailers while located on land on the residence premises for all perils insured against. Additionally, the HO-B provides coverage up to the limits of liability that apply to Coverage B (Personal Property) for trailers designed for use principally off public roads (e.g., travel trailers) whether on or off premises. (See Section 1-Property Coverage, Coverage B (Personal Property), Property Not Covered, paragraphs 4. and 6.)

#### B. Coverage for Firearms.

The USAA policy limits the coverage for firearms to losses by the peril of theft with a maximum limit of liability of \$2,000. (See Section I-Property Coverages, Coverage C-Personal Property, Special Limits of Liability, item 6.) The HO-B provides coverage for firearms to the extent described under the Perils Insured Against section of the policy, including the peril of theft, up to the limits of liability that apply to Coverage B (Personal Property).

#### C. Coverage for Goldware and Silverware.

The USAA policy limits the coverage for goldware, gold-plated ware, silverware, silver-plated ware, and pewterware (this includes flatware, hollowware, tea sets, trays and trophies made of or including silver, gold or pewter) to losses by the peril of theft with a maximum limit of liability of \$2,500. (See Section I-Property Coverages, Coverage C-Personal Property, Special Limits of Liability, item 7.) The HO-B provides coverage for goldware and silverware to the extent described under the Perils Insured Against section of the policy, including the peril of theft, up to the limits of liability that apply to Coverage B (Personal Property).

D. Coverage for Golf Carts. The USAA policy provides \$3,000 coverage for golf carts and their equipment and accessories. (See Section I - Property Coverages, Coverage C - Personal Property, Special Limits of Liability, item 9) The HO-B provides coverage for golf carts up to the limits of liability that apply to Coverage B (Personal Property) to the extent described under the Perils Insured Against section of the policy. (See Section I - Property Coverage, Coverage B (Personal Property) Property Not Covered, paragraph 3.c.)

#### E. Coverage for Tree Debris Removal.

The USAA policy limits the coverage for the removal of debris from fallen trees to \$500. (See Section I-Property Coverages, Additional Coverages, item 1.) The HO-B provides coverage for removal of debris from a fallen tree to the extent described under the Extensions of Coverage section of the policy up to the limits of liability that apply to the damaged property. (See Extensions of Coverage, paragraph 1.)

#### F. Coverage for Water Damage.

1. The USAA policy specifies that it does not include coverage for losses to a dwelling and other structures caused by constant or repeated seepage or leakage over a period of weeks, months, or years from within a plumbing, heating, air conditioning or automatic fire protective sprinkler system or from within a household appliance. (See Section I-Perils Insured Against, item 2.e.) The HO-B provides coverage for accidental discharge, leakage, or overflow of water or steam from within a plumbing system, heating or air conditioning system, or household appliance which occurs over a period of time. Coverage for water damage from constant or repeated seepage or leakage of water or steam is not excluded in the HO-B. (See Section 1-Perils Insured Against, paragraph 9.)

2. The USAA policy does not cover losses to the dwelling and other structures caused by water which backs up through sewers or drains

or which overflows from a sump pump, sump well, or similar device designed to drain water from the foundation area. (See Section I-Exclusions, item 1.c.(2)) Further, the USAA policy does not cover losses to personal property caused by water which overflows from a sump pump, sump well, or similar device to drain water from the foundation and it does not cover losses to personal property on the residence premises caused by accidental discharge or overflow which occurs off the residence premises. The HO-B provides coverage for damage to property covered under Coverage A (Dwelling) or Coverage B (Personal Property) for a loss caused by back up or overflow from a sewer, drain, or sump pump of sewage or water even if it is from outside the residence premises. Property covered under Coverage B (Personal Property) is specifically insured for loss caused by accidental discharge, leakage, or overflow of water or steam from within a plumbing system, heating or air conditioning system, or household appliance which may include a loss caused by water or sewage from outside the residence premises that backs up or overflows from a sewer, drain, or sump pump. (See Section 1-Perils Insured Against, Coverage B-Personal Property, paragraph 9.)

3. USAA has indicated how it intends to adjust a covered water claim if mold is present on the damaged covered property. USAA has represented to the Department that even though its Homeowners policy and Condominium Unit Owners policy excludes loss caused by or consisting of mold, mold is necessarily removed or treated in the process of repairing damage resulting from a covered water loss. Mold that is present upon water damaged materials will be removed in the course of repairing the covered water loss. Expenses which are related solely to the existence of mold are the only expense which would not be covered in the course of repair of a covered water damage claim. In addition, notwithstanding the exclusion for constant repeated seepage or leakage of water or steam over a period of weeks, months, or years, USAA agrees to cover the cost of reasonable and necessary repair of direct physical damage to the dwelling or property caused by a covered water loss that is hidden or undetected and the associated direct physical damage consisting of mold, fungi, or other microbial damage to the dwelling or property, provided the insured reports the loss within thirty days of the date the damage was or should have been detected. This would not cover the cost of remediation, testing, loss of use, or debris removal. Remediation means to treat, contain, remove, or dispose of mold, fungi, or other microbes beyond that which is required to repair or replace the covered property physically damaged by water or steam. Remediation also includes any testing to detect, measure, or evaluate mold, fungi, or microbes and any decontamination of the property. Any coverage for remediation, testing, loss of use, or debris removal would only be available to persons purchasing the USAA Microbial Organisms Coverage endorsement.

#### G. Coverage for Personal Property.

The USAA policy does not provide coverage for business data stored in books of account, drawing, or other paper records, or electronic data processing tapes, wires, records, discs, or other software media. (See Section I-Property Coverages, Coverage C-Personal Property, item 8.) The HO-B does not contain this exception.

#### H. Coverage for Loss of Use.

The USAA policy limits the time allowable for payment of Additional Living Expense and Fair Rental Value to 12 months. (See Section I-Property Coverages, Coverage D-Loss of Use, item 1.) The HO-B does not have a time limitation for the payment of Additional Living Expense and Fair Rental Value.

#### I. USAA Policy Exclusions.

1. The USAA policy excludes loss from freezing, thawing, pressure or weight of water or ice to a swimming pool, fence, pavement, patio,

foundation, retaining wall or bulkhead, pier, wharf or dock. (See Section 1-Perils Insured Against, 2.b.) The HO-B does not contain this exclusion.

2. The USAA policy excludes loss from vandalism or malicious mischief or breakage of glass and safety glazing material if the dwelling is vacant for more than 30 days immediately before a loss. (See Section 1-Perils Insured Against, item 2.d.) The HO-B provides coverage for all perils insured against for up to 60 days of vacancy. (See Section 1-Conditions, paragraph 13.)

3. The USAA policy excludes loss consisting of (1) weather conditions, (2) acts or decisions, including failure to act or decide, of any person, group, organization or governmental body, and (3) faulty, negligent, inadequate or defective planning, zoning, development, surveying, siting, design, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction; materials used in repair, construction, renovation, remodeling or maintenance of part or all of the property whether on or off of the residence premises. However, any ensuing loss from the items specified above is insured unless the ensuing loss is itself a loss that is not insured. (See Section 1-Exclusions, item 2.a, b, and c.) The HO-B does not exclude these losses.

4. The USAA policy excludes loss caused by microbial organisms including but not limited to mold, mold spores, fungus, bacterium, or parasitic microorganisms. (See Section 1-Exclusions, item 1.i.) Pursuant to Commissioner's Order No. 01-1105, the HO-B modified by endorsement no. HO-162A provides coverage for removal of ensuing mold, fungi, or other microbial losses caused by sudden and accidental discharge, leakage or overflow of water if the water loss is a covered loss. However, the modified HO-B does not provide coverage for the remediation of mold or fungus.

5. The USAA policy excludes loss caused by settling, cracking, shrinking, bulging or expansion of pavements, patios, foundations, walls, floors, roofs or ceilings. (See Section I - Exclusions, 1. j.) The HO-B provides coverage for an ensuing loss caused by a covered water loss to foundations, walls, floors, ceilings, roof structures, walks, drives, curbs, fences, retaining walls or swimming pools. (See Section I - Exclusions 1. h.) In contrast, the HO-B provides dwelling foundation coverage limits up to the total amount of insurance for Coverage A (Dwelling).

VI. Coverage Enhancements. The following is a list of some of the areas where the USAA homeowners policy provides coverage that is broader than the coverage provided in the HO-B. This list is not intended to cover every enhancement in coverage that is contained in the USAA policy forms. More detailed coverage information is contained in a side by side comparison of the USAA homeowners policy and the HO-B and a side by side comparison of the USAA condominium unit owners policy and the HO-B-CON, which were a part of the hearing record on the USAA petition, and which are available from the Department on request.

#### A. Personal Property, Coverage Off of the Residence Premises.

The USAA policy provides coverage for personal property away from the residence premises up to the personal property limits. There is an exception to this coverage that limits personal property coverage to the greater of \$1000 or 10% of Coverage C-Personal Property, if the damaged property is usually located at an insured's residence, other than the residence premises. (See Section 1-Property Coverages, Coverage C-Personal Property.) The HO-B limits coverage for losses to personal property away from the residence premises to the greater of \$1000 or 10% of the Coverage B personal property limits. (Reference - Section 1-Property Coverage, Coverage B (Personal Property), paragraph 2.) The HO-B also excludes theft loss if the personal property is at any other residence owned by, rented to, or occupied by an insured, except

while an insured is temporarily living there. (Reference - Section 1-Exclusions, paragraph 1. d. (1))

#### B. Personal Property, Special Limits of Liability.

1. The USAA policy provides a \$200 limit of liability for losses of money, bank notes, gold other than goldware, silver other than silverware, platinum, coins and medals. (See Section I-Property Coverages, Coverage C-Personal Property, Special Limits of Liability, item 1.) The HO-B provides a \$100 limit of liability for losses of money. (See Section 1-Property Coverage, Coverage B (Personal Property), Special Limits of Liability, paragraph 1.)

2. The USAA policy provides a \$1000 limit of liability for loss of securities, accounts, deeds, evidences of debt, letters of credit, notes other than bank notes, manuscripts, personal records, passports, tickets, and stamps. (See Section I-Coverages, Coverage C-Personal Property, Special Limits of Liability, item 2.) The HO-B provides a \$500 limit of liability for "Bullion/Valuable Papers". (See Section I-Property Coverage, Coverage B (Personal Property), Special Limits of Liability, paragraph 2.)

3. The USAA policy provides a \$1000 limit of liability for watercraft, including their trailers, furnishings, equipment, and outboard motors and other trailers not used with watercraft while away from the residence premises. (See Section I-Coverages, Coverage C-Personal Property, Special Limits of Liability, items 3. and 4.) The HO-B excludes coverage for boats and boat trailers while away from the residence premises. (See Section I-Property Coverage, Property Not Covered, paragraphs 4. b. and 6.)

4. The USAA policy provides \$1,000 coverage for loss by theft of jewelry, watches, precious and semi-precious stones, and furs. (See Section I-Coverages, Coverage C-Personal Property, Special Limits of Liability, item 5.) The HO-B provides a \$500 limit of liability for loss by theft of gems, watches, jewelry or furs. (See Section I-Property Coverage, Coverage B (Personal Property), Special Limits of Liability, paragraph 3.)

5. The USAA policy provides \$250 coverage for business property away from the residence. (See Section I-Coverages, Coverage C-Personal Property, Special Limits of Liability, item 8.b.) The HO-B does not provide coverage for business property away from the residence.

#### C. Additional Coverages.

1. The USAA policy provides an additional 5% of the limit of liability that applies to the damaged property for debris removal if the actual property damage and debris removal exceeds the limit of liability for the damaged property. (See Section I-Property Coverages, Additional Coverages, item 1.) The HO-B's debris removal coverage is included in the limit of liability that applies to the damaged property and does not add additional coverage. (See Section I-Property Coverage, Coverage B (Personal Property), Extensions of Coverage, paragraph 1.)

2. The USAA policy provides up to \$500 for covered damage to any one tree, shrub or plant. The deductible applies to this coverage. (See Section I-Coverages, Additional Coverages, item 3.) The HO-B provides up to \$250 for covered damage to any one tree, shrub or plant. The deductible does not apply to this coverage. (See Section I-Property Coverage, Coverage B (Personal Property), Extensions Of Coverage, paragraph 4.)

3. The USAA policy provides up to \$500 for a Fire Department Service Charge assumed by contract or agreement for fire department charges incurred when a fire department is called to save or protect covered property from a peril insured against. Coverage is not provided however, if the property is located within the limits of the city, municipality

or protection district furnishing the fire department response. (See Section I-Property Coverages, Additional Coverages, item 4.) The HO-B does not provide fire department service charge coverage.

4. The USAA policy provides up to \$1,000 coverage for the insured's share of a loss assessment charged during the policy period by a corporation or association of property owners when the assessment is made as a result of a direct loss to property owned by all members collectively and caused by a covered peril. (See Section I-Property Coverages, Additional Coverages, item 7.) The HO-B does not provide this coverage.

5. The USAA policy pays up to \$5,000 in the aggregate for loss and defense costs relating to the theft or unauthorized use of credit cards or electronic fund transfer cards, forgery of checks or negotiable instruments, acceptance in good faith of counterfeit money, and expenses incurred as the direct result of identity fraud. This coverage is additional insurance. There is no deductible for Credit Card, Fund Transfer Card, Forgery and Counterfeit Money coverage, but there is a \$100 deductible for Identity Fraud expense coverage. (See Section I-Coverages, Additional Coverages, paragraph 6.) The HO-B provides a \$100 limit of liability (subject to a deductible) for loss by theft or unauthorized use of bank fund transfer cards. The deductible does apply to this coverage. (See Section I-Property Coverage, Coverage B (Personal Property), Special Limits of Liability, paragraph 1.)

6. The USAA policy provides \$250 coverage for lock replacement, with no deductible, if the dwelling door keys are stolen as part of a covered theft loss. The deductible does not apply to this coverage. (See Section I-Coverages, Additional Coverages, item 9.) The HO-B does not provide similar coverage.

7. The USAA policy provides up to \$10,000, as an additional amount of insurance, for the cost to replace, rebuild, stabilize, or otherwise restore land, when an insured peril causes the land necessary to support the buildings insured under Coverage A (Dwelling) or Coverage B (Other Structures) to become unstable. (See Section I-Coverages, Additional Coverages, item 11.) The HO-B does not provide this coverage.

8. The USAA policy provides up to \$500 coverage for the contents of a deep freeze or refrigerated units on the residential premises for loss due to power failure or mechanical breakdown whether on or off the residence premises. (See Section I-Property Coverages, Additional Coverages, item 10.) The HO-B limits such loss to \$500 if the power failure occurs as a result of physical damage to any power, heating, or cooling equipment that is off of the residence premises and is caused by an HO-B peril. (See Extensions of Coverage, 6. Consequential Loss, b.)

#### D. Windstorm or Hail Coverage.

The USAA policy does not exclude windstorm or hail coverage for structures or their contents if located wholly or partially over water. (See Not excluded or limited in Section I-Perils Insured Against, Coverage C-Personal Property, item 2.) The HO-B excludes loss from windstorm, hurricane and hail to structures wholly or partially over water and their contents. (See Section I-Exclusions, item 1. c. (1))

#### VII. Section II-Liability Coverage.

The liability coverage in the USAA policies is comparable to that provided in the HO-B. USAA specifies that its duty to settle or defend ends when the amount paid for damages resulting from the occurrence equals its limits of liability. (See Section II-Liability Coverages, Coverage E, 2.) While the HO-B does not contain this language, such language is specified in other personal liability coverages approved for use in Texas, including the Personal Auto Policy. USAA adds one Section II - Exclusion that is not contained in the HO-B. The USAA policy excludes personal liability for property damage arising from discharge,

dispersal, release, escape, seepage or migration of pollutants. In addition, USAA has included in its HO-70TX endorsement entitled "Additional Residence Rented to Others" a Section II exclusion for liability arising out of exposure to microorganisms, including but not limited to mold on the premises that are rented to others.

VIII. USAA Homeowners Endorsements. In addition to the two residential property policy forms, the Commissioner has adopted fifty-one endorsements pursuant to Article 5.35 (b). Several of the endorsements provide coverage that is not currently available under a Texas homeowners policy, including (1) an Incidental Business Occupancies - Other Residence Endorsement that provides liability coverage for the operation of an incidental business at another residential location owned by the insured, (2) a Structures Rented to Others Endorsement that provides coverage for structures on the residence premises rented to others for use as a private residence, (3) an Other Structures Away from Premises Endorsement that provides 10% coverage for other structures located away from the residence premises such as a storage shed or boat dock, (4) and an Earthquake Endorsement that provides coverage for damage resulting from an earthquake.

A general description of the coverage that will be provided by or excluded by the USAA Slab or Foundation Coverage Endorsement and Water Damage Coverage Endorsement is provided. Additionally, a description of the coverage that will be provided by the USAA Microbial Organisms Coverage Endorsement is provided. A. Slab or Foundation Coverage Endorsement.

This endorsement provides coverage up to \$15,000 for damage to the slab or foundation of the building, if the damage is caused directly by accidental discharge or leakage of water or steam, including constant or repeated seepage over a period of weeks, months, or years from within a plumbing, heating, air conditioning or automatic fire protective sprinkler system or from within a household appliance. The tear out provisions provide two options: (1) the cost of tearing out and replacing any part of the building necessary to repair or replace the plumbing, heating, air conditioning or automatic fire protective sprinkler system or household appliance from which the water or steam escaped, or (2) the cost to reroute the plumbing, heating, air conditioning or automatic fire protective sprinkler system or household appliance. USAA will pay the cost that is actually incurred for either of these options with the choice of options being up to the insured. The endorsement further specifies that the tear out costs are included in the \$15,000 limit of liability. The Slab or Foundation Coverage applies only in the event of accidental discharge or leakage of water or steam, including constant or repeated seepage over a period of weeks, months, or years and does not affect any coverage provided elsewhere in the policy. The loss to the system from which the water or steam escaped is not covered. The endorsement does not provide coverage for settling, cracking, shrinking, bulging, or expansion of pavements, patios, walls, floors, roofs, or ceilings whether caused directly or indirectly by accidental discharge or leakage of water including constant or repeated seepage or leakage of steam or water over a period of time from within a plumbing, heating, air conditioning or automatic fire protective sprinkler system or household appliance, except as specifically provided in the Slab or Foundation Coverage Endorsement, regardless of any other cause or event contributing concurrently or in any sequence to the loss. The endorsement specifies that the attachment of the Slab or Foundation Coverage Endorsement does not increase the limit of liability that applies to the covered property. The endorsement further specifies that the exclusion in the policy for slab damage caused by constant or repeated leakage or seepage of water or steam (Section I-Perils Insured Against, Item 2.e.) does not apply to the coverage provided in the Slab or Foundation Coverage Endorsement. In contrast, the HO-B provides

dwelling foundation coverage up to the total limit of insurance for Coverage A-Dwelling. As a result of comments on the proposal, the Commissioner has adopted the Slab or Foundation Coverage Endorsement (HO-143TX) with changes to the endorsement as proposed. The endorsement was adopted with the following changes:

1. In the second paragraph of the endorsement the word "directly" has been removed. This word was removed due to a commenter's concern that the limiting language "caused directly by accidental discharge or leakage of water" could be read with the concurrent causation language in the endorsement to effectively exclude most foundation damage claims. Therefore, "directly" was deleted to alleviate these concerns.

2. The tear out provisions of the endorsement were modified to allow USAA to pay the cost that is actually incurred for: (1) the cost of tearing out and replacing any part of the building necessary to repair or replace the plumbing, heating, air conditioning or automatic fire protective sprinkler system or household appliance from which the water or steam escaped, or (2) the cost to reroute the plumbing, heating, air conditioning or automatic fire protective sprinkler system or household appliance. The choice of options would be up to the insured.

#### B. Water Damage Coverage Endorsement.

The endorsement provides coverage for direct physical loss consisting of water damage to property described in Coverage A - Dwelling, Coverage B - Other Structures, and Coverage C - Personal Property caused by the constant or repeated seepage or leakage of water or steam over a period of weeks, months, or years from within a heating, air conditioning or automatic fire protective sprinkler system; household appliances; or plumbing system. A plumbing system includes a shower pan, but does not include the shower stall or shower bath enclosure. The coverage includes the cost of tearing out and replacing any part of the building necessary to provide access to repair the system or appliance from which the seepage or leakage occurred, but does not include the loss to the system or appliance from which the water or steam escaped. The endorsement does not provide coverage for damage caused by constant or repeated seepage or leakage of steam or water, except as specifically provided in the Water Damage Coverage Endorsement, regardless of any other cause or event contributing concurrently or in any sequence to the loss. The endorsement specifies that the attachment of the Water Damage Coverage Endorsement does not increase the limit of liability that applies to the covered property. The endorsement further specifies that the exclusion in the policy for water damage caused by constant or repeated leakage or seepage of water or steam (Section I-Perils Insured Against, Item 2.e.) does not apply to the coverage provided in the Water Damage Coverage Endorsement.

#### C. Microbial Organisms Coverage Endorsement.

The endorsement provides coverage for direct physical loss to property described in Coverage A - Dwelling, Coverage B - Other Structures, and Coverage C - Personal Property caused by or consisting of microbial organisms (including but not limited to mold, mold spores, fungus, bacterium, or parasitic microorganisms) if the microbial organism is the direct result of a Peril Insured Against or coverage provided as an Additional Coverage. The coverage does not apply if the loss results from the insured's failure to reasonably maintain or protect the property from further damage following a covered loss. The coverage includes remediation of the microbial organisms including the following costs to: (1) treat, contain, remove or dispose of microbial organisms from covered property or to repair, restore or replace the covered property; (2) test to detect, measure, or evaluate microbial organisms and any decontamination of the covered property. The coverage further includes payment for any necessary increase in costs which the insured incurs to maintain his/her normal standard of living when the residence premises is

uninhabitable due to a loss caused by or consisting of microbial organisms. The endorsement specifies that the microbial organisms coverage provided in this endorsement is the only coverage provided under Section I Coverage A-Dwelling, Coverage B-Other Structures, Coverage C-Personal Property, and Coverage D-Loss of Use, regardless of any other cause or event contributing concurrently or in any sequence to the loss. The limits of liability available for microbial organisms coverage are \$25,000, \$50,000, \$75,000, or 100% of the Coverage A-Dwelling limit of liability. The endorsement specifies that the most that USAA will pay under the policy for a microbial organisms loss in any one policy period is the Limit of Liability shown on the Microbial Organisms Coverage Endorsement regardless of: (1) the number of covered losses that contribute to the presence of resulting microbial organisms; or (2) the number of claims made during the policy period. The endorsement specifies that the attachment of the Microbial Organisms Coverage Endorsement does not increase the limit of liability that applies to the covered property or the loss of use and that no deductible applies to this coverage. The endorsement specifies that except as specifically modified in the Microbial Organisms Coverage Endorsement, USAA does not provide coverage for damage caused by microbial organisms regardless of any other cause or event contributing concurrently or in any sequence to the loss. The endorsement further specifies that the exclusion in the policy for microbial organisms (Section I-Exclusions, Item 1.i.) does not apply to the coverage provided in the Microbial Organisms Coverage Endorsement. In contrast, the Mold, Fungi, or Other Microbes Coverage endorsement that may be attached to the HO-B is available with limits of liability in the amounts of 25%, 50%, or 100% of the Coverage A (Dwelling) amount of insurance.

As a result of comments on the proposal, the Commissioner has adopted the "Mold Coverage" endorsement with changes to the endorsement as proposed. Endorsement no. HO-144TX, that may be attached to the homeowners policy and Endorsement no. HO-146TX, that may be attached to condominium unit owners policy were adopted with the following changes:

1. The title of these endorsements has been changed from "Mold Coverage" to "Microbial Organisms Coverage."

2. All references in the endorsements to "mold" or "mold and fungus" have been changed to the more broadly defined term "microbial organism."

3. Language has been added to the beginning of the second paragraph to define microbial organisms as including but not limited to mold, mold spores, fungus, bacterium, or parasitic microorganisms.

IX. Phase In Of the Adopted Policy Forms, Water Damage Endorsements, Microbial Organisms Coverage Endorsements, and Slab or Foundation Coverage Endorsement. USAA in its petition has stated its intent to phase in the adopted policy forms and endorsements for use with USAA policyholders as the policy forms promulgated by TDI are discontinued for use with USAA policyholders. USAA has outlined the details of its plan to phase in the adopted policy forms and endorsements as follows:

#### A. New Business.

USAA will write all new business on the new policy forms beginning January 1, 2003. The new policy forms limit coverage for dwelling foundation losses and water damage losses and exclude mold damage losses. At the time each new residential property policy is written, the applicant will be offered the Slab or Foundation Coverage Endorsement, the Water Damage Coverage Endorsement, and the Microbial Organisms Coverage Endorsement subject to USAA's current underwriting guidelines. As a follow up, USAA will also include information regarding the availability of these endorsements, thus affording the

insured another opportunity to purchase these endorsements. If a policyholder desires to continue the dwelling foundation coverage (subject to the \$15,000 cap), the water damage coverage, and the mold coverage that the policyholder essentially has under the HO-B, the Slab or Foundation Coverage, Water Damage Coverage, and Mold Coverage endorsements must be purchased for an additional premium.

#### B. Existing Business.

USAA will begin converting renewal business to the new forms effective January 1, 2003.

1. Homeowners-Form B (HO-B). The HO-B's that are in force at the time of the conversion will be non-renewed and offered the USAA policy without the Slab or Foundation Coverage, Water Damage Coverage, and Microbial Organisms Coverage endorsements attached. The renewal policy packet will contain a cover sheet message informing the consumer of information in the packet regarding the various policy changes. The information will include an explanation of the Slab or Foundation Coverage, Water Damage Coverage, and Microbial Organisms Coverage endorsements with an offer to purchase the endorsements for an additional premium. The endorsements will also be available for purchase at a later date subject to underwriting review.

2. Homeowners Condo-Form B (HO-CON-B). The HO-CON-B's that are in force at the time of the conversion will be non-renewed and offered the USAA condominium unit owners policy without the Water Damage Coverage and Microbial Organisms Coverage endorsements attached. The renewal policy packet will contain a cover sheet message informing the consumer of information in the packet regarding the various policy changes. The information will include an explanation of the Water Damage Coverage and Microbial Organisms Coverage endorsements with an offer to purchase the endorsements for an additional premium. The endorsements will also be available for purchase at a later date subject to underwriting review.

3. Consumer Disclosures. USAA agrees to provide an explanatory letter and a summary of coverages expressly noting where there is less coverage in the USAA policies than in the currently prescribed policies to the policyholders who are being converted from the currently prescribed Texas forms to the new USAA forms. This notice letter will be sent to the policyholders sixty (60) days in advance of the policy conversion date. This notice letter will be provided to the Department for its review prior to USAA's use of this letter. USAA has indicated in a letter to the Department dated February 28, 2002, that policy holders who convert to the new USAA policy forms and who purchase both the dwelling foundation and water damage endorsements will continue to have essentially the same comprehensive foundation and/or water damage coverage that they have under the currently prescribed policies.

#### C. Rating Information.

USAA has agreed to file its initial rates and any rate changes for policies written through USAA Lloyds with the Department for a period of two years from the date the policies are first sold to allow the Department to monitor the rates on the new USAA policies. This filing shall include detailed information showing the rate changes and rate reduction that consumers would receive if they purchased the USAA Policy as compared to purchasing the HO-B. USAA also agrees to provide the Department with a copy of its loss cost analyses during the time period it is providing the rating information. USAA agrees to provide consumers with the opportunity to reduce their homeowner's premiums based on their coverage selections. USAA represents that it does not anticipate that the USAA Policy with the water endorsement, foundation endorsement, and mold endorsement will be priced higher than the modified HO-B with a 100% buy back of the mold coverage. USAA further represents that policyholders will be able to reduce their

basic homeowners premium from 23% to 62% depending on their geographic location in the state and their coverage selections in comparison to the premium that USAA would charge for the basic HO-B.

X. Other Insurers Who Elect to Use the USAA Residential Property Policy Forms and Endorsements. Article 5.35 was amended by the 75th Texas Legislature, in pertinent part, to allow the Commissioner to adopt policy forms and endorsements of national insurers. That bill, SB 1499, in addition to adding current subsection (b), amended subsection (a), which has historically been the source of the agency's authority to adopt standard, promulgated forms, to provide that such forms "may be used by an insurer without filing for approval to use such form." SB 1499 did not add similar language to subsection (b), pursuant to which the USAA filing was made. In addition, subsection (e) of Article 5.35 states that no form or endorsement can be delivered or issued for delivery in this state unless adopted or approved pursuant to subsections (a), (b), (c), or (d). Therefore, any insurer that wishes to use the policy and endorsements adopted in this order must make a filing for approval with the Department and agree to abide by the conditions and requirements imposed by this order including: (1) agree to provide rating information including detailed information regarding premium reduction for reduced coverage; (2) agree to offer the Water Damage Endorsements, the Slab or Foundation Endorsement, and the Microbial Organisms Coverage Endorsement in accordance with the terms specified herein; (3) agree to provide the consumer disclosures as specified herein; (4) agree that (a) even though the Homeowners policy and Condominium Unit Owners policy excludes loss caused by or consisting of mold, mold would necessarily be removed or treated in the process of repairing damage resulting from a covered water loss; (b) mold that is present upon water damaged materials would be removed in the course of repairing the covered water loss; and (c) expenses which are related solely to the existence of mold are the only expense which would not be covered in the course of repair of a covered water damage claim; and (5) notwithstanding the exclusion for constant repeated seepage or leakage of water or steam over a period of weeks, months, or years, agree to cover the cost of reasonable and necessary repair of direct physical damage to the dwelling or property caused by a covered water loss that is hidden or undetected and the associated direct physical damage consisting of mold, fungi, or other microbial damage to the dwelling or property, provided the insured reports the loss within thirty days of the date the damage was or should have been detected.

XI. Severability. If any provision of this order or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this order that can be given effect without the invalid provision or application, and to this end the provisions of this order are declared to be severable. The Commissioner has jurisdiction of this matter pursuant to the Insurance Code, Articles 5.35 and 5.96.

The policy forms and endorsements as adopted by the Commissioner of Insurance are on file with the Chief Clerk's Office of the Texas Department of Insurance under Reference No. P-0102-1 and are incorporated by reference by Commissioner Order No. 02-0523.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Government Code, Chapter 2001 (Administrative Procedure Act).

Consistent with the Insurance Code, Article 5.96 (h), the Department will notify all insurers affected by this section of the adoption by letter summarizing the Commissioner's action.

IT IS THEREFORE THE ORDER of the Commissioner of Insurance that two new residential property policy forms which include form no. HO-3RTX (homeowner policy) and form no. HO-6RTX (condominium unit owners policy) and fifty-one endorsements as specified



herein and which are attached to this Order and incorporated into this Order by reference, are adopted.



TRD-200203143  
Lynda Nesenholtz  
General Counsel and Chief Clerk  
Texas Department of Insurance  
Filed: May 22, 2002

# — REVIEW OF AGENCY RULES —

This Section contains notices of state agency rules review as directed by Texas Government Code, §2001.039. Included here are (1) notices of *plan to review*; (2) notices of *intention to review*, which invite public comment to specified rules; and (3) notices of *readoption*, which summarize public comment to specified rules. The complete text of an agency's *plan to review* is available after it is filed with the Secretary of State on the Secretary of State's web site (<http://www.sos.state.tx.us/texreg>). The complete text of an agency's rule being reviewed and considered for *readoption* is available in the *Texas Administrative Code* on the web site (<http://www.sos.state.tx.us/tac>).

For questions about the content and subject matter of rules, please contact the state agency that is reviewing the rules. Questions about the web site and printed copies of these notices may be directed to the *Texas Register* office.

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## Proposed Rule Reviews

Texas Department of Health

### Title 25, Part 1

The Texas Department of Health (department) will review and consider for readoption, revision or repeal Title 25, Texas Administrative Code, Part 1, Chapter 100. Immunization Registry, §§100.1 - 100.11.

This review is in accordance with the requirements of the Texas Government Code, §2001.039.

An assessment will be made by the department as to whether the reasons for adopting or readopting these rules continue to exist. 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 department.

Comments on the review may be submitted in writing within 30 days following the publication of this notice in the *Texas Register* to Linda Wiegman, Office of General Counsel, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Any proposed changes to these rules as a result of the review will be published in the Proposed Rule Section of the *Texas Register* and will be open for an additional 30 day public comment period prior to final adoption or repeal by the department.

TRD-200203144  
Susan K. Steeg  
General Counsel  
Texas Department of Health  
Filed: May 22, 2002

◆ ◆ ◆  
The Texas Department of Health (department) will review and consider for readoption, revision or repeal Title 25, Texas Administrative Code, Part 1, Chapter 297. Indoor Air Quality, Subchapter A. Public Schools, §§297.1 - 297.6.

This review is in accordance with the requirements of the Texas Government Code, §2001.039.

An assessment will be made by the department as to whether the reasons for adopting or readopting these rules continue to exist. 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 department.

Comments on the review may be submitted in writing within 30 days following the publication of this notice in the *Texas Register* to Linda Wiegman, Office of General Counsel, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Any proposed changes to these rules as a result of the review will be published in the Proposed Rule Section of the *Texas Register* and will be open for an additional 30 day public comment period prior to final adoption or repeal by the department.

TRD-200203145  
Susan K. Steeg  
General Counsel  
Texas Department of Health  
Filed: May 22, 2002

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# TABLES & GRAPHICS

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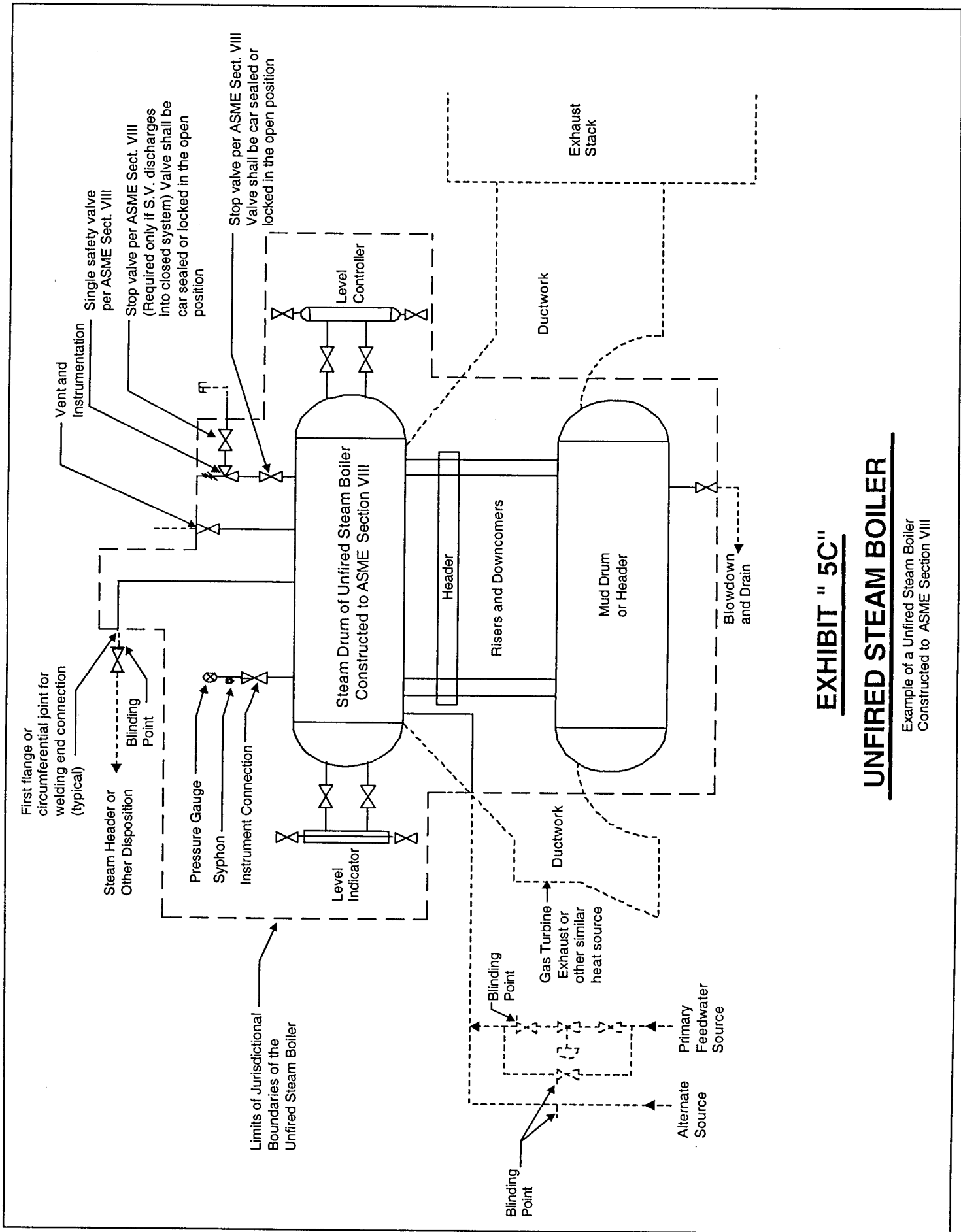
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Graphic material from the emergency, proposed, and adopted sections is published separately in this tables and graphics section. Graphic material is arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section 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.

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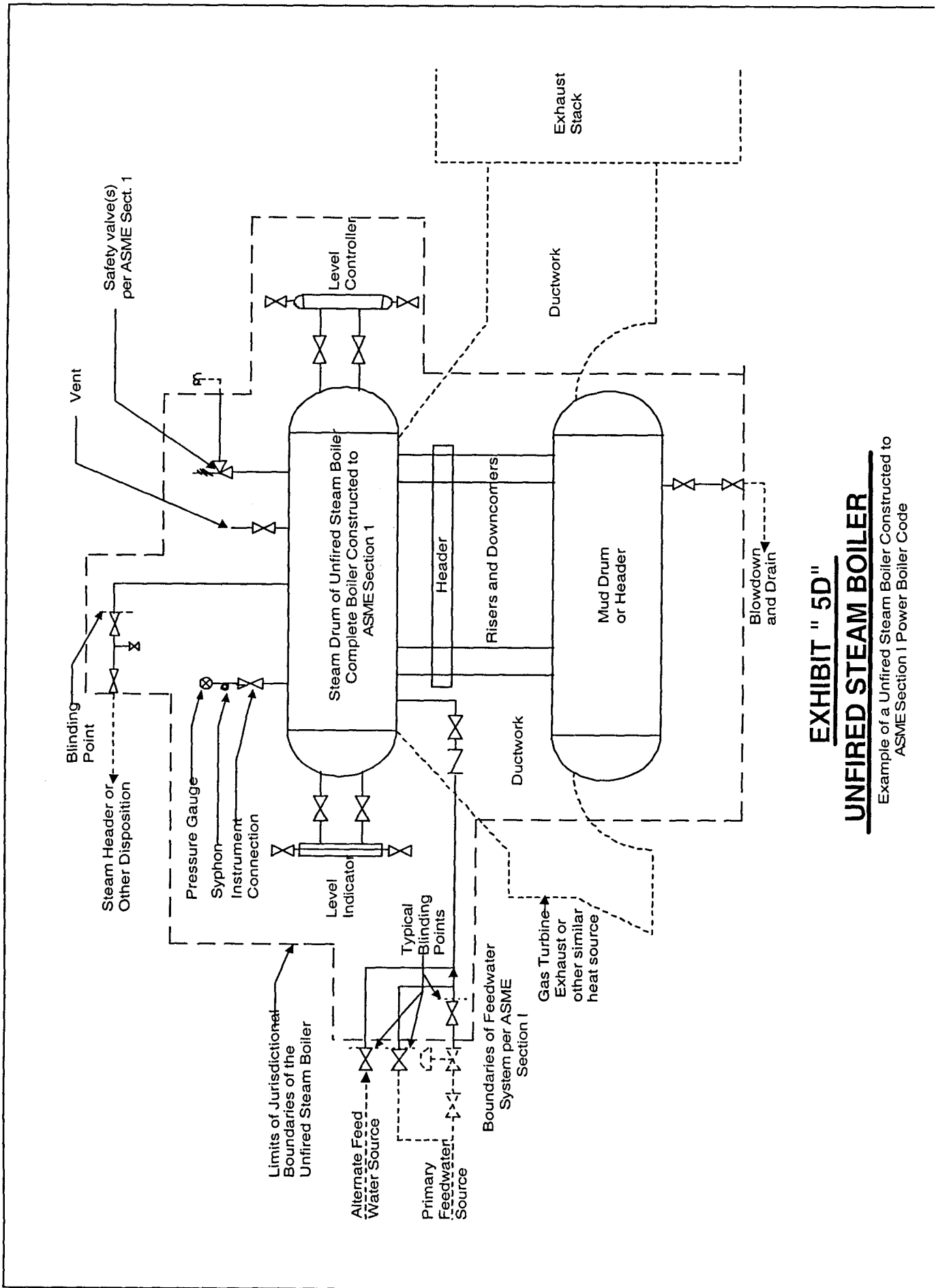
Figure 1: 16 TAC §65.100(f)(1)



**EXHIBIT " 5C "**  
**UNFIRED STEAM BOILER**

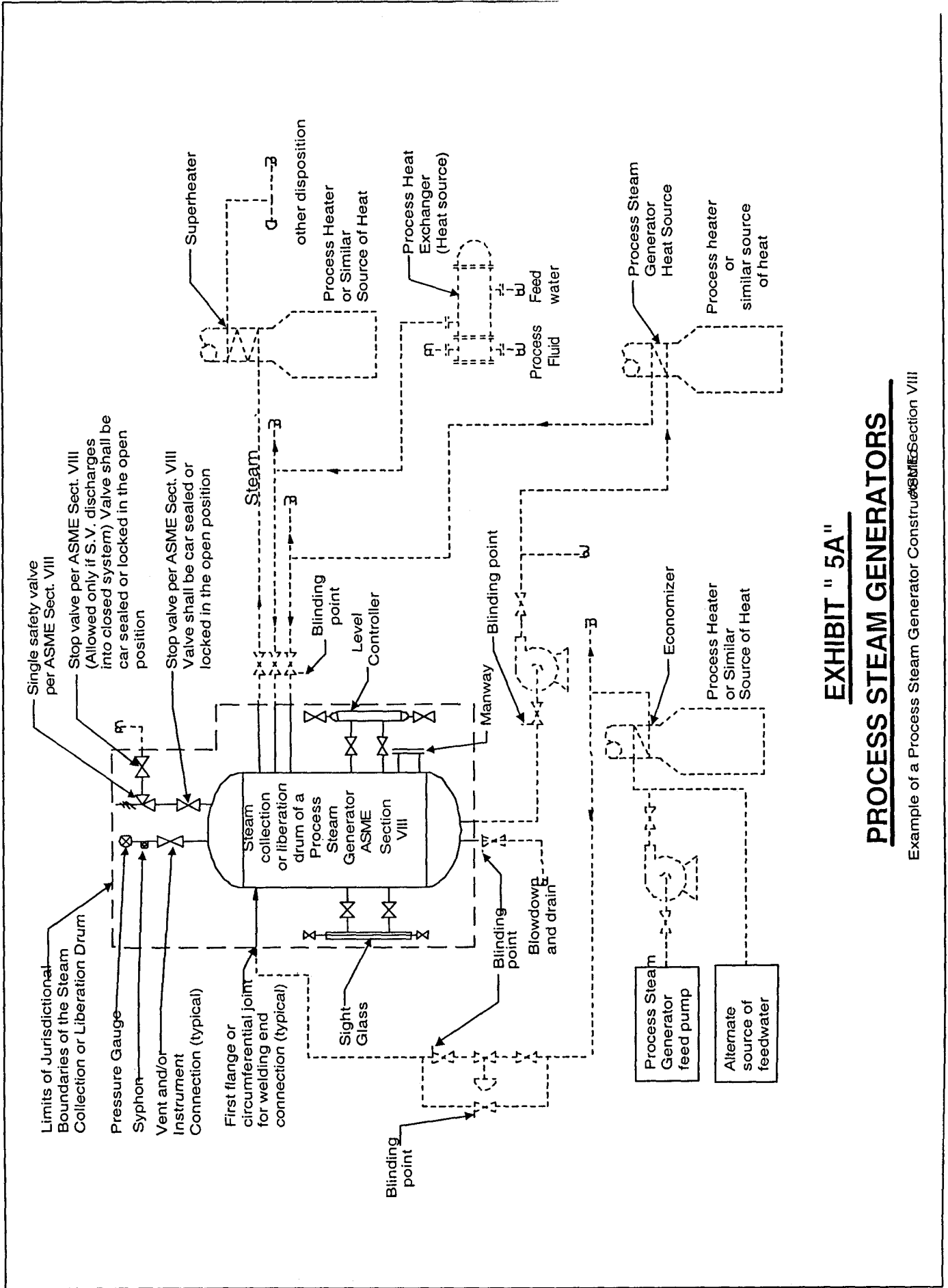
Example of a Unfired Steam Boiler  
 Constructed to ASME Section VIII

Figure 2: 16 TAC §65.100(f)(1)



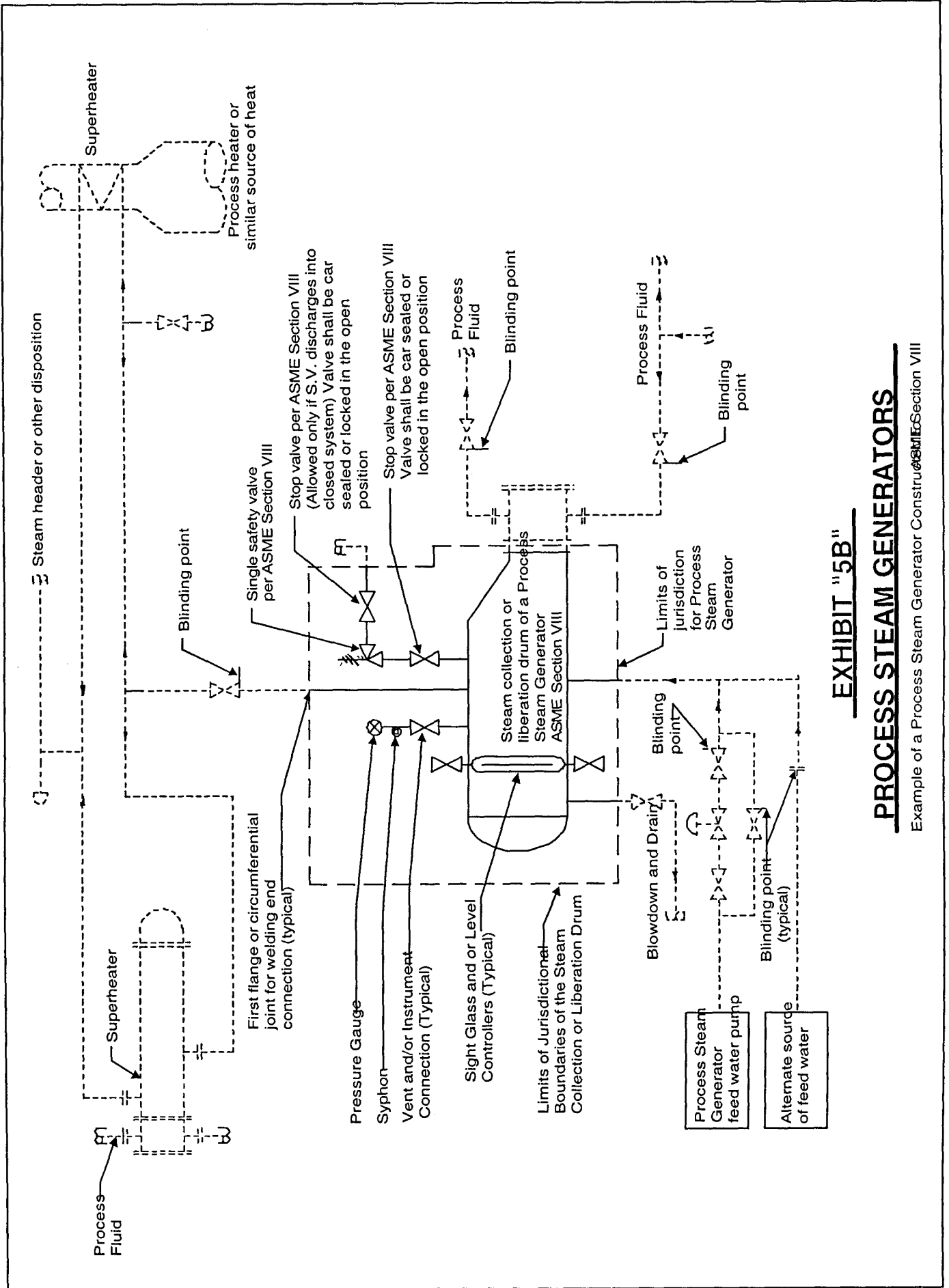
**EXHIBIT " 5D "**  
**UNFIRED STEAM BOILER**  
 Example of a Unfired Steam Boiler Constructed to  
 ASME Section 1 Power Boiler Code

Figure 1: 16 TAC §65.100(g)(1)



**EXHIBIT " 5A "**  
**PROCESS STEAM GENERATORS**  
 Example of a Process Steam Generator Construction per Section VIII

Figure 2: 16 TAC §65.100(g)(1)



**EXHIBIT "5B"**  
**PROCESS STEAM GENERATORS**  
 Example of a Process Steam Generator Construction per ASME Section VIII

Figure: 16 TAC §65.100(i)(6)

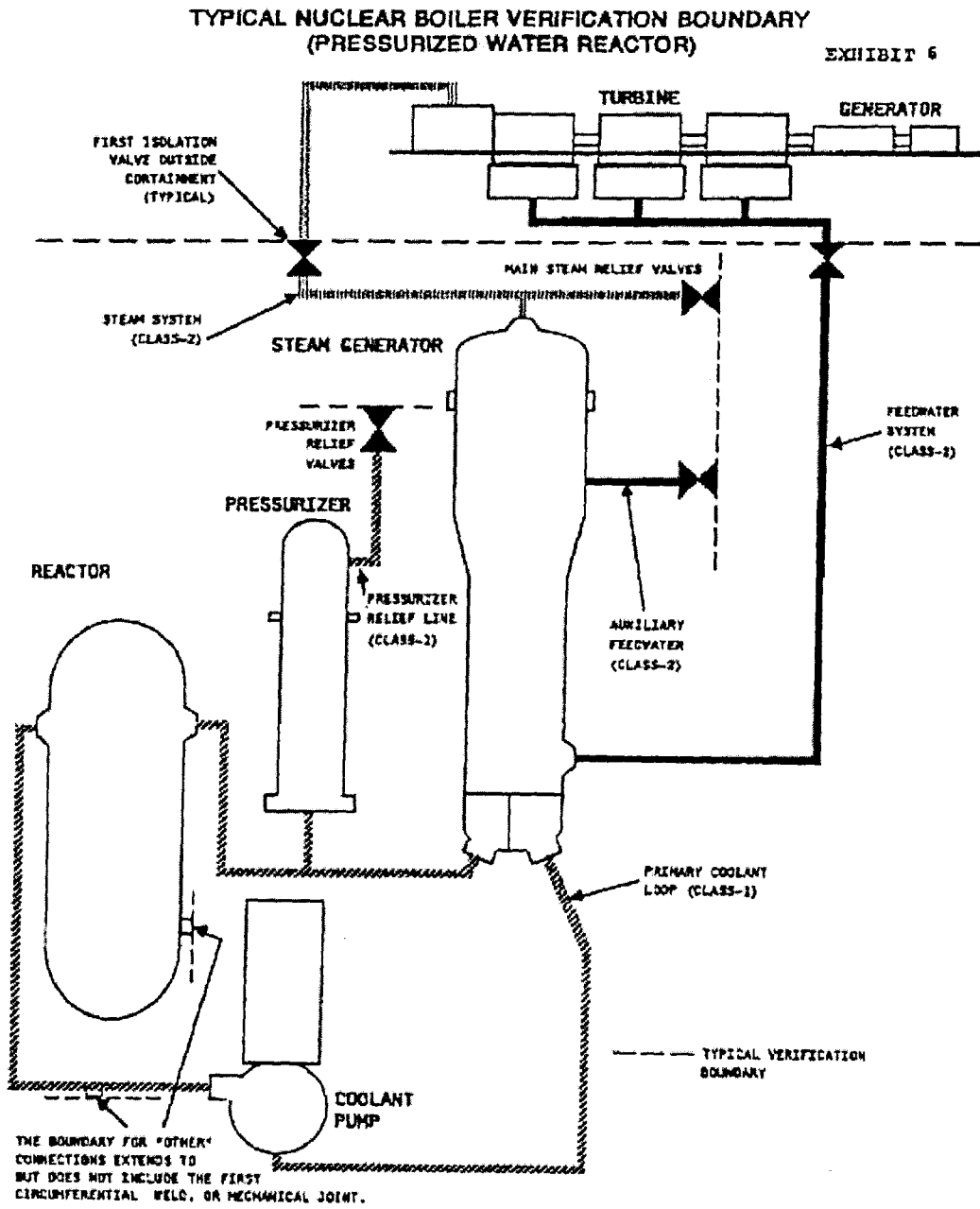




Figure: 16 TAC §65.100(j)(1)(E)

MINIMUM POUNDS OF STEAM PER HOUR  
PER SQUARE FOOT OF HEATING SURFACE

|                                    | Firetube Boilers | Watertube Boilers |
|------------------------------------|------------------|-------------------|
| <b>Boiler Heating Surface</b>      |                  |                   |
| Hand fired                         | 5                | 6                 |
| Stoker fired                       | 7                | 8                 |
| Oil, gas or pulverized fuel fired  | 8                | 10                |
| <b>Waterwall Heating Surface</b>   |                  |                   |
| Hand fired                         | 8                | 8                 |
| Stoker fired                       | 10               | 12                |
| Oil, gas, or pulverized fuel fired | 14               | 16                |

Figure: 16 TAC §65.100(j)(7)(E)

Supply Valve - Number ( )  
Do Not Close Without Also  
Closing Return Valve -  
Number ( )

Return Valve - Number ( )  
Do Not Close Without Also  
Closing Supply Valve -  
Number ( )

Figure: 16 TAC §65.100(j)(9)(A)

TABLE  
Size of Bottom Blowoff Piping, Valves, and Cocks

| Minimum Required<br>Safety or Safety Relief<br>Valve Capacity, lb. of Steam/Hr.<br>(Note) | Blowoff Piping<br>Valves, and Cocks<br>Size, in. (Min.) |
|---|---|
| Up to 500   | 3/4   |
| 501 to 1,250  | 1   |
| 1,251 to 2,500  | 1 1/4   |
| 2,501 to 6,000  | 1 1/2   |
| 6,001 and Larger  | 2   |

Note: To determine the discharge capacity of safety relief valves in terms of Btu, the relieving capacity in lbs. of steam/hr. is multiplied by 1,000.

Figure: 31 TAC §65.72(b)(2)(B)

| Species   | Daily Bag               | Minimum Length (Inches) | Maximum Length (Inches) |
|---|-------------------------|-------------------------|-------------------------|
| Amberjack, greater.   | 1                       | 32                      | No limit                |
| Bass: Largemouth, smallmouth, spotted and Guadalupe bass.   | 5 (in any combination)  |                         |                         |
| Largemouth and Smallmouth bass.   |                         | 14                      | No limit                |
| Bass, striped, its hybrids, and subspecies.   | 5 (in any combination)  | 18                      | No limit                |
| Bass, white   | 25                      | 10                      | No limit                |
| Catfish: channel and blue catfish, their hybrids, and subspecies.   | 25 (in any combination) | 12                      | No limit                |
| Catfish, flathead.  | 5                       | 18                      | No limit                |
| Catfish, gafftopsail.   | No limit                | 14                      | No limit                |
| Cobia.  | 2                       | 37                      | No limit                |
| Crappie: white and black crappie, their hybrids, and subspecies.  | 25 (in any combination) | 10                      | No limit                |
| Drum, black.  | 5                       | 14                      | 30                      |
| Drum, red.  | 3*                      | 20                      | 28*                     |
| <p>*Special Regulation: During a license year, one red drum over the stated maximum length limit may be retained when affixed with a properly executed Red Drum Tag, a properly executed Exempt Red Drum Tag or with a properly executed Duplicate Exempt Red Drum Tag and one red drum over the stated maximum length limit may be retained when affixed with a properly executed Bonus Red Drum Tag. Any fish retained under authority of a Red Drum Tag, an Exempt Red Drum Tag, a Duplicate Exempt Red Drum Tag, or a Bonus Red Drum Tag may be retained in addition to the daily bag and possession limit as stated in this section.</p> |                         |                         |                         |
| Flounder: all species, their hybrids, and subspecies.   | 10*                     | 14                      | No limit                |
| <p>*Special Regulation: The daily bag and possession limit for the holder of a valid Commercial Finfish Fisherman's license is 60 flounder, except on board a licensed commercial shrimp boat.</p>  |                         |                         |                         |

|   |                        |          |                         |
|---|------------------------|----------|-------------------------|
| Grouper, goliath.   | 0                      |          |                         |
| Mackerel, king.   | 2                      | 27       | No limit                |
| Mackerel, Spanish.  | 15                     | 14       | No limit                |
| Marlin, blue.   | No limit               | 131      | No limit                |
| Marlin, white.  | No limit               | 86       | No limit                |
| Mullet: all species, their hybrids, and subspecies.   | No limit               | No limit | *                       |
| *Special regulation: During the period October through January, no mullet more than 12 inches in length may be taken from public waters or possessed on board a vessel. |                        |          |                         |
| Sailfish  | No limit               | 84       | No limit                |
| Saugeye   | 3                      | 18       | No limit                |
| Seatrout, spotted.  | 10                     | 15       | No limit                |
| Shark: all species, their hybrids, and subspecies.  | 1                      | 24       | No limit                |
| Sheepshead.   | 5                      | 12       | No limit                |
| Snapper, lane.  | No limit               | 8        | No limit                |
| Snapper, red.   | 4                      | 15       | No limit                |
| Snapper, vermilion.   | No limit               | 10       | No limit                |
| Snook.  | 1                      | 24       | 28                      |
| Tarpon.   | 0                      |          | Catch and release only* |
| *Special Regulation: One tarpon 80 inches in length or larger may be retained during a license year when affixed with a properly executed Tarpon Tag.                   |                        |          |                         |
| Trout: rainbow and brown trout, their hybrids, and subspecies.  | 5 (in any combination) | No limit | No limit                |
| Walleye.  | 5*                     | No limit | No limit                |
| *Special regulation: Two walleye of less than 16 inches may be retained per day.  |                        |          |                         |

| Location (County)  | Daily Bag              | Minimum Length (Inches) | Special Regulation      |
|--|------------------------|-------------------------|-------------------------|
| Bass: largemouth, smallmouth, spotted and Guadalupe bass, their hybrids, and subspecies.   |                        |                         |                         |
| Lake Texoma (Cooke and Grayson)  | 5 (in any combination) | 14                      |                         |
| In all waters in the Lost Maples State Natural Area (Bandera)  | 0                      | No Limit                | Catch and release only. |
| Bass: largemouth and smallmouth  |                        |                         |                         |
| Lake Toledo Bend (Newton, Sabine and Shelby).  | 8 (in any combination) | 14                      | Possession Limit is 10. |
| Bass: largemouth.  |                        |                         |                         |
| Conroe (Montgomery and Walker), Fort Phantom Hill (Jones), Granbury (Hood), Lost Creek (Jack), Possum Kingdom (Palo Pinto, Stephens, Young), Proctor (Comanche), and Ratcliff (Houston).   | 5                      | 16                      |                         |
| Lakes Brushy Creek (Williamson), Fairfield (Freestone), Jacksonville (Cherokee), Cleburne State Park (Johnson), Meridian State Park (Bosque), San Augustine City (San Augustine), Calaveras (Bexar), Bright (Williamson), Cooper (Delta and Hopkins), Aquilla (Hill), Bellwood (Smith), Casa Blanca (Webb), Old Mount Pleasant City (Titus), Rusk State Park (Cherokee), Welsh | 5                      | 18                      |                         |

|  |   |                       |   |
|--|---|-----------------------|---|
| (Titus), Braunig (Bexar), Bryan (Brazos), and Gilmer (Upshur).   |   |                       |   |
| Nelson Park Lake (Taylor) and Buck Lake (Kimble).  | 0 | No Limit              | Catch and release and only.   |
| Lakes Alan Henry (Garza) and O.H. Ivie (Coleman, Concho, and Runnels).   | 5 | No Limit              | It is unlawful to retain more than two bass of less than 18 inches in length.   |
| Purtis Creek State Park Lake (Henderson and Van Zandt), and Raven (Walker).  | 0 | No Limit              | Catch and release only except that any bass 21 inches or greater in length may be retained in a live well or other aerated holding device and immediately transported to the Pur tis Creek or Huntsville State Park, or Gibbons Creek weigh stations. After weighing, the bass must be released immediately back into the lake or donated to the ShareLunker Program. |
| Lakes Waxahachie (Ellis), Bridgeport (Jack and Wise), Georgetown (Williamson), Caddo (Marion and Harrison), Burke-Crenshaw (Harris), Grapevine (Denton and Tarrant), Davy Crockett (Fannin), Sweetwater (Nolan), and Madisonville (Madison). | 5 | 14-18 Inch Slot Limit | It is unlawful to retain largemouth bass between 14 and 18 inches in length.  |
| Lakes Bastrop (Bastrop), Buescher State Park (Bastrop), Town (Travis) Houston County (Houston), Nacogdoches (Nacogdoches), Mill Creek (Van Zandt), Joe Pool (Dallas, Ellis, and Tarrant), Walter E.  | 5 | 14-21 Inch Slot Limit | It is unlawful to retain largemouth bass between 14 and 21 inches in length. No more than 1 bass 21 inches or greater in length may be retained each day.   |

|  |   |                       |   |
|--|---|-----------------------|---|
| Long (Travis), Timpson (Shelby), and Athens (Henderson), Murvaul (Panola), and Pinkston (Shelby).  |   |                       |   |
| Lakes Fayette County (Fayette), Gibbons Creek Reservoir (Grimes), Monticello (Titus), and Ray Roberts (Cooke, Denton, and Grayson).  | 5 | 14-24 Inch Slot Limit | It is unlawful to retain largemouth bass between 14 and 24 inches in length. No more than 1 bass 24 inches or greater in length may be retained each day. |
| Lake Fork (Wood, Rains and Hopkins)  | 5 | 16-24 Inch Slot Limit | It is unlawful to retain largemouth bass between 16 and 24 inches in length. No more than 1 bass 24 inches or greater in length may be retained each day. |
| Bass: smallmouth.  |   |                       |   |
| Lakes O. H. Ivie (Coleman, Concho, and Runnels), Alan Henry (Garza), and Devil's River (Val Verde) from State Highway 163 bridge crossing near Juno downstream to Dolan Falls. | 3 | 18                    |   |
| Lake Meredith (Hutchinson, Moore, and Potter).   | 3 | 12-15 Inch Slot Limit | It is unlawful to retain smallmouth bass between 12 and 15 inches in length.  |
| Bass: spotted  |   |                       |   |
| Lake Alan Henry (Garza)  | 3 | 18                    |   |
| Lake Toledo Bend (Newton, Sabine and Shelby).  | 8 | 12                    | Possession Limit is 10.   |
| Bass: striped, its hybrids, and subspecies.  |   |                       |   |
| Lake Toledo Bend (Newton, Sabine and Shelby).  | 5 | No Limit              | No more than 2 striped bass 30 inches or greater in length may be retained each day.  |



|  |                         |          |   |
|--|-------------------------|----------|---|
| Lake Texoma (Cooke and Grayson).   | 10 (in any combination) | No Limit | No more than 2 striped or hybrid striped bass 20 inches or greater in length may be retained each day. Striped or hybrid striped bass caught and placed on a stringer, in a live well or any other holding device become part of the daily bag limit and may not be released. Possession limit is 10. |
| Red River (Grayson) from Denison Dam downstream to and including Shawnee Creek (Grayson).  | 5 (in any combination)  | No Limit | Striped bass caught and placed on a stringer, in a live well or any other holding device become part of the daily bag limit and may not be released.  |
| Lake Possum Kingdom (Palo Pinto, Stephens, Young) and Trinity River (Polk and San Jacinto) from the Lake Livingston dam downstream to the F.M. Road 3278 bridge. | 2 (in any combination)  | 18       |   |
| Bass: striped and white bass, their hybrids, and subspecies.   |                         |          |   |
| Lake Pat Mayse (Lamar) and Lake O'the Pines (Camp, Marion, Morris, and Upshur)   | 25 (in any combination) | 10       | No more than 5 striped, white, or hybrid striped bass 18 inches or greater in length may be retained each day.  |
| Bass: white  |                         |          |   |
| Lakes Conroe, Livingston, Limestone, Palestine, Somerville, Buchanan, Canyon, Georgetown, Inks, Lyndon B. Johnson, Marble Falls, and Travis.                     | 25                      | 12       |   |
| Lakes Texoma (Cooke and Grayson) and Toledo Bend (Newton, Sabine, and Shelby).   | 25                      | No Limit |   |

|  |                         |    |  |
|--|-------------------------|----|--|
| Catfish: channel and blue catfish, their hybrids, and subspecies.  |                         |    |  |
| Lake Livingston (Polk, San Jacinto, Trinity, and Walker).  | 50 (in any combination) | 12 | Possession limit is 50. The holder of a commercial fishing license may not retain channel or blue catfish less than 14 inches in length.                             |
| Trinity River (Polk and San Jacinto) from the Lake Livingston dam downstream to the F.M. Road 3278 bridge.             | 10 (in any combination) | 12 | No more than 2 channel or blue catfish 24 inches or greater in length may be retained each day.  |
| Lake Texoma (Cooke and Grayson).   | 15 (in any combination) | 12 |  |
| Community fishing lakes, Bellwood (Smith), Dixieland (Cameron), and Tankersley (Titus).                                | 5 (in any combination)  | 12 |  |
| Catfish: flathead  |                         |    |  |
| Lake Texoma (Cooke and Grayson) and the Red River (Grayson) from Denison Dam to and including Shawnee Creek (Grayson). | 5                       | 20 |  |
| Crappie: black and white crappie, their hybrids and subspecies.  |                         |    |  |
| Lake Toledo Bend (Newton, Sabine, and Shelby).   | 50 (in any combination) | 10 | Possession limit is 50. From December 1, through the last day in February, there is no minimum length limit. All crappie caught during this period must be retained. |
| Lake Fork (Wood, Rains, and Hopkins) and Lake O'The Pines (Camp, Harrison, Marion, Morris, and Upshur).                | 25 (in any combination) | 10 | From December 1, through the last day in February, there is no minimum length limit. All crappie caught during this period must be retained.                         |

|   |                          |          |  |
|---|--------------------------|----------|--|
| Lake Texoma (Cooke and Grayson).  | 37 (in any combination)  | 10       | Possession limit is 50.                    |
| Drum, red.  |                          |          |  |
| Lakes Braunig and Calaveras (Bexar), Coleta Creek Reservoir (Goliad and Victoria), Colorado City (Mitchell), Fairfield (Freestone), Nasworthy (Tom Green), and Tradinghouse Creek (McLennan). | 3                        | 20       | No maximum length limit.                   |
| Shad: gizzard and threadfin shad.   |                          |          |  |
| The Trinity River below Lake Livingston in Polk and San Jacinto Counties.   | 500 (in any combination) | No Limit | Possession Limit 1,000 in any combination. |
| Trout: Rainbow and brown trout, their hybrids, and subspecies.  |                          |          |  |
| Guadalupe River (Comal) from the second bridge crossing on the River Road upstream to the easternmost bridge crossing on F.M. Road 306.   | 1                        | 18       |  |
| Walleye.  |                          |          |  |
| Lake Texoma (Cooke and Grayson).  | 5                        | 18       |  |

# IN ADDITION

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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.

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## Brazos Valley Council of Governments

### Request for Proposal for Auditing Services

**DESCRIPTION:** This request for auditing services is filed under the provisions of the Government Code, Chapter 2254.

The Brazos Valley Council of Governments (BVCOG), a regional planning commission who, was organized under State of Texas and administers funds from local, state, federal governments, announces its request for proposal to perform an Independent Financial Single Audit in accordance with the office of Management and Budget Circular A-133, for the Fiscal Year 2002, October 1, 2001 through September 30, 2002, to be included in their Comprehensive Annual Financial Report which will be used to apply for the Governmental Financial Officers Association Award of Excellence. The audit must be completed by February 19, 2003. Our Fiscal Year 2001 single audit was performed by Patillo, Brown & Hill, LLP, from Waco, Texas.

**PERSONS TO CONTACT:** Further information may be obtained from John Lewis, Director of Finance or Tom Wilkinson, Executive Director, at the Brazos Valley Council of Governments, 1706 East 29th Street, P.O. Drawer 4128, Bryan, Texas 77805-4128, or by phone (979) 775-4244.

**DEADLINE FOR SUBMISSION OF RESPONSE:** Proposals are due on Friday, June 7, 2002, by 5:00 p.m. at the Brazos Valley Council of Government offices located at 1706 East 29th Street in Bryan, Texas.

### EVALUATION CRITERIA:

#### A. Demonstrated Performance/Experience

1. Demonstrated Competence/Qualifications
2. Relevant Experience of Key Staff

#### B. Schedule Design

1. Meets BVCOG's Goals/Objectives/Includes Quality Control Procedures
2. Provides Quality Planned Follow-up Activity
3. Degree of Proposed Technical Assistance

#### C. Reasonableness of Cost

1. Cost Effectiveness

2. Costs: Necessary, Reasonable, Allowable and Allocable

3. Competitiveness of Costs

4. Value of in-kind services

D. HUB Status

**GENERAL INFORMATION:** BVCOG reserves the right to accept or reject any (or all) proposals submitted. BVCOG is under no legal requirement to execute a resulting contract, if any, on the basis of this advertisement and intends the material herein as a general description of the services desired by BVCOG.

The proposal should be for a period of one year although BVCOG will have the option of extending the contract for an additional two years.

**FORM AND FORMAT:** Five copies of the proposal are requested and should be sent by mail, express service or delivered in person within the time frame specified in a sealed envelope marked "**PROPOSAL FOR INDEPENDENT SINGLE AUDIT OF FEDERAL AND STATE GRANT AWARDS**", addressed to Tom Wilkinson, Jr., Executive Director, Brazos Valley Council of Governments, P.O. Drawer 4128, Bryan, Texas 77805-4128. The proposal should be typed, preferably double spaced--minimum of 10 point font--on 8 1/2 inch by 11 inch paper with all papers sequentially numbered and bound together with binder clips. Proposals should include a letter of transmittal summarizing the proposal and a table of contents.

For further information, please call (979) 775-4244.

TRD-200203134

Tom Wilkinson, Jr.

Executive Director

Brazos Valley Council of Governments

Filed: May 22, 2002



Request for Proposals for Independent Single Audit of Federal Grant Awards

The Brazos Valley Affordable Housing Corporation (BVAHC) is soliciting proposals for the Fiscal Year 2002, October 1, 2001 - September 30, 2002, independent single audit of federal grant awards administered by BVAHC.

**PROPOSALS SHOULD BE EXTERNALLY LABELED AS FOLLOWS:**

Tom Wilkinson, President  
Brazos Valley Affordable Housing Corporation  
P.O. Drawer 4128  
Bryan, Texas 77805-4128

*An original and five copies of the proposal must be submitted in a sealed envelope marked "PROPOSAL FOR SINGLE AUDIT OF FEDERAL GRANT AWARDS". The deadline to submit a proposal is Friday, June 7, 2002, at 5:00 p.m. CST. Proposals must be officially received by BVAHC by this deadline, or mailed by midnight of the deadline date. Submission by telecopier, fax or e-mail is not acceptable. Any proposals or modifications/amendments delivered, received or postmarked after the deadline will not be considered, but will be deemed late and non-responsive to this request for proposals and procurement process. Modifications or amendments may be made to a proposal that has been submitted prior to the deadline, so long as the modification or amendment is submitted prior to the deadline.*

**PROPOSAL EVALUATION CRITERIA**

Responsive proposals submitted by the deadline will be evaluated using the criteria below. Selection of providers shall be in accordance with all applicable laws and regulations. Selection criteria are as follows:

**EVALUATION CRITERIA--POINTS**

- 1. Demonstrated Performance/Experience--35
- 2. Schedule Design--35
- 3. Reasonableness of Costs--30
- 4. HUB Status--5

TOTAL POSSIBLE POINTS--105

For more information and submission forms regarding this Request for Proposals, please call John Lewis at (979) 775-4244, ext. 162

TRD-200203167  
Tom Wilkinson, Jr.  
Executive Director  
Brazos Valley Council of Governments  
Filed: May 22, 2002



**Request for Proposals for Independent Single Audit of Federal and State Grant Awards**

The Brazos Valley Council of Governments (BVCOG) is soliciting proposals for the Fiscal Year 2002, October 1, 2001 - September 30, 2002, Comprehensive Annual Financial Report (CAFR) including independent single audit of federal and state grant awards administered by BVCOG, in accordance with the requirements of the office of Management and Budget Circular A-133. Our desire is to have a CAFR that would be eligible for the Government Financial Officers Award of Excellence for financial reporting.

**PROPOSALS SHOULD BE EXTERNALLY LABELED AS FOLLOWS:**

Tom Wilkinson, Executive Director  
Brazos Valley Council of Governments  
P.O. Drawer 4128  
Bryan, Texas 77805-4128

*An original and five copies of the proposal must be submitted in a sealed envelope marked "PROPOSAL FOR INDEPENDENT SINGLE AUDIT OF FEDERAL AND STATE GRANT AWARDS". The deadline to submit a proposal is Friday, June 7, 2002 at 5:00 p. m. CST. Proposals must be officially received by BVCOG by this deadline, or mailed by midnight of the deadline date. Submission by telecopier, fax or e-mail is not acceptable. Any proposals or modifications/amendments delivered, received or post marked after the deadline will not be considered, but will be deemed late and non-responsive to this request for proposals and procurement process. Modifications or amendments may be made to a proposal that has been submitted prior to the deadline so long as the modification or amendment is submitted prior to the deadline.*

**PROPOSAL EVALUATION CRITERIA**

Responsive proposals submitted by the deadline will be evaluated using the criteria below. Selection of providers shall be in accordance with all applicable laws and regulations. Selection criteria are as follows:

**EVALUATION CRITERIA--POINTS**

- 1. Demonstrated Performance/Experience--35
- 2. Schedule Design--35
- 3. Reasonableness of Costs--30
- 4. HUB Status--5

TOTAL POSSIBLE POINTS--105

For more information, submission forms and detail on submission regarding this Request for Proposals, please call John Lewis at (979) 775-4244, ext. 162

TRD-200203133  
Tom Wilkinson, Jr.  
Executive Director  
Brazos Valley Council of Governments  
Filed: May 22, 2002



**Coastal Coordination Council**

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

On January 10, 1997, the State of Texas received federal approval of the Coastal Management Program (CMP) (62 Federal Register pp. 1439-1440). Under federal law, federal agency activities and actions affecting the Texas coastal zone must be consistent with the CMP goals and policies identified in 31 TAC Chapter 501. As required by federal law, the public is given an opportunity to comment on the consistency of proposed activities in the coastal zone undertaken or authorized by federal agencies. Pursuant to 31 TAC §§506.25, 506.32, and 506.41, the public comment period for these activities extends 30 days from the date published on the Coastal Coordination Council web site. Requests for federal consistency review were received for the following projects(s) during the period of May 10, 2002, through May 16, 2002. The public comment period for these projects will close at 5:00 p.m. on June 21, 2002.

**FEDERAL AGENCY ACTIONS:** Applicant: National Energy Group, Inc.; Location: The project is located in Sabine Lake in State Tracts (ST) 1, 2, 5, and 8 and crosses the Gulf Intracoastal Waterway east of the confluence of the Sabine Neches Canal and the Neches River in Orange County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled West of Greens Bayou, Texas. Approximate UTM

Coordinates: Zone 15; Easting: 420463; Northing: 3313073. Project Description: The applicant requests authorization to install and maintain two pipelines, buried side-by-side, along a 14,305-foot alignment for the purpose of producing the State Tract 8 No. 1 Well. A 6-inch and an 8-inch diameter pipeline will be installed by jetting at a minimum of 3 feet below the mudline, affecting approximately 1.6 acres of lake bottom. The pipeline trench will measure 3 feet wide at the top of the trench. At the point where the pipelines traverse the Sabine River they will be jetted in at a minimum depth of 15 feet below the authorized project depth of -32 feet mean ground level and the top of the pipe depth will be maintained a distance of 25 feet beyond the authorized channel width of 200 feet on both sides of the channel. The proposed pipeline route will originate at the ST 8 No.1 Well and will terminate at a point on shore where the lines will tie into an existing pipeline. At the point where the pipelines meet the shore, the applicant proposes to place 7.5 cubic yards of riprap to provide bank stabilization. No wetlands or vegetated shallows will be impacted by the proposed activity. CCC Project No.: 02-0128-F1; Type of Application: U.S.A.C.E. permit application #22642 is being evaluated under §10 of the Rivers and Harbors Act of 1899 (33 U.S.C.A. §403) and §404 of the Clean Water Act (33 U.S.C.A. §§125-1387). NOTE: The CMP consistency review for this project may be conducted by the Railroad Commission of Texas as part of its certification under §401 of the Clean Water Act.

Applicant: LLOG Exploration Offshore; Location: The project is located in the Aransas Pass Anchorage Area in Mustang Island Area, Block 723-L, offshore Texas, Gulf of Mexico. Project Description: The applicant proposes to install, operate, and maintain a typical jack-up drilling rig, production platform and/or well protector, with appurtenant structures and equipment necessary for oil and gas drilling/production operations. No dredging and/or filling activities are required for the project. CCC Project No.: 02-0129-F1; Type of Application: U.S.A.C.E. permit application #22672 (Revised) is being evaluated under §10 of the Rivers and Harbors Act of 1899 (33 U.S.C.A. §403).

Applicant: McRae Exploration & Production, Inc.; Location: The project is located in the Gulf of Mexico, inside of the Anchorage Area of the Matagorda Entrance Safety Fairway at a distance of 500 feet outside of the Safety Fairway boundary, offshore Matagorda County, Texas. The proposed structure would be greater than two nautical miles from any other structure. The project can be located on the U.S.G.S. quadrangle map entitled San Antonio Bay, Texas. Approximate UTM Coordinates: Zone 14; Easting: 770327; Northing: 3141387. Project Description: The applicant proposes to install and maintain a jack-up rig for the purpose of drilling the State Tract 522L NE/4 No. 1 Well. CCC Project No.: 02-0130-F1; Type of Application: U.S.A.C.E. permit application #22693 is being evaluated under §10 of the Rivers and Harbors Act of 1899 (33 U.S.C.A. §403).

Applicant: The Houston Exploration Company; Location: The project is located in the Laguna Madre approximately 21 miles south of the Bird Island Basin public boat ramp in the Padre Island National Seashore in Kenedy County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled Yarborough Pass, Texas. Approximate UTM Coordinates: Zone 14; Easting: 657300; Northing: 3010400. Project Description: The applicant proposes to install, operate, and maintain structures and equipment necessary for oil and gas drilling, production, and transportation activities. The well would be drilled from a surface location in ST 226 to a bottom hole in ST 229. Activities include installation of typical marine barges and keyways, shell and gravel pads, and production structures with attendant facilities. Approximately 4,500 cubic yards of shell, crushed rock or washed gravel will be used as a base for the drilling rig and production facility. Approximately 33,049 square feet of deep (-6.7 feet MLT), open bay bottom will be filled to construct the pad. The

drilling site and proposed access route were surveyed for the presence of seagrasses and hard substrate. The bottom throughout the survey area consisted of soft, deep mud. No seagrasses or rock/reef areas were found within 550 feet of the proposed drilling location or within 50 feet on either side of the centerline of the proposed access route. CCC Project No.: 02-0131-F1; Type of Application: U.S.A.C.E. permit application #22694 is being evaluated under §10 of the Rivers and Harbors Act of 1899 (33 U.S.C.A. §403) and §404 of the Clean Water Act (33 U.S.C.A. §§125-1387). NOTE: The CMP consistency review for this project may be conducted by the Railroad Commission of Texas as part of its certification under §401 of the Clean Water Act.

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. Diane P. Garcia, Council Secretary, Coastal Coordination Council, 1700 North Congress Avenue, Room 617, Austin, Texas 78701-1495, or [diane.garcia@glo.state.tx.us](mailto:diane.garcia@glo.state.tx.us). Comments should be sent to Ms. Garcia at the above address or by fax at (512) 475-0680.

TRD-200203149

Larry Soward

Chief Clerk, General Land Office

Coastal Coordination Council

Filed: May 22, 2002

## ◆ ◆ ◆ Comptroller of Public Accounts

### Invitation to Comment

The Texas County Financial Data Advisory Committee (TCFDAC or committee) announces the availability of the draft "Proposed Uniform Chart of Accounts for Texas Counties" (Chart of Accounts) for review and public comment. The committee was established by the 77th Legislature, 2001, in House Bill 2869, to study county financial reporting requirements and systems and make recommendations to the Comptroller of Public Accounts and the legislature on ways in which the collection and use of county financial data can be improved without resulting in additional costs to counties. Pursuant to Local Government Code §114.082(a), the comptroller may implement the recommendations of the committee for the reporting of financial data and other pertinent information to the state.

The draft Chart of Accounts is developed and promulgated in accordance with the requirements of Local Government Code, §114.082(c)(2), which requires the committee to develop and recommend a voluntary uniform chart of accounts. The draft Chart of Accounts was adopted at the committee's meeting of May 2, 2002. The chart of accounts includes Functions, Function/Program Descriptions, Sub-Functions/Programs, Sub-Function/Program Descriptions and Office/Department Included (for illustrative purposes only). Once the committee completes its work on the Chart of Accounts it will be submitted to the comptroller for adoption and made available to counties for voluntary use as provided in Local Government Code §112.003(b). The comptroller shall adopt the chart of accounts no later than September 1, 2002.

A copy of the draft Chart of Accounts may be found at the committee's web page at [http://www.cuc.org/CUC/FDAC/working\\_documents/index.htm](http://www.cuc.org/CUC/FDAC/working_documents/index.htm). A copy of the draft Chart of Accounts may also be viewed at the Research Library located at Texas Comptroller of Public Accounts,

LBJ State Office Building, 111 E. 17th Street, Room 307, Austin, Texas.

Written comments may be submitted to Alfredo E. Cardenas, Supervisor, Local Government Assistance, Texas Comptroller of Public Accounts, 111 E. 17th Street, Austin, Texas 78774-0001. Comments may also be faxed to Mr. Cardenas at (512) 475-0664, but must be followed

up with submission and receipt of the written comments within three working days of when they were faxed. Written comments may be submitted no later than 30 days after publication of this notice in the Texas Register. For further information or questions, contact Mr. Cardenas at (512) 463-4343 or by e-mail at [alfredo.cardenas@cpa.state.tx.us](mailto:alfredo.cardenas@cpa.state.tx.us).

| Function                  | Function/Program Description  | Sub-Function/Program            | Sub-Function/Program Description   | Office/Department Included (for illustrative purposes only)  |
|---------------------------|---|---------------------------------|--|--|
| <b>General Government</b> | Activities associated with the administrative, financial and physical support of the county.  | <b>General Administration</b>   | Activities associated with the general administration of the county including the governing body and county infrastructure such as personnel, information systems, telecommunications, records management and reproduction of documents. | County Judge<br>County Commissioners<br>Comm Court Gen Admin<br>Information & Telecomm<br>Human Resource Mgmt<br>County Clerk - Recording<br>Civil Service Comm<br>Contingency Reserves<br>Risk Management   |
|                           |   | <b>Financial Administration</b> | Activities associated with the financial management of the county including but not limited to auditing, accounting, budgeting, and purchasing activities.   | County Auditor<br>County Treasurer<br>Planning & Budget<br>Purch & Inventory Mgmt<br>Cash Mgmt & Investments<br>Debt Management  |
|                           |   | <b>Tax Administration</b>       | Activities associated with the administration, collection taxes (including the contribution to the central appraisal district and any contracted collection efforts).  | Tax Assessor - Collector<br>County Attorney - Tax Coll Div<br>Tax Sales  |
|                           |   | <b>Facilities Mgmt</b>          | Activities associated with the provision and maintenance of county buildings except corrections, road and bridge, and park and recreational facilities.  | Facilities Management  |
|                           |   | <b>Election Administration</b>  | Activities associated with the administration of an election such as registering voters, holding general and primary and special elections.  | Elections Administrator<br>Voter Registrar   |
| <b>Justice System</b>     | Activities associated with the judicial responsibilities of the County including the courts system, prosecution and related programs. | <b>Criminal Justice</b>         | Activities associated with the judicial process involving criminal cases.  | District Courts - Criminal<br>County Courts - Criminal<br>Justice of the Peace Courts - Criminal<br>Other Courts - Criminal<br>District Clerk - Criminal<br>County Clerk - Criminal<br>District Attorney - Criminal<br>County Attorney - Criminal  |
|                           |   | <b>Civil Justice</b>            | Activities associated with the judicial process involving civil cases.   | District Courts - Civil<br>County Courts - Civil<br>Justice of the Peace Courts - Civil<br>Probate Courts<br>Family Law Courts<br>Other Courts - Civil<br>Constables - Civil<br>District Clerk - Civil<br>County Clerk - Civil<br>District Attorney - Civil<br>County Attorney - Civil<br>Dispute Resolution<br>Domestic Relations (Child Support) |
|                           |   | <b>Indigent Defense</b>         | Activities associated with the provision of legal defense services to indigents.   | Appropriate Courts & Administration<br>Public Defender   |



| Function                         | Function/Program Description  | Sub-Function/Program        | Sub-Function/Program Description  | Office/Department Included (for illustrative purposes only)  |
|----------------------------------|---|-----------------------------|---|--|
| Public Safety                    | Activities associated with the protection of persons and property.  | Law Enforcement             | Activities associated with the direct enforcement of state statutes.  | Constables - Criminal<br>Sheriff - Law Enforcement<br>Medical Examiner<br>Forensic Services  |
|                                  |   | Emergency Mgmt Services     | Activities associated with emergency management and response including disaster preparedness, emergency medical services, fire protection, flood control and homeland security.   | Emergency Medical Services<br>Fire Marshall<br>Fire Protection/Prevention<br>911 Services<br>Emergency Planning & Coordination<br>Flood Management                           |
| Corrections & Rehabilitation     | Activities associated with the confinement (including maintenance of county jail facilities), probation, counseling or other related programs available for adult offenders.  | Housing & Booking           | Activities associated with the incarceration of inmates including but not limited to maintenance and improvement of jail facilities, contract jails, provision of programs and services to inmates, and meeting basic needs of inmates.   | Sheriff - Corrections  |
|                                  |   | Supervision                 | Activities associated with the supervision and rehabilitation of those offenders who are not incarcerated including but not limited to adult probation and pre-trial services.  | Comm Supervision & Corr<br>Pretrial Services<br>Counseling Center  |
| Juvenile Services                | Activities associated with the detention, shelter and probation services for juvenile offenders and activities associated with providing services for the prevention of child abuse, foster care, and treatment for eligible juveniles (not including indigent defense costs which are included in Justice System above). |                             |   | County Judge - Juvenile Board<br>Juvenile Public Defender<br>Juvenile Court<br>Juvenile Probation<br>Child Protective Services<br>Assessment Centers<br>Placement Facilities |
| Health & Human Services          | Activities designed to promote the conservation and improvement of public health and to provide assistance and care for those in financial need in the county.  | Health Services             | Activities associated with the conservation and improvement of public health including but not limited to providing health clinics, emergency medical services, indigent health care and related programs.  | Health Services<br>Animal Control<br>County Hospitals  |
|                                  |   | Human Services              | Activities associated with providing social, financial and physical assistance to those in need.  | Human Services<br>Veteran Services   |
| Community & Economic Development | Activities are directed toward providing economic development in the county including providing adequate housing and economic opportunities for disadvantaged citizens or businesses.   | Economic Development        | Activities associated with providing economic opportunities for citizens and businesses within the county. These may include providing facilities designed to promote business growth such as convention centers.   | Convention Centers<br>Business Opportunity Develop<br>Economic Planning  |
|                                  |   | Housing & Urban Development | Activities associated with the provision of adequate housing including acquisition, furnishing, maintenance and operation of the public housing facilities and activities associated with the conservation and rehabilitation of existing neighborhood structures and facilities. | Community Dev & Planning<br>Urban Redevelopment  |

| Function                         | Function/Program Description   | Sub-Function/Program     | Sub-Function/Program Description   | Office/Department Included (for illustrative purposes only)  |
|----------------------------------|--|--------------------------|--|--|
| Roads & Transportation           | Activities associated with the development and maintenance of the county's transportation systems  | Roads & Bridges          | Activities associated with the building, maintaining or improving roads, highways, streets, tunnels and bridges within the county, including maintenance of road and bridge facilities (barns, yards).   | Roads & Bridges<br>Transportation Services<br>Right of Way Acquisition<br>Toll Roads               |
|                                  |  | Public Transportation    | Activities associated with the provision of mass transit systems within the county.  | Airports<br>Busses<br>Ports  |
| Environmental Services           | Activities designed to promote the conservation and development of natural resources and activities associated with providing sanitation services within the county. | Conservation & Resources | Activities designed to conserve and develop such natural resources as water, soil, forests and minerals.   | Natural Resources<br>Environmental Analysis<br>Agricultural Extension<br>Soil & Water Conservation |
|                                  |  | Sanitation               | Activities associated with the removal and disposal of sewage and other types of waste including waste water and storm sewer construction and maintenance, landfills, transfer stations and OSSF licensing.  | Waste Collection & Disposal<br>Street Cleaning<br>Health Inspections                               |
|                                  |  | Waste Recycling          | Activities designed to promote, develop and provide recycling services in the county.  | Waste Recycling Programs   |
| Culture, Recreation, & Education | Cultural and recreational activities maintained for the benefit of residents and visitors of the county.   | Parks & Recreation       | Activities associated with providing public parks, and other recreational facilities (such as swimming pools and tennis courts) within the county and activities associated with providing recreational activities (such as organized athletics, individual participant sports and indoor and outdoor games of various kinds). | Parks<br>Recreational Services<br>Cultural Services  |
|                                  |  | Libraries                | Activities involved in the administration of public libraries within the county including library extensions and special collections.  | Libraries  |
|                                  |  | Education                | Activities designed to provide educational opportunities for the citizens of the county.   | Educational Services<br>Historical Commission  |
|                                  |  | Spectator Recreation     | Activities associated with recreational facilities benefiting the public as spectators including but not limited to exposition centers, civic centers, coliseums, zoos, etc.   | Exposition Center<br>Civic Centers<br>Coliseums<br>Zoos<br>Sports Venues                           |

**County Name, Texas**  
**Detail Statement of Activities**  
**For the Year Ended September 30, 2002**

| Functions/Programs                        | Program Revenues |                      |                                    | Net (Expense) Revenue and Changes in Net Assets |                         | Component Units |                          |
|---|------------------|----------------------|------------------------------------|---|-------------------------|-----------------|--------------------------|
|   | Expenses         | Charges for Services | Operating Grants and Contributions | Capital Grants and Contributions                | Governmental Activities |                 | Business-type Activities |
|   |                  |                      |                                    |   |                         |                 |                          |
| <b>Primary Government:</b>                |                  |                      |                                    |   |                         |                 |                          |
| Governmental activities:                  |                  |                      |                                    |   |                         |                 |                          |
| <u>General government</u>                 |                  |                      |                                    |   |                         |                 |                          |
| General administration                    |                  |                      |                                    |   |                         |                 |                          |
| Financial administration                  |                  |                      |                                    |   |                         |                 |                          |
| Facilities Management                     |                  |                      |                                    |   |                         |                 |                          |
| Election administration                   |                  |                      |                                    |   |                         |                 |                          |
| Other general government                  |                  |                      |                                    |   |                         |                 |                          |
| <u>Justice system</u>                     |                  |                      |                                    |   |                         |                 |                          |
| Criminal Justice                          |                  |                      |                                    |   |                         |                 |                          |
| Civil Justice                             |                  |                      |                                    |   |                         |                 |                          |
| Other Justice System                      |                  |                      |                                    |   |                         |                 |                          |
| <u>Law enforcement</u>                    |                  |                      |                                    |   |                         |                 |                          |
| <u>Corrections and rehabilitation</u>     |                  |                      |                                    |   |                         |                 |                          |
| Housing and booking                       |                  |                      |                                    |   |                         |                 |                          |
| Supervision                               |                  |                      |                                    |   |                         |                 |                          |
| <u>Juvenile services</u>                  |                  |                      |                                    |   |                         |                 |                          |
| <u>Health and human services</u>          |                  |                      |                                    |   |                         |                 |                          |
| Health services                           |                  |                      |                                    |   |                         |                 |                          |
| Human services                            |                  |                      |                                    |   |                         |                 |                          |
| <u>Community and economic development</u> |                  |                      |                                    |   |                         |                 |                          |
| Economic development                      |                  |                      |                                    |   |                         |                 |                          |
| Housing and Urban development             |                  |                      |                                    |   |                         |                 |                          |
| <u>Roads and transportation</u>           |                  |                      |                                    |   |                         |                 |                          |
| Roads and bridges                         |                  |                      |                                    |   |                         |                 |                          |
| Public transportation                     |                  |                      |                                    |   |                         |                 |                          |
| <u>Environmental services</u>             |                  |                      |                                    |   |                         |                 |                          |
| Natural Resources                         |                  |                      |                                    |   |                         |                 |                          |
| Sanitation                                |                  |                      |                                    |   |                         |                 |                          |
| Waste Recycling                           |                  |                      |                                    |   |                         |                 |                          |
| Flood Control                             |                  |                      |                                    |   |                         |                 |                          |



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Notice of Award

Pursuant to Chapter 2254, Chapter B, and Sections 403.011 and 403.020 Texas Government Code, the Comptroller of Public Accounts (Comptroller) announces this notice of consulting contract award.

The notice of request for proposals (RFP #139a) was published in the March 22, 2002, issue of the *Texas Register* (27 TexReg 2298).

The consultant will assist Comptroller in conducting a management and performance review of the Austin Community College.

The contract was awarded to McConnell Jones Lanier & Murphy LLP, Summit Tower, 11 Greenway Plaza, Suite 2902, Houston, Texas 77046. The total amount of this contract is not to exceed \$300,000.00.

The term of the contract is May 15, 2002 through December 31, 2002. The final report is due on or before September 5, 2002.

TRD-200203070

Pamela Ponder

Deputy General Counsel for Contracts

Comptroller of Public Accounts

Filed: May 17, 2002

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**Office of Consumer Credit Commissioner**

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in 303.003, 303.009, and 304.003, Tex. Fin. Code.

The weekly ceiling as prescribed by Sec. 303.003 and Sec. 303.009 for the period of 05/27/02 - 06/02/02 is 18% for Consumer <sup>1</sup>/Agricultural/Commercial <sup>2</sup>/credit thru \$250,000.

The weekly ceiling as prescribed by Sec. 303.003 and Sec. 303.009 for the period of 05/27/02 - 06/02/02 is 18% for Commercial over \$250,000.

The judgment ceiling as prescribed by Sec. 304.003 for the period of 06/01/02 - 06/30/02 is 10% for Consumer/Agricultural/Commercial/credit thru \$250,000.

The judgment ceiling as prescribed by Sec. 304.003 for the period of 06/01/02 - 06/30/02 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-200203107

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: May 21, 2002

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**Court Reporters Certification Board**

Certification of Court Reporters

Following the examination of applicants on April 26, 2002, the Texas Court Reporters Certification Board certified to the Supreme Court of Texas the following individuals who are qualified in the method indicated to practice shorthand reporting pursuant to Chapter 52 of the Texas Government Code, V.T.C.A.:

MACHINE SHORTHAND: AMELIA GUILLEN- SAN ANTONIO, TX; DELORES JOHNSON-HOUSTON, TX; LICHE CAVAZOS-SAN ANTONIO, TX; DIANA VARGAS- SAN ANTONIO, TX; DARLENE FORVILLE- CONROE, TX; ANNE SITKA- HOUSTON, TX; ANGEL HAZLEY- DALLAS, TX; OTILIA MARTINEZ SERNA- CORPUS CHRISTI, TX; LEANNA LYNCH- DALLAS, TX; MARY MATZEK- PLANO, TX; LISA GONZALES- FRISCO, TX; RENEA SEGGERN- TAYLOR, TX; SHERRY HOOPER- GARLAND, TX; STEFANI DUONG- IRVING, TX; LANRE BUSARI-DALLAS, TX; AMBER GRIFFITH- DENISON, TX; MARIA CARAVEO- EL PASO, TX; EMILY BLEDSOE- FT. WORTH, TX; JENNIFER STITZ- ARLINGTON, TX; NANCY RUSTEMAYER-ARLINGTON, TX; SANDRA MAXWELL- FT. WORTH, TX; SAMANTHA BLAIR- COPPELL, TX

TRD-200203093

Sheryl Jones

Director of Administration

Court Reporters Certification Board

Filed: May 20, 2002

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**Credit Union Department**

Application(s) to Expand Field of Membership

Notice is given that the following applications have been filed with the Credit Union Department and are under consideration:

An application was received from Associated Credit Union, Deer Park, Texas to expand its field of membership. The proposal would permit persons who work or reside within a 10-mile radius of the following ACU branch locations: 309 West X Street, Deer Park, Texas 77536; 6306 Broadway, Pearland, Texas 77581; 10228 Broadway, Pearland, Texas 77581; and 3775 South Main, Pearland, Texas, to be eligible for membership in the credit union, excluding any person eligible for primary membership in any occupational based credit union at the time membership is sought.

An application was received from Houston Energy Credit Union, Houston, Texas to expand its field of membership. The proposal would permit employees of Kinder Morgan who work in or are supervised from Houston, Texas, to be eligible for membership in the credit union.

An application was received from Houston Energy Credit Union, Houston, Texas to expand its field of membership. The proposal would permit employees of Royal Window Coverings who work at or are paid from or supervised from Houston, Texas, to be eligible for membership in the credit union.

An application was received from Kraft America, Garland, Texas, to expand its field of membership. The proposal would permit employees of the subsidiaries, affiliates or successors of any Select Employee Group included within Kraft America's field of membership to be eligible for membership in the credit union.

An application was received from MemberSource Credit Union, Houston, Texas to expand its field of membership. The proposal would permit employees of US Oncology who work in or are paid or supervised from Houston, Texas, 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 or downloading the form at <http://www.tcud.state.tx.us/applications.html>. 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-200203146  
Harold E. Feeney  
Commissioner  
Credit Union Department  
Filed: May 22, 2002

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## Texas Commission for the Deaf and Hard of Hearing

### Request for Proposals

The Texas Commission for the Deaf and Hard of Hearing announces the issuance of a Request for Proposals (RFP) to expand or otherwise improve the provision of services to individuals who are hard of hearing, deafened or oral deaf.

TCDHH intends to fund projects providing ongoing services in 1 or all of the following areas:

- 1) Projects that provide ongoing Outreach and Demonstration of Assistive Devices for persons who are hard of hearing, deafened or oral deaf, enabling these individuals to lead more independent and productive lives.
- 2) Projects that provide ongoing Coping Skills Services such as, but not limited to:
  - a. hearing aid information
  - b. lipreading information
  - c. technology information
  - d. resources
  - e. communication strategies
- 3) Projects that provide re-conditioned hearing aids, enabling persons who are low-income and hard of hearing to obtain a device at little or no cost.

#### Contact:

Parties interested in submitting a proposal should contact the office of the Texas Commission for the Deaf and Hard of Hearing, P.O. Box 12904, Austin, Texas 78711, 512-407-3250 (Voice) or 512-407-3251 (TTY), to obtain a complete copy of the RFP. The RFP is also available for pick-up at the Commission office, 4800 North Lamar, Suite 310, Austin, Texas 78756 during normal business hours. The RFP is not available through fax.

#### Closing Date:

Proposals must be received in the office of the Texas Commission for the Deaf and Hard of Hearing, 4800 North Lamar, Suite 310, Austin, Texas 78756, no later than 5 p.m. (CDT), on June 28, 2002. Proposals received after this time and date will not be considered.

#### Award Procedure:

All proposals will be subject to an evaluation by a review committee based on the evaluation criteria set forth in the RFP. The committee will determine which proposal best meets these criteria and will make a recommendation for award to the Executive Director who will then make a recommendation for award to the Commission. The Commission will make the final decision. Applicants may be asked to clarify

their proposal, which may include an oral presentation prior to final selection.

The Commission reserves the right to accept or reject any or all proposals submitted. The Texas Commission for the Deaf and Hard of Hearing is under no legal or other obligation to execute a grant on the basis of this notice or the distribution of a RFP. Neither this notice nor the RFP commits the Commission to pay for any costs incurred prior to the execution of a grant. The anticipated schedule of events is as follows:

Estimated number of awards: 3

Maximum award amount (per year): \$12,000

Estimated project period (months): 12

Application Deadline: June 28, 2002 at 5 p.m.

Grant Execution: September 1, 2002

TRD-200203122

David W. Myers  
Executive Director

Texas Commission for the Deaf and Hard of Hearing  
Filed: May 22, 2002

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## Texas Ethics Commission

### List of Late Filers

Listed below are the names of filers from the Texas Ethics Commission who did not file reports, or failed to pay penalty fines for late reports in reference to the listed filing deadline. If you have any questions, you may contact Robbie Miller at (512) 463-5800 or (800) 325-8506.

#### **Deadline: 30 Days Before An Election Report due April 4, 1994**

Enrique M. Barrera, Edgewood PAC, 6435 Buena Vista, San Antonio, Texas 78237

#### **Deadline: 8 Days Before An Election Report due April 29, 1994**

Enrique M. Barrera, Edgewood PAC, 6435 Buena Vista, San Antonio, Texas 78237

#### **Deadline: 30 Days Before An Election Report due April 8, 1996**

Enrique M. Barrera, Edgewood PAC, 6435 Buena Vista, San Antonio, Texas 78237

#### **Deadline: 8 Days Before An Election Report due April 26, 1996**

Enrique M. Barrera, Edgewood PAC, 6435 Buena Vista, San Antonio, Texas 78237

#### **Deadline: 30 Days Before An Election Report due April 3, 1997**

Enrique M. Barrera, Edgewood PAC, 6435 Buena Vista, San Antonio, Texas 78237

#### **Deadline: 8 Days Before An Election Report due April 25, 1997**

Enrique M. Barrera, Edgewood PAC, 6435 Buena Vista, San Antonio, Texas 78237

#### **Deadline: Semiannual GPAC Report due January 15, 1998**

Enrique M. Barrera, Edgewood PAC, 6435 Buena Vista, San Antonio, Texas 78237

#### **Deadline: Semiannual GPAC Report due July 15, 1998**

Enrique M. Barrera, Edgewood PAC, 6435 Buena Vista, San Antonio, Texas 78237

**Deadline: Semiannual GPAC Report due January 15, 1999**

Enrique M. Barrera, Edgewood PAC, 6435 Buena Vista, San Antonio, Texas 78237

**Deadline: Semiannual GPAC Report due July 15, 1999**

Enrique M. Barrera, Edgewood PAC, 6435 Buena Vista, San Antonio, Texas 78237

**Deadline: Semiannual GPAC Report due January 16, 2001**

Mike Hyko, Longview Police Officer's Assn., P.O. Box 1453, Longview, Texas 75601

Lance R. West, Lead America Political Action Committee, 2707 Elizabeth Dr., Brownwood, Texas 76801

**Deadline: Semiannual J/COH Report due July 16, 2001**

Bobby E. Hearn Jr., 5909 Springtide Dr., Fort Worth, Texas 76135

**Deadline: Semiannual GPAC Report due July 16, 2001**

Johnny Atkinson, Committee For Better Education, HC 1 Box 624A, Goodrich, Texas 77335-9704

Richard A. Solo, 8th District Democrats, P.O. Box 802048, Dallas, Texas 75380-2048

Vance J. Beaudreau, Southern Independent Party, 1605 E. William J. Bryan Pkwy, Bryan, Texas 77803

**Deadline: Semiannual J/COH Report due January 15, 2002**

Lynda Akin, 5868 Westheimer Rd #302, Houston, Texas

Eric G. Andell, 400 Maryland Ave. S.W., Washington, DC 20202-0001

John G. Anderson, P.O. Box 984, Tomball, Texas 77377-0984

Kathleen Ballanfant, 5160 Spruce, Bellaire, Texas 7740177057-5641

Donna Ballard, 4009 Ridgcrest Trail, Carrollton, Texas 75007-1625

Boyd W. Bauer, P.O. Box 1436, Beeville, Texas 78104

Burgess Beall, 2428 Central Ave. #201, Alameda, CA 94501-4536

Stephen P. Birch, 4912 Haverwood Lane Apt. 818, Dallas, Texas 75287-4422

Howard Bridges Jr., 434 W. Kiest Blvd #100, Dallas, Texas 75224

James R. Bridges, 5447 Willis, Dallas, Texas 75206

Maria D. Burbridge, 7202 Smokey Hill Rd, Austin, Texas 78736

Mary D. Guevara Capello, P.O. Box 6031, Laredo, Texas 78042-6031

Shannon L. Carr, 800 N. LBJ Dr. #1234, San Marcos, Texas 78666

Shene Casey, 256 CR 3101, Greenville, Texas 75402

Billy Clemons, P.O. Box 1306, Groveton, Texas 75845

Susan Criss, 8110 Catalpa, Texas City, Texas 77591

Chloe N. Daniel, P.O. Box 810570, Dallas, Texas 75381-0570

Jeanne M. Doogs, 300 Trinidad Ct., Fort Worth, Texas 76126

Russell L. Duerstine II, P.O. Box 175, Mertzon, Texas 76941-0175

Deborah Dunsinger, 450 El Dorado #1303, Webster, Texas 77598

Philip L. Durgin, 31 Laurel Hill, Austin, Texas 78737-9309

William M. Eastland, P.O. Box 13162, Arlington, Texas 76094-0162

Dan Engel, 2608 Greenwood, Arlington, Texas 76013

Jack D. Ewing, 2938 Meadowbrook Dr., League City, Texas 77573

Baltazar Garcia, 712 McDaniel, Houston, Texas 77022

Edward T. Garcia, P.O. Box 3202, Freeport, Texas 77541

Juan A. Garcia, 1101 S. Cameron, Alice, Texas 78332

Mario Garcia, 735 W. 10th, Mercedes, Texas 78570

Edgar J. Garrett Jr., P.O. Box 465, Cooper, Texas 75432

Thomas L. Gatton, 2320 Southwest Fwy #C, Houston, Texas 77098

Le Roy F. Gillam, 9393 Tidwell Apt. #1211, Houston, Texas 77078-3436

Samuel Gonzalez, 15721 Maiden Lane, Houston, Texas 77053

Arthur Granado, P.O. Box 638, Corpus Christi, Texas 78403

William E. Grisham, 1424 Fredericksburg Rd, San Antonio, Texas 78247

J. David Gutierrez, 3720 Jackson St. #100, Irving, Texas 75061

Anton E. Hackebeil, P.O. Box 220, Hondo, Texas 78861-0220

David M. Hart, P.O. Box 79034, Saginaw, Texas 76179

Bobby E. Hearn Jr., 5909 Springtide Dr., Fort Worth, Texas 76135

Robert Ashton Herrera, 9607 Wildwood Ridge, San Antonio, Texas 78250

Samuel W. Hudson III, P.O. Box 150972, Dallas, Texas 75315-0972

Elizabeth C. Jandt, 112 N. Austin St., Seguin, Texas 78155

Brandon Steele Johnston, Rt 5 Box 512, Big Sandy, Texas 75755

Stephen Kyle Johnston, 678 Fawn Drive, Houston, Texas 77015

David A. Jones, 733 W. 43rd St., Houston, Texas 77018

Dennis Jones, P.O. Box 1027, Lufkin, Texas 75902

V. Sue Koenig, 1803 Silverado Dr., Weatherford, Texas 76087

S. Christopher LaRue, 10878 Westheimer Rd #373, Houston, Texas 77042-3202

David M. Leibowitz, 111 Soledad St. Ste. 2000, San Antonio, Texas 78205-2293

Napoleon Madrid, 7811 Wild Eagle, San Antonio, Texas 78255

Raymundo Mancera, 2319 Tremont Ave., El Paso, Texas 79930-1113

Alberto T. Martinez, P.O. Box 549, San Diego, Texas 78384

Ricardo A. Martinez, 154 Todd St., San Antonio, Texas 78214

Michael E. McLelland, 918 Antelope, Corpus Christi, Texas 78401

Steve Mendoza, P.O. Box 291216, San Antonio, Texas 78229-1216

Norbon E. Mitchell, 1709 Martel, Fort Worth, Texas 76103

William E. Muirhead, 158 Countrywood Est., Cleveland, Texas 77327

Alice Oliver-Parrott, 480 Thunder Canyon Rd, Canyon Lake, Texas 78133-5459

Morris L. Overstreet, 905 Congress Ave., Austin, Texas 78701

James Partsch-Galvan, 1611 Holman, Houston, Texas 77004

Robert L. Penrice, 2000 Professional Bldg, Loop 197, Texas City, Texas 77590

Stephen R. Pipkin, P.O. Box 372, Spring, Texas 77383

Fernando R. Ramirez, 2735 Lakeshore Dr., Port Arthur, Texas 77640

Nathan Reid, P.O. Box 901, Sugar Land, Texas 77487  
Daniel Rivas, P.O. Box 36122, Houston, Texas 77236-6122  
Rafael Rodriguez, 4555 Black Rock, Dallas, Texas 75211  
Christina M. Ryan, 27129 Paula Lane, Conroe, Texas 77385  
James G. Samek Jr., P.O. Box 12, Spring, Texas 77383-0012  
Victor Smith, 1423 W. Red Bird Lane, Dallas, Texas 75232  
Juan F. Solis III, 907 W. Kirk, San Antonio, Texas 78226  
Charles L. Tilton II, 1123 Timber Elm, Seguin, Texas 78155  
Rudy G. Vasquez, P.O. Box 3664, Houston, Texas 77253-3664  
Melva Washington-Becnel, 2403 Arbor, Houston, Texas 77004  
Larry M. Wessels, P.O. Box 340, LaGrange, Texas 78945  
Roger Williams, P.O. Box 518, Weatherford, Texas 76086  
Ron Wilson, P.O. Box 2910, Austin, Texas 78768  
Paul Womack, P.O. Box 774, Georgetown, Texas 78627  
Michael Yarbrough, 1314 Texas Ave. #515, Houston, Texas 77002

**Deadline: Semiannual GPAC Report due January 15, 2002**

Sheila A. Holbrook-White, Texas Citizen Action PAC, P.O. Box 10231, Austin, Texas 78756  
Richard M. Lannen, Jesse Oliver Campaign, 3800 Marin St., Suite E, Dallas, Texas 75226  
Josephine Z. Chavez, Texas Political & Legislative Committee, USA District #12 PAC Fund, 12821 Industrial Rd, Houston, Texas 77015  
Joe P. Barnett, Citizens For Honesty In Taxation, P.O. Box 13162, Arlington, Texas 76094  
G. Daniel Mena, Unity 94 El Paso County, 3233 N. Piedras, El Paso, Texas 79930-3703  
Mary K. Misko, San Antonio PAC, 602 E. Commerce, San Antonio, Texas 78205  
Jack Baxley, Fort Worth Associated General Contractors PAC, 417 Fulton St., Fort Worth, Texas 76104  
Charles M. Miles, Black Voter Action Project, 7204 Marywood Cr., Austin, Texas 78723  
Vicki L. Hoover, Rockwall County Democratic Party PAC, 6209 Scenic Dr., Rowlett, Texas 75088  
Ginger Harriel, Wichita Falls Police Officers Assn. PAC, P.O. Box 2561, Wichita Falls, Texas 76304  
Steven A. Bennett, Friends of Sandy Kress, John Sharp, Paul Hobby, David Cain & Royce West, 1700 Pacific Ave., #4100, Dallas, Texas 75201  
William M. Eastland, Texans For Freedom, P.O. Box 13162, Arlington, Texas 76094-0162  
Alfred Adask, Equity Under All Law, 9794 Forest Lane #159, Dallas, Texas 75243  
David W. Gilbreath, Taxpayers For Economic Accountability, 801 Norton, Mesquite, Texas 75149  
Fred Lehmann, Grayson County Democratic Party PAC, 100 N. Travis St. #206, Sherman, Texas 75090-0014  
Eartha Dotson, Galveston County Democrats Club, 1405 Appomattox Dr., Texas City, Texas 77591

Vidal G. DeLeon, McLennan County Mexican Americans For Better Government PAC, 1619 Baylor Ave., Waco, Texas 76706  
Pat Stevens, South Denton County PAC, 2025 Aspen Dr., Highland Village, Texas 75067  
Keith Hogan, Friends Of Education, P.O. Box 81, Victoria, Texas 77902  
William M. Eastland, Texans For Freedom In Education, P.O. Box 13162, Arlington, Texas 76094-0162  
William M. Eastland, Free Republican Caucus, P.O. Box 13162, Arlington, Texas 76094-0162  
Ernest Martinez, Democratic Party Of Bexar County, 301 S. Frio #163, San Antonio, Texas 78207  
J. R. Tyson, DOG PAC, P.O. Box 1326, Alvin, Texas 77512  
H. J. Johnson, Pleasant Wood Pleasant Grove PAC, P.O. Box 150408, Dallas, Texas 75305-0408  
Janice L. Burkholder, Pathfinders Republican Women's Club, 21 Towering Pines Dr., The Woodlands, Texas 77381  
Richard A. Solo, 8th District Democrats, 4107 Harvest Hill Rd Apt. 1187, Dallas, Texas 75244-6321  
Terry Zettle, Irving Police Assn. PAC, 845 Falcon Lane, Coppell, Texas 75019-5923  
Kenneth Stinson, Glass, Molders, Pottery, Plastics & Allied Workers International Union Local Union #284, 208 Eckman, Longview, Texas 75602  
Roberto A. Calderon, El Paso County Sheriff's Officers Assn., Inc., 11536 Spencer, El Paso, Texas 79936  
William E. Muirhead, Muirhead Election Committee, 158 Countrywood Est., Cleveland, Texas 77327  
Joe P. Barnett, Independent Committee Supporting John B. Hawley For Supreme Court, Pl. 1, P.O. Box 13162, Arlington, Texas 76094  
Edward T. Wendler Sr., 21st Century Democrats, 106 Golden Cove, Kyle, Texas 78640  
Fred Lehmann, Texoma PAC, 100 N. Travis St. #206, Sherman, Texas 75090-0014  
Randhir Sahni, Indo American PAC, 1990 Post Oak Blvd #1200, Houston, Texas 77056-3812  
Caryl Bunton, ASSIST PAC, P.O. Box 55763, Houston, Texas 77255  
Rayette M. Fulk, Houston Friends For Better Education, 1220 Augusta, Houston, Texas 77057  
Rayette M. Fulk, Houston Friends For Good State Government, 1220 Augusta, Houston, Texas 77057  
Rayette M. Fulk, Houston Citizens For Better Education, 1220 Augusta, Houston, Texas 77057  
Rayette M. Fulk, Houston Taxpayers For Better Education, 1220 Augusta, Houston, Texas 77057  
Rayette M. Fulk, Houston Education Fund, 1220 Augusta, Houston, Texas 77057  
Michael H. Jones, Voice Of The Elephant, 5744 Danciger Dr., Fort Worth, Texas 76112-3951  
Kenneth M. Bryan, Third Coast, 1122 Colorado #2105, Austin, Texas 78701



Rayette M. Fulk, Houston Parents For Better Education, 1220 Augusta, Houston, Texas 77057

Arnold Pedraza, American Hispanics On Reform & Accountability, P.O. Box 3916, McAllen, Texas 78502

Tom Willich, Lockheed Martin IMS Good Government Committee, 1200 K St. NW, Washington, DC 20005

Clarence B. Bagby, Houston Historic Preservation PAC, 2003 Kane St., Houston, Texas 77007-7612

David Jackson, Republican Communications Network PAC, P.O. Box 703936, Dallas, Texas 75370-3936

Fernando Contreras Jr., Southside Democrats, P.O. Box 37278, San Antonio, Texas 78237-0278

Eric W. Thode, Republican Party Of Fort Bend County (CEC), 231 River Grove Rd, Sugarland, Texas 77478-4749

Nancy Hrobar, Van Zandt County Assn. Of Taxpayers, 14232 FM 773, Ben Wheeler, Texas 75754

Louis T. Getterman III, Williamson County Republican Party General Election Campaign Fund, P.O. Box 1653, Georgetown, Texas 78627

Daniel K. Cook, Green Party Of Dallas/Fort Worth, P.O. Box 2501, Arlington, Texas 76004

Brad Bacom, TALI-PAC, 275 Circle Dr., Bridge City, Texas 77611

Raul E. Ruiz, Stonewall Democrats - Houston, 3730 Kirby Dr. #418, Houston, Texas 77098

Floyd E. Hodges Jr., Texans For Good Government, 280 W. Renner Rd #2611, Richardson, Texas 75081

H. R. Moseley, Vidor Police Assn. PAC, P.O. Box 1266, Mauriceville, Texas 77626

Peter L. Bargmann, Judicial Elections For Texas PAC, 660 Preston Forest Center #LB 362, Dallas, Texas 75230-2718

Karen K. Tarry, Doctors For Better Government, 5615 Morningside Dr. #402, Houston, Texas 77005

James R. Reynolds, Texans For Quality Health PAC, 4600 Tamarisk Cove, Austin, Texas 78747

John D. Poole II, Southern Party Of Texas PAC, P.O. Box 7452, Huntsville, Texas 77342

Louise M. Karr, Bandera County Alliance Of Taxpayers, P.O. Box 381, Lakehills, Texas 78063

Anthony R. Godinez, Judge Murray Moore Campaign Committee, 815 Produce Rd, Hidalgo, Texas 78557

David T. LaPlante, San Antonio Coalition Of Politically Active Christians, P.O. Box 460834, San Antonio, Texas 78246

Dwight E. Jefferson, Verner Liipfert Texas PAC, Verner, Liipfert, Bernhard, McPherson, 1111 Bagby Ste. 4700, Houston, Texas 77002

Estefana Martinez, Committee To Elect Jose Menendez, 114 Olga Dr., San Antonio, Texas 78237

Tim Chowdhury, Rio Grande Valley Physicians PAC, 1200 South 2nd St. #12-B, McAllen, Texas 78501-2905

Vance J. Beaudreau, Southern Independent Party, 1605 E. William J. Bryan Pkwy, Bryan, Texas 77803

James Logan, Travis County Republican PAC, 1609 Shoal Creek Blvd, Ste. 204, Austin, Texas 78701

Harry H. Nelson, First Monday PAC, 613 Santa Monica Place, Corpus Christi, Texas 78411

Irene Morales-Russell, Citizens For Legal Ethics And Neutrality, 600 Toronto Ave., Apt. 36, McAllen, Texas 78503-3072

Christopher C. Stevens, Texas Conservative Caucus, 4800 Dakota St., Dickinson, Texas 77539

Leslie J. Baldwin, El Paso Pachyderms Pack Fund, 7900 Viscount Blvd, Apt. 281, El Paso, Texas 79925-5714

Michael J. Warner, Texas Amusement Association PAC, P.O. Box 92167, Austin, Texas 78709

Curtis B. Carden, Texas Tax Relief, 21226 Park Bend Dr., Katy, Texas 77450-4143

John Carpenter, Pecos County Greens, P.O. Box 501, Fort Stockton, Texas 79735-0501

Brande C. Yarnell, Capital Area Democratic Women PAC, 7708 Kincheon Ct., Austin, Texas 78749

John R. King, Committee for Private Property Rights, 5203 CR 1470, Lubbock, Texas 79407

Rene A. Ramirez, South Texans for Proposition 2, 1712 Pin Oak Rd, Edinburg, Texas 78539

Gaylon Hull, KB Home North Texas PAC, 2611 Westgrove, Ste. 101, Carrollton, Texas 75006

**Deadline: Speaker Report due March 1, 2002**

Patrick B. Haggerty, 4529 Monahans, El Paso, Texas 79924

**Deadline: Monthly MPAC Report due November 5, 2001**

Jeffrey J. Benavidez, San Antonio Ironworkers PAC, 4318 Clark Ave., San Antonio, Texas 78223

Don L. King, Sensitive Care PAC, 500 N. Akard St. #3960, Dallas, Texas 75201-6604

Kathleen P. Batchelor, Bedford Leadership Forum, 23251 County Road 460, Mineola, Texas 75773-9799

Leonard T. Dunnahoe, Uncommon Sense, 214 St. Mary's Place, Rockwall, Texas 75087

Chris D. Walling, Friends of Law Enforcement, P.O. Box 276, Wall, Texas 76957

**Deadline: Monthly MPAC Report due December 5, 2001**

Jeffrey J. Benavidez, San Antonio Ironworkers PAC, 4318 Clark Ave., San Antonio, Texas 78223

Raymond R. Hernandez, International Longshoremen's Assn. Local #24, 7811 Harrisburg, Houston, Texas 77012

Don L. King, Sensitive Care PAC, 500 N. Akard St. #3960, Dallas, Texas 75201-6604

Kathleen P. Batchelor, Bedford Leadership Forum, 23251 County Road 460, Mineola, Texas 75773-9799

Leonard T. Dunnahoe, Uncommon Sense, 214 St. Mary's Place, Rockwall, Texas 75087

Chris D. Walling, Friends of Law Enforcement, P.O. Box 276, Wall, Texas 76957

**Deadline: Monthly MPAC Report due January 7, 2002**

Jeffrey J. Benavidez, San Antonio Ironworkers PAC, 4318 Clark Ave., San Antonio, Texas 78223

Jay S. Simpson, Houston Gay & Lesbian Political Caucus PAC, 3911 Marlowe, Houston, Texas 77005

Don L. King, Sensitive Care PAC, 500 N. Akard St. #3960, Dallas, Texas 75201-6604

Kathleen P. Batchelor, Bedford Leadership Forum, 23251 County Road 460, Mineola, Texas 75773-9799

Leonard T. Dunnahoe, Uncommon Sense, 214 St. Mary's Place, Rockwall, Texas 75087

**Deadline: Monthly MPAC Report due February 5, 2002**

Jeffrey J. Benavidez, San Antonio Ironworkers PAC, 4318 Clark Ave., San Antonio, Texas 78223

Mark Wood, Houston Gay & Lesbian Political Caucus PAC, 1701 Hermann Dr. #3402, Houston, Texas 77004

Don L. King, Sensitive Care PAC, 500 N. Akard St. #3960, Dallas, Texas 75201-6604

Leonard T. Dunnahoe, Uncommon Sense, 214 St. Mary's Place, Rockwall, Texas 75087

TRD-200203061

Tom Harrison

Executive Director

Texas Ethics Commission

Filed: May 17, 2002



**Golden Crescent Workforce Development Board**

Public Notice

The Golden Crescent Workforce Development Board will release its Request for Proposals for the operation and management of the Golden Crescent Workforce Centers on May 31, 2002.

The Board is responsible for administering an integrated workforce development system, including job training, employment, and employment-related educational programs.

The geographic area to be served includes Calhoun, DeWitt, Goliad, Gonzales, Jackson, Lavaca, and Victoria Counties.

A complete set of specifications may be obtained from Judy Self at 120 South Main #501, Victoria, Texas, Phone: (361) 576-5872, Fax: (361) 573-0225, or email: judy.self@twc.state.tx.us.

A bidders' conference will be held at 2:30 p.m. CST, on June 11, 2002.

TRD-200203059

Judy Self

Administrative Clerk

Golden Crescent Workforce Development Board

Filed: May 17, 2002



Revised Public Notice

The Golden Crescent Workforce Development Board will release its Request for Proposals for the operation and management of the Golden Crescent Workforce Centers on May 31, 2002.

The Board is responsible for administering an integrated workforce development system, including job training, employment, and employment-related educational programs.

The geographic area to be served includes Calhoun, DeWitt, Goliad, Gonzales, Jackson, Lavaca, and Victoria Counties.

A complete set of specifications may be obtained from Judy Self at 120 South Main #501, Victoria, Texas, Phone: (361) 576-5872, Fax: (361) 573-0225, or email: judy.self@twc.state.tx.us.

A bidders' conference will be held at 2:30 p.m. CST, on **June 10, 2002**.

TRD-200203099

Judy Self

Administrative Clerk

Golden Crescent Workforce Development Board

Filed: May 20, 2002



**Texas Department of Health**

Correction of Error

The Texas Department of Health adopted 25 TAC, §§61.31-61.42, concerning Breast and Cervical Cancer Control Program. The rules were published in the May 17, 2002, issue of the *Texas Register* (27 TexReg 4355).

In the preamble on page 4356, the commenter was incorrectly identified as the "San Antonio Metropolitan Health District". The University of Texas Medical Branch made the comments.

TRD-200203174

Filed: May 23, 2002



Licensing Actions for Radioactive Materials

The Texas Department of Health has taken actions regarding Licenses for the possession and use of radioactive materials as listed in the tables. The subheading "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout Texas" indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.

**NEW LICENSES ISSUED:**

| Location      | Name                               | License # | City          | Amend -ment # | Date of Action |
|---------------|------------------------------------|-----------|---------------|---------------|----------------|
| Dallas        | Retina Foundation of the Southwest | L05528    | Dallas        | 00            | 05/09/02       |
| Magnolia      | South Texas Phoenix Surveys Inc    | L05557    | Magnolia      | 00            | 05/10/02       |
| Texarkana     | Collom & Carney Clinic Association | L05524    | Texarkana     | 00            | 05/02/02       |
| The Woodlands | Advisys Inc                        | L05531    | The Woodlands | 00            | 05/06/02       |

**AMENDMENTS TO EXISTING LICENSES ISSUED:**

| Location        | Name   | License # | City            | Amend -ment # | Date of Action |
|-----------------|--|-----------|-----------------|---------------|----------------|
| Abilene         | National Central Pharmacy                                      | L04781    | Abilene         | 17            | 05/01/02       |
| Abilene         | Physician Reliance Network Inc                                 | L05127    | Abilene         | 03            | 05/02/02       |
| Austin          | US Oncology DBA Austin Cancer Center MLK                       | L01761    | Austin          | 49            | 05/01/02       |
| Austin          | Daughters of Charity Health Services of Austin                 | L00268    | Austin          | 71            | 05/03/02       |
| Austin          | Austin Radiological Association                                | L00545    | Austin          | 96            | 05/06/02       |
| Beaumont        | Christus St Elizabeth Hospital                                 | L00269    | Beaumont        | 86            | 05/06/02       |
| Buda            | Industrial Asphalt Inc   | L05453    | Buda            | 02            | 05/03/02       |
| Clarksville     | East Texas Medical Center Clarksville                          | L02978    | Clarksville     | 17            | 05/14/02       |
| College Station | College Station Hospital LP DBA College Station Medical Center | L02559    | College Station | 41            | 05/09/02       |
| Conroe          | Montgomery County Cardiovascular Association                   | L05151    | Conroe          | 08            | 05/02/02       |
| Dallas          | Saint Paul Medical Center                                      | L01065    | Dallas          | 57            | 05/02/02       |
| Dallas          | Columbia Hospital at Medical City Dallas Subsidiary LP         | L01976    | Dallas          | 137           | 05/08/02       |
| Deer Park       | Oxy Vinyls LP  | L03200    | Deer Park       | 11            | 05/06/02       |
| Denison         | Texoma Heart Group   | L05208    | Denison         | 03            | 05/06/02       |
| Denton          | Network Cancer Care of Denton                                  | L05348    | Denton          | 09            | 05/09/02       |
| El Paso         | El Paso Healthcare System LTD                                  | L02551    | El Paso         | 39            | 05/03/02       |
| El Paso         | El Paso Healthcare System LP                                   | L03395    | El Paso         | 34            | 05/03/02       |
| El Paso         | El Paso Healthcare System LTD                                  | L02715    | El Paso         | 47            | 05/06/02       |
| El Paso         | Tenet Hospitals Limited  | L04758    | El Paso         | 12            | 05/06/02       |
| El Paso         | R E Thomason General Hospital                                  | L00502    | El Paso         | 52            | 05/09/02       |
| Eules           | Cor Specialty Associates of North Texas                        | L05062    | Eules           | 13            | 05/10/02       |
| Fairfield       | East Texas Medical Center Fairfield                            | L05195    | Fairfield       | 02            | 05/03/02       |
| Fort Worth      | All Saints Episcopal Hospital                                  | L02212    | Fort Worth      | 57            | 05/08/02       |
| Galveston       | The University of Texas Medical Branch                         | L05274    | Galveston       | 01            | 05/09/02       |
| Garland         | Garland Physicians Hospital LTD                                | L02333    | Garland         | 26            | 05/10/02       |
| Grapevine       | Baylor Medical Center at Grapevine                             | L03320    | Grapevine       | 18            | 05/15/02       |
| Houston         | Diagnostic Cardiology of Houston                               | L04888    | Houston         | 06            | 05/02/02       |
| Houston         | Syncor International Corporation                               | L01911    | Houston         | 111           | 05/08/02       |
| Houston         | Memorial Hermann Hospital System                               | L00439    | Houston         | 79            | 05/07/02       |
| Houston         | Houston Cardiac Electrophysiology Associates                   | L05090    | Houston         | 04            | 05/09/02       |

CONTINUED AMENDMENTS TO EXISTING LICENSES ISSUED:

| Location      | Name   | License # | City           | Amend-ment # | Date of Action |
|---------------|--|-----------|----------------|--------------|----------------|
| Houston       | Tenet Healthcare LTD                           | L02432    | Houston        | 31           | 05/14/02       |
| Houston       | Columbia/HCA Healthcare Corp                   | L02473    | Houston        | 44           | 05/14/02       |
| Lubbock       | University Medical Center                      | L04719    | Lubbock        | 49           | 05/07/02       |
| Lufkin        | Memorial Medical Center of East Texas          | L01346    | Lufkin         | 70           | 04/30/02       |
| Lufkin        | Piney Woods Healthcare System LP               | L01842    | Lufkin         | 41           | 05/08/02       |
| Mckinney      | Columbia Medical Center Subsidiary LP          | L02415    | Mckinney       | 20           | 05/09/02       |
| Mesquite      | Lone Star HMA                                  | L02733    | Mesquite       | 31           | 05/10/02       |
| Paris         | Saleem Mallick MD PA                           | L05132    | Paris          | 04           | 05/03/02       |
| Richmond      | Polly Ryon Hospital Authority                  | L02406    | Richmond       | 29           | 05/07/02       |
| San Antonio   | Radiology Associates of San Antonio PA         | L05358    | San Antonio    | 06           | 05/08/02       |
| San Antonio   | Radiology Associates of San Antonio PA         | L04927    | San Antonio    | 17           | 05/08/02       |
| San Antonio   | Radiology Associates of San Antonio PA         | L04305    | San Antonio    | 29           | 05/08/02       |
| San Antonio   | Nix Medical Center                             | L03531    | San Antonio    | 21           | 05/10/02       |
| Sugar Land    | Methodist Health Centers                       | L05472    | Sugar Land     | 01           | 05/02/02       |
| Sugar Land    | Methodist Health Centers                       | L05472    | Sugar Land     | 02           | 05/14/02       |
| The Woodlands | Memorial Hospital The Woodlands                | L03772    | The Woodlands  | 31           | 05/08/02       |
| Throughout Tx | City of Abilene Housing Authority              | L05459    | Abilene        | 02           | 05/07/02       |
| Throughout Tx | XRay Inspection Inc                            | L05275    | Beaumont       | 20           | 05/02/02       |
| Throughout Tx | All Tech Inspection                            | L04974    | Corpus Christi | 08           | 05/03/02       |
| Throughout Tx | Texas Radiation Physics Associates Inc         | L04152    | Dallas         | 09           | 05/01/02       |
| Throughout Tx | Syncor International Corporation               | L02048    | Dallas         | 105          | 05/13/02       |
| Throughout Tx | Professional Services Industries Inc           | L02476    | El Paso        | 16           | 05/13/02       |
| Throughout Tx | Belding Farms                                  | L02837    | Fort Stockton  | 07           | 05/13/02       |
| Throughout Tx | Texas Christian University                     | L01096    | Fort Worth     | 34           | 05/10/02       |
| Throughout Tx | Computalog Wireline Services Inc               | L04286    | Fort Worth     | 43           | 05/10/02       |
| Throughout Tx | H & G Inspection Company Inc                   | L02181    | Houston        | 148          | 05/02/02       |
| Throughout Tx | Metco  | L03018    | Houston        | 122          | 05/03/02       |
| Throughout Tx | Cooperheat-MQS Inc                             | L00087    | Houston        | 95           | 05/09/02       |
| Throughout Tx | Schlumberger Technology Corporation            | L00109    | Houston        | 44           | 05/07/02       |
| Throughout Tx | Longview Inspection Inc                        | L01774    | La Porte       | 179          | 05/13/02       |
| Throughout Tx | Reeves Wireline Services Inc                   | L04405    | Midland        | 11           | 05/14/02       |
| Throughout Tx | Zachry Construction Corporation                | L05230    | San Antonio    | 06           | 05/02/02       |
| Throughout Tx | GCT Inspection Inc                             | L02378    | South Houston  | 63           | 05/06/02       |
| Throughout Tx | GCT Inspection Inc                             | L02378    | South Houston  | 64           | 05/07/02       |
| Tyler         | The University of Texas Health Center at Tyler | L04117    | Tyler          | 28           | 05/01/02       |
| Tyler         | East Texas Medical Center                      | L00977    | Tyler          | 92           | 05/15/02       |
| Tyler         | Trinity Mother Frances Health System           | L01670    | Tyler          | 94           | 05/09/02       |
| Waco          | Waco Cardiology Associates                     | L05158    | Waco           | 04           | 05/14/02       |
| Webster       | CHCA Clear Lake LP                             | L01680    | Webster        | 51           | 05/06/02       |
| Wichita Falls | United Regional Health Care System Inc         | L00350    | Wichita Falls  | 82           | 05/10/02       |

RENEWALS OF EXISTING LICENSES ISSUED:

| Location       | Name                                       | License # | City           | Amend -ment # | Date of Action |
|----------------|--|-----------|----------------|---------------|----------------|
| Bay City       | Celanese LTD                               | L00246    | Bay City       | 37            | 05/02/02       |
| Corpus Christi | Driscoll Childrens Hospital                | L04606    | Corpus Christi | 23            | 04/29/02       |
| Granbury       | Granbury Hospital Corporation              | L02903    | Granbury       | 24            | 05/02/02       |
| Houston        | Exxonmobil Upstream Research Company       | L00205    | Houston        | 53            | 05/13/02       |
| Throughout Tx  | Radiation Consultants Inc                  | L02179    | Deer Park      | 34            | 05/10/02       |
| Throughout Tx  | Monitoring Services                        | L04501    | Friendswood    | 05            | 05/06/02       |
| Throughout Tx  | French Engineering Inc                     | L04572    | Houston        | 03            | 05/15/02       |
| Throughout Tx  | Non Destructive Inspection Corporation     | L02712    | Lake Jackson   | 99            | 05/13/02       |
| Throughout Tx  | United Surveys Inc                         | L01570    | Rosenberg      | 18            | 05/09/02       |
| Throughout Tx  | Grimes and Associates Consulting Engineers | L04616    | Wolfforth      | 06            | 05/13/02       |

TERMINATIONS OF LICENSES ISSUED:

| Location      | Name   | License # | City        | Amend -ment # | Date of Action |
|---------------|--|-----------|-------------|---------------|----------------|
| Houston       | City of Houston Department of Public Works & Engineering Water Quality Control Section | L02175    | Houston     | 10            | 05/03/02       |
| Houston       | Nuoncology Labs Inc  | L04978    | Houston     | 03            | 05/14/02       |
| Throughout Tx | King Fisher Marine Service Inc   | L05259    | Port Lavaca | 01            | 05/03/02       |

LICENSE EXEMPTION ISSUED:

| Location | Name                            | License # | City    | Amend -ment # | Date of Action |
|----------|---------------------------------|-----------|---------|---------------|----------------|
| Garland  | Garland Physicians Hospital LTD | L02333    | Garland |               | 05/01/02       |

In issuing new licenses, amending and renewing existing licenses, or approving exemptions to Title 25 Texas Administrative Code (TAC) Chapter 289, the Texas Department of Health, Bureau of Radiation Control, has determined that the applicants are qualified by reason of training and experience to use the material in question for the purposes requested in accordance with 25 TAC Chapter 289 in such a manner as to minimize danger to public health and safety or property and the environment; the applicants' proposed equipment, facilities and procedures are adequate to minimize danger to public health and safety or property and the environment; the issuance of the new, amended, or renewed license (s) or the issuance of the exemption (s) will not be inimical to the health and safety of the public or the environment; and the applicants satisfy any applicable requirements of 25 TAC Chapter 289.

This notice affords the opportunity for a hearing on written request of a licensee, applicant, or person affected within 30 days of the date of publication of this notice. A person affected is defined as a person who demonstrates that the person has suffered or will suffer actual injury or economic damage and, if the person is not a local government, is (a) a resident of a county, or a county adjacent to the county, in which radioactive material is or will be located, or (b) doing business or has a legal interest in land in the county or adjacent county. A licensee, applicant, or person affected may request a hearing by writing Richard A. Ratliff, P.E., Chief, Bureau of Radiation Control (Director, Radiation Control Program), Texas Department of Health, 1100 West 49<sup>th</sup> Street, Austin, Texas 78756-3189. For information call (512) 834-6688.

Susan K. Steeg  
 General Counsel  
 Texas Department of Health  
 Filed: May 20, 2002

TRD-200203096

◆ ◆ ◆  
Notice of Amendment 43 to the Uranium Byproduct Material License of Conoco, Inc.

The Texas Department of Health (department) gives notice that it has amended uranium by-product material license L01634 issued to Conoco, Inc. (mailing address: P.O. Box 309, Falls City, Texas, 78113). Amendment 43 authorizes the licensee to change monitoring well sampling requirements from quarterly to semiannually, and updates standard conditions.

The department's Bureau of Radiation Control, Division of Licensing, Registration and Standards has determined, pursuant to 25 Texas Administrative Code (TAC), Chapter 289, that the licensee has met the standards appropriate to this amendment.

This notice affords the opportunity for a public hearing upon written request by a person affected by the amendment of this license. A written hearing request must be received, from a person affected, within 30 days from the date of publication of this notice in the *Texas Register*. A person affected is defined as a person who demonstrates that the person has suffered or will suffer injury or economic damage and, if the person is not a local government, is (a) a resident of a county, or a county adjacent to the county, in which radioactive material is or will be located; or (b) doing business or has a legal interest in land in the county or adjacent county.

A person affected may request a hearing by writing Richard A. Ratliff, P.E., Chief, Bureau of Radiation Control, Texas Department of Health, 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 to be represented by an attorney, the name and address of the attorney also must be stated. Should no request for a public hearing be timely filed, the license amendment will remain in effect.

A public hearing, if requested, shall be conducted in accordance with the provisions of Texas Health and Safety Code, §401.264, the Administrative Procedure Act (Texas Government Code, Chapter 2001), the formal hearing procedures of the department (25 Texas Administrative Code, §1.21 et seq.), and the procedures of the State Office of Administrative Hearings (1 Texas Administrative Code, Chapter 155).

Copies of all relevant material are available for public inspection and copying at the Bureau of Radiation Control, Texas Department of Health, 8407 Wall Street, Austin, Texas. Information relative to the amendment of this specific radioactive material license may be obtained by contacting Chrissie Toungate, Custodian of Records, Bureau of Radiation Control, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3189; E-mail: Chrissie.Toungate@tdh.state.tx.us; by calling (512) 834-6688; or by visiting 8407 Wall Street, Austin, Texas.

TRD-200203135  
Susan Steeg  
General Counsel  
Texas Department of Health  
Filed: May 22, 2002

◆ ◆ ◆  
Notice of Amendment to the Radioactive Material License of Waste Control Specialists, LLC

Notice is hereby given by the Texas Department of Health (department), Bureau of Radiation Control that it has amended Radioactive

Material License Number L04971 issued to Waste Control Specialists, LLC (WCS) located in Andrews County, Texas, one mile North of State Highway 176; 250 feet East of the Texas/New Mexico State Line; 30 miles West of Andrews, Texas.

The issuance of amendment number 18 changes the mailing address of the licensee as specified on the license document.

The department has determined that the amendment of the license, 25 Texas Administrative Code (TAC), Chapter 289, and the documentation submitted by the licensee provide reasonable assurance that the licensee's radioactive waste facility is sited, designed, operated, and will be decommissioned and closed in accordance with the requirements of 25 TAC, Chapter 289; the amendment of the license will not be inimical to the health and safety of the public or the environment; and the activity represented by the amendment of the license will not have a significant effect on the human environment.

This notice affords the opportunity for a public hearing upon written request within 30 days of the date of publication of this notice by a person affected as required by Texas Health and Safety Code, §401.116 and as set out in 25 TAC, §289.205(f). A "person affected" is defined as a person who demonstrates that the person has suffered or will suffer actual injury or economic damage and, if the person is not a local government, is (a) a resident of a county, or a county adjacent to a county, in which the radioactive material is or will be located; or (b) doing business or has a legal interest in land in the county or adjacent county.

A person affected may request a hearing by writing Mr. Richard A. Ratliff, P.E., Chief, Bureau of Radiation Control, 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 this 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. Should no request for a public hearing be timely filed, the agency action will be final.

A public hearing, if requested, shall be conducted in accordance with the provisions of Texas Health and Safety Code, Chapter 401, the Administrative Procedure Act (Chapter 2001, Texas Government Code), the formal hearing procedures of the department (25 TAC, §1.21 et seq.) and the procedures of the State Office of Administrative Hearings (1 TAC, Chapter 155).

A copy of the license amendment and supporting materials are available for public inspection and copying at the office of the Bureau of Radiation Control, Texas Department of Health, Exchange Building, 8407 Wall Street, Austin, Texas, telephone (512) 834-6688, 8:00 a.m. to 5:00 p.m. Monday-Friday (except holidays). Information relative to inspection and copying the documents may be obtained by contacting Chrissie Toungate, Custodian of Records, Bureau of Radiation Control.

TRD-200203098  
Susan K. Steeg  
General Counsel  
Texas Department of Health  
Filed: May 20, 2002

◆ ◆ ◆  
Notice of Public Hearing on the Children with Special Health Care Needs Services Program Rules

A public hearing to obtain stakeholder input concerning revisions to the Children With Special Health Care Needs (CSHCN) Program rules will be conducted by the Texas Department of Health (department) on June 17, 2002 from 10:00 a.m. to 3:00 p.m., in the Public Hearing Room, Riata Building, 12545 Riata Vista Circle, Austin, Texas 78727.

Comments are requested related to changes in the CSHCN program eligibility guidelines; limitation of some services; and revision to the procedure for removing clients from the waiting list to receive program services. Possible rule changes will affect 25 Texas Administrative Code (TAC) §§38.2 - Definitions; 38.3 - Eligibility for Client Services; 38.4 - Covered Services; 38.10 - Payment of Services; and 38.12 - Denial, Modification, Suspension, Termination of Eligibility and/or Services.

Verbal or written comments will be accepted by the department at the public hearing on June 17, 2002. Written comments may be provided through the CSHCN website at <http://www.tdh.state.tx.us/cshcn/>. Comments, questions or requests for additional information may also be directed to Anita Freeman, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756 or at (512) 458-7111, ext. 3132.

TRD-200203127  
Susan Steeg  
General Counsel  
Texas Department of Health  
Filed: May 22, 2002



## Notice of Request for Proposals Number 0054 for Administrative and Data Management Services for the Infertility Prevention Project

### INTRODUCTION

The Texas Department of Health (department) requests applications from individuals, governmental entities, and public and private for profit and non-profit organizations to provide administrative support (Part A) and data management services (Part B) for the Prevention of Sexually Transmitted Disease (STD)-Related Infertility Project (IPP).

### PURPOSE

The purpose of the IPP is to prevent STD-caused infertility in women by promoting high quality, interdisciplinary, collaborative STD prevention efforts among relevant health programs and between health programs and communities. The Texas IPP supports a number of sentinel sites across the State of Texas for the screening and treatment for chlamydia and gonorrhea of at risk women, their partners, and certain high-risk males. The purpose of Part A is to provide administrative and technical support to IPP sentinel sites, including but not limited to site recruitment, site reviews, training, and report preparation. The purpose of Part B is to provide data management services, including but not limited to creation and maintenance of files of data collected from IPP sites; analysis and electronic transmission of the data; and preparation of semiannual and annual reports.

### ELIGIBLE APPLICANTS

Eligible applicants for Parts A and B include individuals, governmental entities, and public and private for profit and non-profit organizations. If applicant is currently debarred, suspended, or otherwise excluded or ineligible for participation in Federal or State assistance programs, applicant is ineligible to apply for funds under this (Request for Proposals (RFP)). Applicants may apply for Part A or Part B or both.

### AVAILABILITY OF FUNDS

Approximately \$186,229 is expected to be available to fund two projects, one each for Parts A and B, for the period January 1, 2003, to December 31, 2003.

### DEADLINE

The applicant must submit the original and six copies of the application on or before 5:00 p.m., Central Daylight Saving Time, August

5, 2002, to Ms. Sundee McKnight, Bureau of HIV and STD Prevention, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199. Applications received after the deadline may be rejected as untimely, at the sole discretion of the department.

### FOR INFORMATION

For information concerning this application, applicants should contact Ms. Sundee McKnight at the Bureau of HIV and STD Prevention at (512) 490-2525, extension 2639, or via Email at [sundee.mcknight@tdh.state.tx.us](mailto:sundee.mcknight@tdh.state.tx.us).

TRD-200203128  
Susan Steeg  
General Counsel  
Texas Department of Health  
Filed: May 22, 2002



## Notice of Rescission of Order on D.J. Contractors, Inc.

Notice is hereby given that the Bureau of Radiation Control, Texas Department of Health, rescinded the following order: Revocation Order issued February 28, 2002, to D.J. Contractors, Inc., 1617 East Missouri, El Paso, Texas 79902, holder of Radioactive Material License Number L04635.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Texas Department of Health, the Exchange Building, 8407 Wall Street, Austin, Texas, telephone (512) 834-6688, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

TRD-200203136  
Susan Steeg  
General Counsel  
Texas Department of Health  
Filed: May 22, 2002



## Notice of Request for Proposals for the School Health Program's 2002/2003 School Year

### INTRODUCTION

The Texas Department of Health (department) School Health Program announces the expected availability of approximately \$125,000 of fiscal year 2003 Maternal and Child Health Block Grant funds to provide start-up funding for one model school-based health center that delivers primary and preventive health services and related social services to a school-age population on a school campus. Eligible applicants are school districts, charter schools, and school district cooperatives. The maximum funding available to the selected applicant's school-based health center project for the first budget period is \$125,000. It is expected that the contract will begin on or about December 1, 2002, and will be made for a nine month budget period within a project period of three years.

### DESCRIPTION OF ACTIVITIES

Funding is available for school-based health centers that deliver primary and preventive health services and related social services to a school-age population on a school campus.

### ELIGIBLE APPLICANTS

Eligible applicants are school districts, charter schools, and school district cooperatives.

### AVAILABILITY OF FUNDS

Approximately \$125,000 of fiscal year 2003 Maternal and Child Health Block Grant funds will be available. The maximum funding available for the selected applicant's school-based health center project for the first budget period is \$125,000.

#### **BUDGET PERIOD**

It is expected that the contract will begin on or about December 1, 2002, and will be made for a nine month budget period within a project period of three years.

#### **REVIEW AND AWARD CRITERIA**

Proposals will be evaluated relative to the four criteria described below. Each criterion will count for a percentage of the evaluation score. (1) Collaboration will count for 25%, (2) Administration and (3) Prevention will count for 30% each, while (4) Outcomes will count for 15% of the evaluation score. The criteria form the basis for the review tools that will be used to evaluate and score the applications. Bonus points (5% of total score) will be given to applicants located in rural areas. "Rural" is defined as a county with a population not greater than 50,000. Bonus points (5% of total score) will also be given to applicants located in a school district that is in the bottom 25th percentile in regard to low property wealth per student. The Texas Education Agency will provide current data regarding which districts fall in the lower 25th percentile in regard to low property wealth per student.

#### **DEADLINE**

Proposals must be submitted to Joe Serrano, Acting Manager, Contract Management Section, Provider Relations Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199, on or before 5:00 p.m., Central Daylight Saving Time, September 27, 2002.

#### **FOR INFORMATION**

For a copy of the Request for Proposals and other information, contact Joe Serrano, Acting Manager, Contract Management Section, Provider Relations Division, (512) 458-7641 or by email: joe.Serrano@tdh.state.tx.us or by accessing the contract management website at: <http://www.tdh.state.tx.us/afh-contracts/default.htm>.

TRD-200203097

Susan K. Steeg

General Counsel

Texas Department of Health

Filed: May 20, 2002

### **Texas Health and Human Services Commission**

#### **Correction of Errors**

The Texas Health and Human Services Commission (HHSC) published proposed amendments to 1 TAC Chapter 355, concerning Medicaid Reimbursement Rates. The rules appeared in the May 10, 2002, issue of the *Texas Register* (27 TexReg 3870).

Due to errors in the agency's submission, the preamble to §355.451, concerning governing definitions and general reimbursement information, contained errors in background and summary of factual basis paragraph and in the statement of public benefit paragraph. Those paragraphs are corrected to read as follows:

"Section 531.021, Government Code, entitled "Administration of Medicaid Program," provides, among other things, that HHSC adopt rules and standards to govern the determination of fees, charges, and rates for medical assistance payments under Chapter 32, Human Resources Code, in consultation with the agencies that operate the Medicaid program."

"Steve Lorenzen, Director, Medicaid Rates Setting, has determined that during the first five years that the proposed amendments are in effect, the public benefit is that there will be a full reporting of costs to the ICF/MR provider every year instead of just the rebasing year."

Questions about the corrected paragraphs should be directed to Mary Ann Roberts, Manager, HHSC Medicaid Rates and Analysis, Health and Human Services Commission, by mail to P.O. Box 12668, Austin, Texas 78711, by fax to (512) 206-5673, or by phone to (512) 206-5682.

The agency's submission contained errors in §355.701 concerning definitions and general specifications and §355.743, concerning reimbursement methodology for Service Coordination and new §355.744 concerning Service Coordination definitions for Mental Retardation Local Authority (MRLA) program, §355.745 concerning service limitations for Service Coordination through MRLA, and §355.746, concerning reimbursement methodology for MRLA Service Coordination.

The errors were in the preamble paragraphs that explained the amendments on page 3871. Those paragraphs are corrected to read as follows:

"Subsection (a) of §355.701 is amended to state that cost data is required to be submitted annually. The amendment to §355.743(a) corrects a reference, and the amendment to §355.743(e)(1) removes a reference to an extraneous date."

"New §§355.744 - 355.746 maximize the state's opportunity to draw federal funds to cover allowable costs in community settings. The amendments will create another service coordination rate for those individuals with Mental Retardation being served through the MRLA program. Currently, the state sets a single rate for service coordination provided to all individuals with mental retardation. The amendments will result in one rate for persons being served through the MRLA program and another rate for all other individuals with mental retardation."

Questions about the corrected paragraphs should be directed to Mary Ann Roberts, Manager, HHSC Medicaid Rates and Analysis, Health and Human Services Commission, by mail to P.O. Box 12668, Austin, Texas 78711, by fax to (512) 206-5673, or by phone to (512) 206-5682.

TRD-200203131

### **Houston-Galveston Area Council**

#### **Notice of Public Meeting**

**Public Meeting on the 2003 Unified Planning Work Program (UPWP), and Amendments to the 2022 Metropolitan Transportation Plan (MTP) and the 2002-2004 Transportation Improvement Program (TIP)**

**Tuesday, June 11, 2002**

**3555 Timmons Lane, 2nd Floor Conference Room A**

**4:30 p.m. - 6:30 p.m.**

On Tuesday, June 11, 2002, the Houston-Galveston Area Council (H-GAC) will host a public meeting on the 2003 Unified Planning Work Program (UPWP), and proposed amendments to the 2022 Metropolitan Transportation Plan (MTP) and the 2002-2004 Transportation Improvement Program (TIP). The public is encouraged to attend this important meeting and provide comments to H-GAC.

The UPWP outlines the proposed tasks and estimated cost associated with conducting the region's transportation planning and research for the year. Proposed amendments to be discussed include:

\* TIP Amendment 123 - intersection improvement at Clay Road and SH 6 to prevent a bottleneck



\* TIP Amendment 124 - lengthen and widen the bridge over Gessner and improve drainage at the intersection, as part of the IH-10 reconstruction project

The public comment period on the UPWP and the two amendments begins **Friday, May 24, 2002**, and all comments must be received by H-GAC no later than **5 p.m., Monday, June 24, 2002**. Written comments may be submitted to Jerry Bobo, Houston-Galveston Area Council, P.O. Box 22777, Houston, Texas 77227, or [jbobo@hgac.cog.tx.us](mailto:jbobo@hgac.cog.tx.us). Comments can also be faxed to (713) 993-4508.

Copies of the UPWP and the two proposed amendments will be available at the meeting and at [www.hgac.cog.tx.us/transportation](http://www.hgac.cog.tx.us/transportation), or by calling (713) 627-3200. For more information, please contact Jerry Bobo, Transportation Program Manager, at (713) 993-4571 or [jbobo@hgac.cog.tx.us](mailto:jbobo@hgac.cog.tx.us).

In compliance with the Americans with Disabilities Act, H-GAC will provide for reasonable accommodations for persons with disabilities attending H-GAC functions. Requests should be received by H-GAC 24 hours prior to the function. Call Jerry Bobo at (713) 993-4571 to make arrangements.

TRD-200203121

Alan Clark

MPO Director

Houston-Galveston Area Council

Filed: May 21, 2002

## Texas Department of Human Services

### Request for Proposal for the Food Stamp Nutrition Education Program

The Texas Department of Human Services (DHS) is requesting proposals from applicant organizations for the provision of a Food Stamp Nutrition Education Program (FSNEP).

**Description of Services:** The United States Department of Agriculture (USDA), through Food and Nutrition Services (FNS), encourages states to submit nutrition education plans to supplement their Food Stamps programs. Of the fifteen nutrition assistance programs administered by FNS, the Food Stamp Program is the cornerstone of the USDA/FNS nutrition assistance program. The FNS Guidance Plan for 2003 places increased emphasis on improved dietary practices. This program provides opportunities to reach recipients with nutrition and lifestyle messages that encourage healthy behaviors. Lack of knowledge of appropriate and nutritious foods can lead to major health and developmental problems. The goal of the FSNEP is to provide nutrition education programs that increase the likelihood of food stamp recipients making healthy food choices, reinforce budgetary considerations for a low-income population, and are consistent with the current dietary advice reflected in the Dietary Guidelines for Americans and the Food Guide Pyramid.

**Closing Date:** Deadline for submission of proposals is 5:00 p.m. CDT, July 1, 2002. Proposals should be sent to Rex Miller, Texas Department of Human Services, 701 West 51st Street, MC W-323, Austin, Texas 78751.

**Terms/Amount of Contract:** The contract period is October 1, 2002, through September 30, 2003. At the department's option, this contract may be renewed on an annual basis, for a period not to exceed four years without being subject to further competition. The contract amount is determined based on the proposal submitted and funding by USDA/FNS.

**Selection and Evaluation:** Proposals will be evaluated on relevant experience, technical merit, timeline schedule and proposed budget.

**Contact Person:** The proposal is posted on the Electronic State Business Daily. For more information, please call or write Rex Miller (512) 438-4739, Texas Department of Human Services, Texas Works Program Administration, MC W- 323, P.O. Box 149030, Austin, Texas 78714.

**Bidders' Conference:** A Bidders' Conference (participation optional) is scheduled for June 10, 2002 at 10:00 am. It will be located at 701 West 51st Street, Austin, Texas 78751. Deadline for notification to be included in the Bidders' Conference is June 6, 2002.

TRD-200203115

Paul Leche

General Counsel, Legal Services

Texas Department of Human Services

Filed: May 21, 2002

## Texas Department of Insurance

### Notice of Public Hearings

The Commissioner of Insurance will conduct a public hearing under Docket Number 2523 for the purpose of selecting a licensing testing contractor to provide certain services under the Insurance Code, Article 21.01-1. The hearing is scheduled for June 7, 2002, at 1:00 p.m. in Room 100 of the William P. Hobby State Office Building, 333 Guadalupe Street in Austin, Texas. The hearing is held in compliance with the Insurance Code, Article 21.01-1, which requires that the department hold a public hearing prior to the selection of a licensing testing contractor.

RFP No. 02-RBD-LicTesting1. On February 15, 2002, the department issued a Request for Proposals (RFP) for the purpose of acquiring a contractor to provide testing services that meet the examination requirements for persons seeking license as agents, solicitors, counselors, or adjusters under the Insurance Code. The department's notice of issuance of the RFP was posted electronically on the Texas Building and Procurement Commission's (TBPC) Electronic State Business Daily web page and was sent via e-mail to vendors on TBPC's Centralized Master Bidders List (CMBL) who were registered to receive bids matching the services in the RFP. The deadline for the department's receipt of proposals was 3:00 p.m., March 15, 2002. The department received two proposals in response to the RFP.

**Project Description.** The selected contractor shall provide the department with testing services that include examination development, test scheduling, examination site arrangement and the test's administration, grading, reporting and analysis. The selected contractor shall cooperate with advisory boards, if any, appointed by the Commissioner of Insurance under the Insurance Code, Article 21.01-1. The required services are described in the department's RFP and in 28 Texas Administrative Code §§19.1101 through 19.1110.

**Proposal Evaluation and Award.** All proposals were reviewed and evaluated by an evaluation committee based on the evaluation criteria set forth in the RFP. The evaluation committee will submit its recommendations to the Commissioner of Insurance prior to or during the June 7, 2002 public hearing for the selection of the contractor. See also 28 Texas Administrative Code §§19.1101 through 19.1110.

The department reserves the right to reject any or all proposals or offers deemed not to be in the best interests of the department or the State of Texas. The department will not make any payments to any contractor for services performed or costs incurred under the terms of or in

connection with any contract awarded as a result of the department's issuance of the RFP. The selected contractor's sole compensation will be through the contractor's collection from applicants of certain specific fees that have been approved by the department in writing as described in the RFP. The department will not make any payments for any costs incurred by any contractor in preparing a proposal response to the RFP; such costs may not be recouped by the selected contractor under the terms of any resulting contract.

#### Anticipated Schedule

It is anticipated that the selection of a contractor for the performance of services to begin effective September 1, 2002 will proceed according to the following approximate timetable.

TDI appointment of Evaluation Committee April 29, 2002

TDI public hearing to make selection June 7, 2002

Contract signed June 15, 2002

TDI appointment of Advisory Board July 31, 2002

Advisory board review of proposed examinations August, 2002

Design and implementation of new system June 15 through September 1, 2002

New system operational September 1, 2002

The department reserves the right to change these dates.

Contacts. Interested persons may request a copy of the department's RFP by contacting Ms. Regina B. Durden, Director of Purchasing and Contract Administration, Mail Code 108-1B, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104, telephone (512) 463-6174. For further information regarding the hearing, contact the Office of Chief Clerk, Mail Code 113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104, telephone (512) 463-6327.

TRD-200203094

Lynda H. Nesenholtz

General Counsel and Chief Clerk

Texas Department of Insurance

Filed: May 20, 2002



#### 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 incorporation in Texas of RMS Texas, L.L.C., (using the assumed name of Risk Management Services), a domestic third party administrator. The home office is Beaumont, 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-200203056

Lynda H. Nesenholtz

General Counsel and Chief Clerk

Texas Department of Insurance

Filed: May 16, 2002



### Texas Lottery Commission

Instant Game No. 286 "Break The Bank"

1.0 Name and Style of Game.

A. The name of Instant Game No. 286 is "BREAK THE BANK". The play style is a key number match".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 286 shall be \$2.00 per ticket.

1.2 Definitions in Instant Game No. 286.

A. Display Printing - That area of the instant game ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the ticket.

C. Play Symbol - One of the symbols which appears under the Latex Overprint on the front of the ticket. Each Play Symbol is printed in Symbol font in black ink in positive. The possible play symbols are: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, MONEY STACK, \$1.00, \$2.00, \$4.00, \$6.00, \$10.00, \$20.00, \$50.00, \$200, \$1,000, \$3,000, and \$30,000.

D. Play Symbol Caption - the small printed material appearing below each Play Symbol which explains the Play Symbol. One and only one of these Play Symbol Captions appears under each Play Symbol and each is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Table 1 of this section Figure 1:16 TAC GAME NO. 286 - 1.2D

Figure 1: GAME NO. 286 - 1.2D

| PLAY SYMBOL | CAPTION  |
|-------------|----------|
| 1           | ONE      |
| 2           | TWO      |
| 3           | THR      |
| 4           | FOR      |
| 5           | FIV      |
| 6           | SIX      |
| 7           | SVN      |
| 8           | EGT      |
| 9           | NIN      |
| 10          | TEN      |
| 11          | ELV      |
| 12          | TLV      |
| 13          | TRN      |
| 14          | FTN      |
| 15          | FFN      |
| \$1.00      | ONE\$    |
| \$2.00      | TWO\$    |
| \$4.00      | FOUR\$   |
| \$6.00      | SIX\$    |
| \$10.00     | TEN\$    |
| \$20.00     | TWENTY   |
| \$50.00     | FIFTY    |
| \$200       | TWO HUND |
| \$1,000     | ONE THOU |
| \$3,000     | THR THOU |
| \$30,000    | 30 THOU  |
| MONEY STACK | WINS\$   |

Table 2 of this section. Figure 2:16 TAC GAME NO. 286 - 1.2E

E. Retailer Validation Code - Three small letters found under the removable scratch-off covering in the play area, which retailers use to verify and validate instant winners. The possible validation codes are:

Figure 2: GAME NO. 286 - 1.2E

| CODE | PRIZE   |
|------|---------|
| TWO  | \$2.00  |
| FOR  | \$4.00  |
| SIX  | \$6.00  |
| EGT  | \$8.00  |
| TEN  | \$10.00 |
| TWL  | \$12.00 |
| TWN  | \$20.00 |

Low-tier winning tickets use the required codes listed in Figure 2:16. Non-winning tickets and high-tier tickets use a non-required combination of the required codes listed in Figure 2:16 with the exception of Ø, which will only appear on low-tier winners and will always have a slash through it.

F. Serial Number - A unique 13 digit number appearing under the latex scratch-off covering on the front of the ticket. There is a four (4) digit security number which will be boxed and placed randomly within the Serial Number. The remaining nine (9) digits of the Serial Number are the Validation Number. The Serial Number is positioned beneath the bottom row of play data in the scratched-off play area. The format will be: 0000000000000.

G. Low-Tier Prize - A prize of \$2.00, \$4.00, \$6.00, \$8.00, 10.00, \$12.00, or \$20.00.

H. Mid-Tier Prize - A prize of \$50.00 or \$200.

I. High-Tier Prize - A prize of \$1,000, \$3,000, or \$30,000

J. Bar Code - A 20 character interleaved two (2) of five (5) bar code which will include a three (3) digit game ID, the seven (7) digit pack number and eight (8) digits of the Validation Number and a two (2) digit filler. The bar code appears on the back of the ticket.

K. Pack-Ticket Number - A thirteen (13) digit number consisting of the three (3) digit game number (286), a seven (7) digit pack number and a three (3) digit ticket number. Ticket numbers start with 000 and end with 249 within each pack. The format will be: 286-0000001-000.

L. Pack - A pack of "BREAK THE BANK" Instant Game tickets contain 250 tickets, which are packed in plastic shrink-wrapping and fan-folded in pages of two. Tickets 000 to 001 are on the top page, tickets 002 to 003 are on the next page, and so forth with tickets 248 to 249 on the last page. Ticket 249 will be folded down to expose the pack-ticket number through the shrink-wrap.

M. Non-Winning Ticket - A ticket which is not programmed to be a winning ticket or a ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

N. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "BREAK THE BANK" Instant Game No. 286 ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general ticket validation requirements set forth in Texas Lottery Rule 401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each instant ticket. A prize winner in the "BREAK THE BANK" Instant Game is determined once the latex on the ticket is scratched off to expose 19 (nineteen) play symbols. If any of the player's YOUR NUMBERS match one of the three (3) LUCKY NUMBERS, the player will win the prize amount shown for that number. If the player gets a money stack symbol, the

player will win the prize automatically. No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly 19 (nineteen) Play Symbols must appear under the latex overprint on the front portion of the ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink;
5. The ticket shall be intact;
6. The Serial Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;
8. The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The ticket must not be counterfeit in whole or in part;
10. The ticket must have been issued by the Texas Lottery in an authorized manner;
11. The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;
13. The ticket must be complete and not miscut, and have exactly 19 (nineteen) Play Symbols under the latex overprint on the front portion of the ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;
14. The Serial Number of an apparent winning ticket shall correspond with the Texas Lottery's Serial Numbers for winning tickets, and a ticket with that Serial Number shall not have been paid previously;
15. The ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;
16. Each of the 19 (nineteen) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures.
17. Each of the 19 (nineteen) Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in

the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The ticket must have been received by the Texas Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket, solely at the Executive Director's discretion.

## 2.2 Programmed Game Parameters.

A. Consecutive non-winning tickets will not have identical play data, spot for spot.

B. Non-winning prize symbols will not match a winning prize symbol on a ticket.

C. No duplicate LUCKY NUMBERS on a ticket.

D. There will be no correlation between the matching symbols and the prize amount.

E. The auto win symbol will never appear more than once on a ticket.

F. No duplicate non-winning play symbols on a ticket.

## 2.3 Procedure for Claiming Prizes.

A. To claim a "BREAK THE BANK" Instant Game prize of \$2.00, \$4.00, \$6.00, \$8.00, \$10.00, \$12.00, \$20.00, \$50.00, or \$200, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, make payment of the amount due the claimant and physically void the ticket; provided that the Texas Lottery Retailer may, but is not, in some cases, required to pay a \$50.00 or \$200 ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and 2.3.C of these Game Procedures.

B. To claim a "BREAK THE BANK" Instant Game prize of \$1,000, \$3,000, or \$30,000, the claimant must sign the winning ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated

by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "BREAK THE BANK" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;

2. delinquent in making child support payments administered or collected by the Attorney General; or

3. delinquent in reimbursing the Texas Department of Human Services for a benefit granted in error under the food stamp program or the program of financial assistance under Chapter 31, Human Resource Code;

4. in default on a loan made under Chapter 52, Education Code; or

5. in default on a loan guaranteed under Chapter 57, Education Code

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "BREAK THE BANK" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of more than \$600 from the "BREAK THE BANK" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game. Any prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

## 3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated therefor, a ticket shall

be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated therefor, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated therefor. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 50,651,750 tickets in the Instant Game No. 286. The approximate number and value of prizes in the game are as follows:

Table 3 of this section Figure 3:16 TAC GAME NO. 286- 4.0

Figure 3: GAME NO. 286 - 4.0

| Prize Amount | Approximate Number of Winners* | Approximate Odds are 1 in ** |
|--------------|--------------------------------|------------------------------|
| \$2.00       | 4,659,831                      | 10.87                        |
| \$4.00       | 2,988,359                      | 16.95                        |
| \$6.00       | 861,038                        | 58.83                        |
| \$8.00       | 202,607                        | 250.00                       |
| \$10.00      | 455,960                        | 111.09                       |
| \$12.00      | 506,490                        | 100.01                       |
| \$20.00      | 354,576                        | 142.85                       |
| \$50.00      | 187,789                        | 269.73                       |
| \$200        | 42,241                         | 1,199.11                     |
| \$1,000      | 1,071                          | 47,293.88                    |
| \$3,000      | 153                            | 331,057.19                   |
| \$30,000     | 24                             | 2,110,489.58                 |

\*The number of actual winners may vary based on sales, distribution, and number of prizes claimed.

\*\*The overall odds of winning a prize are 1 in 4.94. The individual odds of winning for a particular prize level may vary based on sales, distribution, and number of prizes claimed.

A. The actual number of tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery.

5.0 End of the Instant Game. The Executive Director may, at any time, announce a closing date (end date) for the Instant Game No. 286 without advance notice, at which point no further tickets in that game may be sold.

6.0 Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game No. 286, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401, and all final decisions of the Executive Director.

TRD-200203129

Kimberly L. Kiplin  
 General Counsel  
 Texas Lottery Commission  
 Filed: May 22, 2002

◆ ◆ ◆  
 Instant Game No. 294 "Cash Lane"

1.0 Name and Style of Game.

A. The name of Instant Game No. 294 is "CASH LANE". The play style is a "key number match with doubler".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 294 shall be \$2.00 per ticket.

1.2 Definitions in Instant Game No. 294.

A. Display Printing - That area of the instant game ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the ticket.

C. Play Symbol - One of the symbols which appears under the Latex Overprint on the front of the ticket. Each Play Symbol is printed in Symbol font in black ink in positive. The possible play symbols are: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, \$1.00, \$2.00, \$4.00, \$5.00, \$10.00, \$20.00, \$50.00, \$200, \$2,000, \$20,000, and DOLLAR BILL SYMBOL.

D. Play Symbol Caption - the small printed material appearing below each Play Symbol which explains the Play Symbol. One and only one of these Play Symbol Captions appears under each Play Symbol and each is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Table 1 of this section Figure 1:16 TAC GAME NO. 294 - 1.2D

Figure 1: GAME NO. 294 - 1.2D

| PLAY SYMBOL        | CAPTION  |
|--------------------|----------|
| 1                  | ONE      |
| 2                  | TWO      |
| 3                  | THR      |
| 4                  | FOR      |
| 5                  | FIV      |
| 6                  | SIX      |
| 7                  | SVN      |
| 8                  | EGT      |
| 9                  | NIN      |
| 10                 | TEN      |
| 11                 | ELV      |
| 12                 | TLV      |
| 13                 | TRN      |
| 14                 | FTN      |
| 15                 | FFN      |
| 16                 | SXN      |
| 17                 | SVT      |
| 18                 | ETN      |
| 19                 | NTN      |
| 20                 | TWY      |
| 21                 | TWON     |
| 22                 | TWTO     |
| 23                 | TWTH     |
| 24                 | TWFR     |
| DOLLAR BILL SYMBOL | DBLE     |
| \$1.00             | ONE\$    |
| \$2.00             | TWO\$    |
| \$4.00             | FOUR\$   |
| \$5.00             | FIVE\$   |
| \$10.00            | TEN\$    |
| \$20.00            | TWENTY   |
| \$50.00            | FIFTY    |
| \$200              | TWO HUND |
| \$2,000            | TWO THOU |
| \$20,000           | 20 THOU  |

E. Retailer Validation Code - Three small letters found under the removable scratch-off covering in the play area, which retailers use to verify and validate instant winners. The possible validation codes are:

Table 2 of this section. Figure 2:16 TAC GAME NO. 294 - 1.2E

Figure 2: GAME NO. 294 - 1.2E

| CODE    | PRIZE |
|---------|-------|
| \$2.00  | TWO   |
| \$4.00  | FOR   |
| \$5.00  | FIV   |
| \$10.00 | TEN   |
| \$12.00 | TWL   |
| \$20.00 | TWN   |

Low-tier winning tickets use the required codes listed in Figure 2:16. Non-winning tickets and high-tier tickets use a non-required combination of the required codes listed in Figure 2:16 with the exception of Ø, which will only appear on low-tier winners and will always have a slash through it.

F. Serial Number - A unique 13 digit number appearing under the latex scratch-off covering on the front of the ticket. There is a four (4) digit security number which will be boxed and placed randomly within the Serial Number. The remaining nine (9) digits of the Serial Number are the Validation Number. The Serial Number is positioned beneath the bottom row of play data in the scratched-off play area. The format will be : 0000000000000.

G. Low-Tier Prize - A prize of \$2.00, \$4.00, \$5.00, \$10.00, \$12.00, or \$20.00.

H. Mid-Tier Prize - A prize of \$25.00, \$50.00, or \$200.

I. High-Tier Prize - A prize of \$2,000 or \$20,000.

J. Bar Code - A 22 (twenty-two) character interleaved two (2) of five (5) bar code which will include a three (3) digit game ID, the seven (7) digit pack number, the three (3) digit ticket number and the nine (9) digit Validation Number. The bar code appears on the back of the ticket.

K. Pack-Ticket Number - A 13 (thirteen) digit number consisting of the three (3) digit game number (294), a seven (7) digit pack number, and a three (3) digit ticket number. Ticket numbers start with 000 and end with 249 within each pack. The format will be: 294-0000001-000.

L. Pack - A pack of "CASH LANE" Instant Game tickets contain 250 tickets, which are packed in plastic shrink-wrapping and fanfolded in pages of two (2). Tickets 000-001 will be on the top page. Tickets 002-003 will be on the next page and so forth and ticket 248-249 will be on the last page. Please note the books will be in an A - B configuration.

M. Non-Winning Ticket - A ticket which is not programmed to be a winning ticket or a ticket that does not meet all of the requirements

of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

N. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "CASH LANE" Instant Game No. 294 ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general ticket validation requirements set forth in Texas Lottery Rule 401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each instant ticket. A prize winner in the "CASH LANE" Instant Game is determined once the latex on the ticket is scratched off to expose twenty-two (22) play symbols. If the player matches any of the YOUR NUMBERS to either WINNING NUMBER, the player will win the prize shown for that number. If the player gets a dollar bill symbol under YOUR NUMBERS, the player will win double the prize shown automatically. No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly twenty-two (22) Play Symbols must appear under the latex overprint on the front portion of the ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink;
5. The ticket shall be intact;
6. The Serial Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;



7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;
8. The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The ticket must not be counterfeit in whole or in part;
10. The ticket must have been issued by the Texas Lottery in an authorized manner;
11. The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;
13. The ticket must be complete and not miscut, and have exactly twenty-two (22) Play Symbols under the latex overprint on the front portion of the ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;
14. The Serial Number of an apparent winning ticket shall correspond with the Texas Lottery's Serial Numbers for winning tickets, and a ticket with that Serial Number shall not have been paid previously;
15. The ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;
16. Each of the twenty-two (22) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures.
17. Each of the twenty-two (22) Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;
18. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and
19. The ticket must have been received by the Texas Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket, solely at the Executive Director's discretion.

## 2.2 Programmed Game Parameters.

- A. Consecutive non-winning tickets will not have identical play data, spot for spot.
- B. No duplicate non-winning YOUR NUMBERS play symbols on a ticket.
- C. No duplicate Winning Numbers play symbols on a ticket.

D. No more than one pair of duplicate non-winning prize symbols on a ticket .

E. No 3 or more like non-winning prize symbols on a ticket.

F. The dollar bill symbol will appear only on intended winning tickets as dictated by the prize structure.

G. The dollar bill symbol will never appear more than once on a ticket.

## 2.3 Procedure for Claiming Prizes.

A. To claim a "CASH LANE" Instant Game prize of \$2.00, \$4.00, \$5.00, \$10.00, \$12.00, \$20.00, \$25.00, \$50.00, or \$200, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, make payment of the amount due the claimant and physically void the ticket; provided that the Texas Lottery Retailer may, but is not, in some cases, required to pay a \$50.00 or \$200 ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and 2.3.C of these Game Procedures.

B. To claim a "CASH LANE" Instant Game prize of \$2,000 or \$20,000, the claimant must sign the winning ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "CASH LANE" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;
2. delinquent in making child support payments administered or collected by the Attorney General; or
3. delinquent in reimbursing the Texas Department of Human Services for a benefit granted in error under the food stamp program or the program of financial assistance under Chapter 31, Human Resource Code;
4. in default on a loan made under Chapter 52, Education Code; or
5. in default on a loan guaranteed under Chapter 57, Education Code

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

- A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;
- B. if there is any question regarding the identity of the claimant;
- C. if there is any question regarding the validity of the ticket presented for payment; or
- D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "CASH LANE" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of more than \$600 from the "CASH LANE" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game. Any

prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated therefor, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated therefor, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated therefor. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 12,178,250 tickets in the Instant Game No. 294. The approximate number and value of prizes in the game are as follows:

Table 3 of this section Figure 3:16 TAC GAME NO. 294- 4.0

Figure 3: GAME NO. 294 - 4.0

| Prize Amount | Approximate Number of Prizes* | Approximate Odds are 1 in ** |
|--------------|-------------------------------|------------------------------|
| \$2.00       | 1,802,424                     | 6.76                         |
| \$4.00       | 1,217,720                     | 10.00                        |
| \$5.00       | 121,777                       | 100.00                       |
| \$10.00      | 85,280                        | 142.80                       |
| \$12.00      | 60,897                        | 199.98                       |
| \$20.00      | 24,355                        | 500.03                       |
| \$25.00      | 24,838                        | 490.31                       |
| \$50.00      | 25,204                        | 483.19                       |
| \$200        | 12,080                        | 1,008.13                     |
| \$2,000      | 35                            | 347,950.00                   |
| \$20,000     | 15                            | 811,883.33                   |

\*The number of actual prizes may vary based on sales, distribution, testing, and number of prizes claimed.

\*\*The overall odds of winning a prize are 1 in 3.61. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery.

5.0 End of the Instant Game. The Executive Director may, at any time, announce a closing date (end date) for the Instant Game No. 294 without advance notice, at which point no further tickets in that game may be sold.

6.0 Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game No. 294, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401, and all final decisions of the Executive Director.

TRD-200203130  
Kimberly L. Kiplin  
General Counsel  
Texas Lottery Commission  
Filed: May 22, 2002



#### Instant Game No. 295 "Giant Jumbo Bucks"

##### 1.0 Name and Style of Game.

A. The name of Instant Game No. 295 is "GIANT JUMBO BUCKS". The play style is a "match key number with 5 time win".

##### 1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 295 shall be \$5.00 per ticket.

##### 1.2 Definitions in Instant Game No. 295.

A. Display Printing - That area of the instant game ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the ticket.

C. Play Symbol - One of the symbols which appears under the Latex Overprint on the front of the ticket. Each Play Symbol is printed in Symbol font in black ink in positive. The possible play symbols are: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, \$1.00, \$2.00, \$4.00, \$5.00, \$10.00, \$15.00, \$20.00, \$25.00, \$40.00, \$50.00, \$100, \$500, \$1,000, \$50,000, and JUMBO.

D. Play Symbol Caption - the small printed material appearing below each Play Symbol which explains the Play Symbol. One and only one of these Play Symbol Captions appears under each Play Symbol and each is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Table 1 of this section Figure 1:16 TAC GAME NO. 295 - 1.2D

Figure 1: GAME NO. 295 - 1.2D

| PLAY SYMBOL | CAPTION |
|-------------|---------|
| 1           | ONE     |
| 2           | TWO     |
| 3           | THR     |
| 4           | FOR     |
| 5           | FIV     |
| 6           | SIX     |
| 7           | SVN     |
| 8           | EGT     |
| 9           | NIN     |
| 10          | TEN     |
| 11          | ELV     |
| 12          | TLV     |
| 13          | TRN     |
| 14          | FTN     |
| 15          | FFN     |
| 16          | SXN     |
| 17          | SVT     |
| 18          | ETN     |
| 19          | NTN     |
| 20          | TWY     |
| 21          | TWON    |
| 22          | TWTO    |
| 23          | TWTH    |
| 24          | TWFR    |
| 25          | TWV     |
| 26          | TWSX    |
| 27          | TWSV    |
| 28          | TWET    |
| 29          | TWNI    |
| 30          | TRTY    |
| 31          | TRON    |
| 32          | TRTO    |
| 33          | TRTH    |
| 34          | TRFR    |
| 35          | TRV     |
| 36          | TRSX    |
| 37          | TRSV    |
| 38          | TRET    |
| 39          | TRNI    |
| \$1.00      | ONE\$   |
| \$2.00      | TWO\$   |
| \$4.00      | THREE\$ |
| \$5.00      | FIVE\$  |
| \$10.00     | TEN\$   |
| \$15.00     | FIFTN   |
| \$20.00     | TWENTY  |

|              |          |
|--------------|----------|
| \$25.00      | TWY FIV  |
| \$40.00      | FORTY    |
| \$50.00      | FIFTY    |
| \$100        | ONE HUND |
| \$500        | FIV HUND |
| \$1,000      | ONE THOU |
| \$50,000     | 50 THOU  |
| JUMBO SYMBOL | WINX5    |

Table 2 of this section. Figure 2:16 TAC GAME NO. 295 - 1.2E

E. Retailer Validation Code - Three small letters found under the removable scratch-off covering in the play area, which retailers use to verify and validate instant winners. The possible validation codes are:

Figure 2: GAME NO. 295 - 1.2E

| CODE | PRIZE   |
|------|---------|
| FIV  | \$5.00  |
| TEN  | \$10.00 |
| FTN  | \$15.00 |
| TWN  | \$20.00 |

Low-tier winning tickets use the required codes listed in Figure 2:16. Non-winning tickets and high-tier tickets use a non-required combination of the required codes listed in Figure 2:16 with the exception of Ø, which will only appear on low-tier winners and will always have a slash through it.

F. Serial Number - A unique 13 digit number appearing under the latex scratch-off covering on the front of the ticket. There is a four (4) digit security number which will be boxed and placed randomly within the Serial Number. The remaining nine (9) digits of the Serial Number are the Validation Number. The Serial Number is positioned beneath the bottom row of play data in the scratched-off play area. The format will be : 0000000000000.

G. Low-Tier Prize - A prize of \$5.00, \$10.00, \$15.00, or \$20.00.

H. Mid-Tier Prize - A prize of \$50.00, \$100, or \$500.

I. High-Tier Prize - A prize of \$1,000, \$5,000 or \$50,000.

J. Bar Code - A 22 character interleaved two (2) of five (5) bar code which will include a three (3) digit game ID, the seven (7) digit pack number, the three (3) digit ticket number and the nine (9) digit Validation Number. The bar code appears on the back of the ticket.

K. Pack-Ticket Number - A twenty-two (22) digit number consisting of the three (3) digit game number (295), a seven (7) digit pack number, and a three (3) digit ticket number. Ticket numbers start with 000 and end with 074 within each pack. The format will be: 295-0000001-000.

L. Pack - A pack of "GIANT JUMBO BUCKS" Instant Game tickets contain 75 tickets, which are packed in plastic shrink-wrapping and fanfolded in pages of one (1). The packs will alternate. One will show the front of ticket 000 and back of 074, while the other fold will show the back of ticket 000 and front of 074.

M. Non-Winning Ticket - A ticket which is not programmed to be a winning ticket or a ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

N. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "GIANT JUMBO BUCKS" Instant Game No. 295 ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general ticket validation requirements set forth in Texas Lottery Rule 401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each instant ticket. A prize winner in the "GIANT JUMBO BUCKS" Instant Game is determined once the latex on the ticket is scratched off to expose 44 (forty-four) play symbols. If the player matches any of YOUR NUMBERS to any of the four SERIAL NUMBERS, the player will win the prize shown for that number. If the player gets a JUMBO symbol, the player will win five (5) times that prize. No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

#### 2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly 44 (forty-four) Play Symbols must appear under the latex overprint on the front portion of the ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink;
5. The ticket shall be intact;
6. The Serial Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;
8. The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The ticket must not be counterfeit in whole or in part;
10. The ticket must have been issued by the Texas Lottery in an authorized manner;
11. The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;
13. The ticket must be complete and not miscut, and have exactly 44 (forty-four) Play Symbols under the latex overprint on the front portion of the ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;

14. The Serial Number of an apparent winning ticket shall correspond with the Texas Lottery's Serial Numbers for winning tickets, and a ticket with that Serial Number shall not have been paid previously;

15. The ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the 44 (forty-four) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures.

17. Each of the 44 (forty-four) Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The ticket must have been received by the Texas Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket, solely at the Executive Director's discretion.

#### 2.2 Programmed Game Parameters.

A. Consecutive non-winning tickets will not have identical play data, spot for spot.

B. No duplicate non-winning YOUR NUMBER play symbols on a ticket.

C. There will be no duplicate SERIAL NUMBER play symbols on a ticket.

D. The multiplier symbol will never appear more than once on a ticket.

E. The multiplier symbol will appear only on intended winning tickets as dictated by the prize structure.

#### 2.3 Procedure for Claiming Prizes.

A. To claim a "GIANT JUMBO BUCKS" Instant Game prize of \$5.00, \$10.00, \$15.00, \$20.00, \$50.00, \$100, or \$500, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, make payment of the amount due the claimant and physically void the ticket; provided that the Texas Lottery Retailer may, but is not, in some cases, required to pay a \$50.00, \$100, or \$500 ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is

not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and 2.3.C of these Game Procedures.

B. To claim a "GIANT JUMBO BUCKS" Instant Game prize of \$1,000, \$5,000 or \$50,000, the claimant must sign the winning ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "GIANT JUMBO BUCKS" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;
2. delinquent in making child support payments administered or collected by the Attorney General; or
3. delinquent in reimbursing the Texas Department of Human Services for a benefit granted in error under the food stamp program or the program of financial assistance under Chapter 31, Human Resource Code;
4. in default on a loan made under Chapter 52, Education Code; or
5. in default on a loan guaranteed under Chapter 57, Education Code

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "GIANT JUMBO BUCKS" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of more than \$600 from the "GIANT JUMBO BUCKS" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game. Any prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated therefor, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated therefor, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated therefor. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 8,143,200 tickets in the Instant Game No. 295. The approximate number and value of prizes in the game are as follows:

Table 3 of this section Figure 3:16 TAC GAME NO. 295- 4.0

Figure 3: GAME NO. 295 - 4.0

| Prize Amount | Approximate Number of Winners* | Approximate Odds are 1 in ** |
|--------------|--------------------------------|------------------------------|
| \$5          | 1,628,638                      | 5.00                         |
| \$10         | 542,890                        | 15.00                        |
| \$15         | 217,162                        | 37.50                        |
| \$20         | 189,996                        | 42.86                        |
| \$50         | 67,848                         | 120.02                       |
| \$100        | 13,375                         | 608.84                       |
| \$500        | 755                            | 10,785.70                    |
| \$1,000      | 204                            | 39,917.65                    |
| \$5,000      | 24                             | 339,300.00                   |
| \$50,000     | 8                              | 1,017,900.00                 |

\*The number of actual winners may vary based on sales, distribution, and number of prizes claimed.

\*\*The overall odds of winning a prize are 1 in 3.06. The individual odds of winning for a particular prize level may vary based on sales, distribution, and number of prizes claimed.

A. The actual number of tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery.

5.0 End of the Instant Game. The Executive Director may, at any time, announce a closing date (end date) for the Instant Game No. 295 without advance notice, at which point no further tickets in that game may be sold.

6.0 Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game No. 295, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401, and all final decisions of the Executive Director.

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 Kimberly L. Kiplin  
 General Counsel  
 Texas Lottery Commission  
 Filed: May 22, 2002



Instant Game No. 309 "Weekly Grand"

1.0 Name and Style of Game.

A. The name of Instant Game No. 309 is "WEEKLY GRAND". This ticket contains three (3) games indicated as Game 1, Game 2, and Game

3. The play style of Game 1 is "Your Beats Theirs". The play style of Game 2 is "Match 3". The play style of Game 3 is "Match 2 of 3".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 309 shall be \$2.00 per ticket.

1.2 Definitions in Instant Game No. 309.

A. Display Printing - That area of the instant game ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the ticket.

C. Play Symbol - One of the symbols which appears under the Latex Overprint on the front of the ticket. Each Play Symbol is printed in Symbol font in black ink in positive. The possible play symbols are: 1, 2, 3, 4, 5, 6, 7, 8, 9, \$1.00, \$2.00, \$4.00, \$5.00, \$10.00, \$40.00, \$100, \$300, MONEY BAG SYMBOL, GOLD BAR SYMBOL, POT OF GOLD SYMBOL, TOP HAT SYMBOL, CLOVER SYMBOL, DIAMOND SYMBOL, and GRAND.

D. Play Symbol Caption - the small printed material appearing below each Play Symbol which explains the Play Symbol. One and only one of these Play Symbol Captions appears under each Play Symbol and each is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Table 1 of this section



Figure 1: GAME NO. 309 - 1.2D

| PLAY SYMBOL | CAPTION  |
|-------------|----------|
| 1           | ONE      |
| 2           | TWO      |
| 3           | THR      |
| 4           | FOR      |
| 5           | FIV      |
| 6           | SIX      |
| 7           | SVN      |
| 8           | EGT      |
| 9           | NIN      |
| GRAND       | WEEK     |
| \$1.00      | ONE\$    |
| \$2.00      | TWO\$    |
| \$4.00      | FOUR\$   |
| \$5.00      | FIVE\$   |
| \$10.00     | TEN\$    |
| \$40.00     | FORTY    |
| \$100       | ONE HUND |
| \$300       | THR HUND |
| CLOVER      | CLVR     |
| DIAMOND     | DIAMD    |
| GOLD BAR    | GOLD     |
| POT OF GOLD | POTGLD   |
| MONEY BAG   | MBAG     |
| TOP HAT     | TPHAT    |

Table 2 of this section.

E. Retailer Validation Code - Three (3) small letters found under the removable scratch-off covering in the play area, which retailers use to verify and validate instant winners. The possible validation codes are:

Figure 2: GAME NO. 309 - 1.2E

| CODE | PRIZE   |
|------|---------|
| TWO  | \$2.00  |
| FOR  | \$4.00  |
| FIV  | \$5.00  |
| TEN  | \$10.00 |
| TWN  | \$20.00 |

Low-tier winning tickets use the required codes listed in Figure 2:16. Non-winning tickets and high-tier tickets use a non-required combination of the required codes listed in Figure 2:16 with the exception of Ø, which will only appear on low-tier winners and will always have a slash through it.

F. Serial Number - A unique 13 digit number appearing under the latex scratch-off covering on the front of the ticket. There is a four (4) digit security number which will be boxed and placed randomly within the Serial Number. The remaining nine (9) digits of the Serial Number are the Validation Number. The Serial Number is positioned beneath the bottom row of play data in the scratched-off play area. The format will be: 0000000000000.

G. Low-Tier Prize - A prize of \$2.00, \$4.00, \$5.00, \$10.00, or \$20.00.

H. Mid-Tier Prize - A prize of \$40.00, or \$300.

I. High-Tier Prize - A prize of \$1,000 or GRAND.

J. Bar Code - A 22 (twenty-two) character interleaved two (2) of five (5) bar code which will include a three (3) digit game ID, the seven (7) digit pack number, the three (3) digit ticket number and the nine (9) digit Validation Number. The bar code appears on the back of the ticket.

K. Pack-Ticket Number - A 13 (thirteen) digit number consisting of the three (3) digit game number (309), a seven (7) digit pack number and a three (3) digit ticket number. Ticket numbers start with 000 and end with 249 within each pack. The format will be: 309-0000001-000.

L. Pack - A pack of "WEEKLY GRAND" Instant Game tickets contain 250 tickets, which are packed in plastic shrink-wrapping and fanfolded in pages of two (2). Tickets 000 and 001 will be on the first page; tickets 002 and 003 will be on the next page and so forth with tickets 248-249 on the last page.

M. Non-Winning Ticket - A ticket which is not programmed to be a winning ticket or a ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

N. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "WEEKLY GRAND" Instant Game No. 309 ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general ticket validation requirements set forth in Texas Lottery Rule 401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each instant ticket. A prize winner of the "WEEKLY GRAND" Instant Game is determined once the latex on the ticket is scratched off to expose 15 (fifteen) play symbols. In Game 1, if the player's YOUR NUMBER beats THEIR NUMBER, in any one row across, the player will win the prize for that row. If the player wins GRAND, the player will win \$1,000 per week for 20 years. In Game 2, if the player matches 3 like amounts, the player will win that amount. If the player gets 3 GRAND symbols, the player will win \$1,000 per week for 20 years. In Game 3, if the player matches 2 out of 3 symbols, the player will win \$20 instantly. No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly 15 (fifteen) Play Symbols must appear under the latex overprint on the front portion of the ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink;
5. The ticket shall be intact;
6. The Serial Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;

8. The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;

9. The ticket must not be counterfeit in whole or in part;

10. The ticket must have been issued by the Texas Lottery in an authorized manner;

11. The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;

12. The Play Symbols, Serial Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;

13. The ticket must be complete and not miscut, and have exactly 15 (fifteen) Play Symbols under the latex overprint on the front portion of the ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;

14. The Serial Number of an apparent winning ticket shall correspond with the Texas Lottery's Serial Numbers for winning tickets, and a ticket with that Serial Number shall not have been paid previously;

15. The ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the 15 (fifteen) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures.

17. Each of the 15 (fifteen) Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The ticket must have been received or recorded by the Texas Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. Consecutive non-winning tickets will not have identical play data, spot for spot.

B. No three or more like non-winning prize symbols on a ticket.

C. Non-winning prize symbols will not match a winning prize symbol on a ticket.

D. The GRAND symbol may only be used in Games 1 and Game 2.

E. In Game 1, there will be no ties between Yours and Theirs in a row.

- F. There will be no duplicate games on a ticket in Game 1.
- G. No duplicate non-winning prize symbols on a ticket in Game 1.
- H. In Game 2, there will be no four or more of a kind.
- I. In Game 3, all symbols will be used an approximately even number of times on winning and non-winning tickets.

### 2.3 Procedure for Claiming Prizes.

A. To claim a "WEEKLY GRAND" Instant Game prize of \$2.00, \$4.00, \$5.00, \$10.00, \$20.00, \$40.00, or \$300, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, make payment of the amount due the claimant and physically void the ticket; provided that the Texas Lottery Retailer may, but is not, in some cases, required to pay a \$300 ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and 2.3.C of these Game Procedures.

B. When claiming a "WEEKLY GRAND" Instant Game prize of GRAND, the claimant must choose one of four (4) payment options for receiving their prize:

1. Weekly via wire transfer to the claimant/winner's account. This will be similar to the current "WEEKLY GRAND" (Game 173) payment process. With this plan, a payment of \$1,000.00 less Federal withholding will be made once a week for twenty years. After the initial payment, installment payments will be made every Wednesday.
2. Monthly via wire transfer to the claimant/winner's account. If the claim is made during the month, the claimant/winner will still receive the entire month's payment. This will allow the flow of payments throughout the 20 years to remain the same. With this plan, a payment of \$4,337.00 less Federal withholding will be made the month of the claim. Each additional month, a payment of \$4,333.00 less Federal withholding will be made once a month for 20 years. After the initial payment, installment payments will be made on the first business day of each month.
3. Monthly via wire transfer to the claimant/winner's account. If the claim is made during the quarter, the claimant/winner will still receive the entire quarter's payment. This will allow the flow of payments throughout the 20 years to remain the same. With this plan, a payment of \$13,000.00 less Federal withholding will be made each quarter (four times a year) for 20 years. After the initial payment, installment payments will be made on the first business day of the first month of every quarter (January, April, July, October).
4. Annually via wire transfer to the claimant/winner's account. These payments will be made in a manner similar to how jackpot payments are currently handled. With this plan, a payment of \$52,000.00 less Federal withholding will be made once a year during the anniversary month of the claim for 20 years. After the initial payment, installment payments will be made on the first business day of the anniversary month.

C. As an alternative method of claiming a "WEEKLY GRAND" Instant Game prize of \$2.00, \$4.00, \$5.00, \$10.00, \$20.00, \$40.00, or \$300, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by

the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;
  2. delinquent in making child support payments administered or collected by the Attorney General; or
  3. delinquent in reimbursing the Texas Department of Human Services for a benefit granted in error under the food stamp program or the program of financial assistance under Chapter 31, Human Resource Code;
  4. in default on a loan made under Chapter 52, Education Code; or
  5. in default on a loan guaranteed under Chapter 57, Education Code
- E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

- A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;
- B. if there is any question regarding the identity of the claimant;
- C. if there is any question regarding the validity of the ticket presented for payment; or
- D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "WEEKLY GRAND" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of \$1,000 per week for 20 years from the "WEEKLY GRAND" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game. Any prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

### 3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated therefor, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated therefor, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated therefor. If more than one name appears on the back of the ticket, the Executive Director will

require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 30,163,750 tickets in the Instant Game No. 309. The approximate number and value of prizes in the game are as follows:

Table 3 of this section

Figure 3: GAME NO. 309 - 4.0

| Prize Amount | Approximate Number of Winners* | Approximate Odds are 1 in ** |
|--------------|--------------------------------|------------------------------|
| \$2          | 3,137,051                      | 9.62                         |
| \$4          | 2,473,417                      | 12.20                        |
| \$5          | 120,655                        | 250.00                       |
| \$10         | 422,380                        | 71.41                        |
| \$20         | 271,430                        | 111.13                       |
| \$40         | 181,009                        | 166.64                       |
| \$300        | 12,048                         | 2,503.63                     |
| \$1,000/WK   | 3                              | 10,054,583.33                |

\*The number of actual prizes may vary based on sales, distribution, testing, and number of prizes claimed.

\*\*The overall odds of winning a prize are 1 in 4.56. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery.

5.0 End of the Instant Game. The Executive Director may, at any time, announce a closing date (end date) for the Instant Game No. 309 without advance notice, at which point no further tickets in that game may be sold.

6.0 Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game No. 309, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and reference in 16 TAC, Chapter 401, and all final decisions of the Executive Director.

TRD-200203102  
 Kimberly L. Kiplin  
 General Counsel  
 Texas Lottery Commission  
 Filed: May 21, 2002



Instant Game No. 310 "Reel In The Money"

1.0 Name and Style of Game.

A. The name of Instant Game No. 310 is "REEL IN THE MONEY". The play style is "yours beats theirs".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 310 shall be \$1.00 per ticket.

1.2 Definitions in Instant Game No. 310.

A. Display Printing - That area of the instant game ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the ticket.

C. Play Symbol - One of the symbols which appears under the Latex Overprint on the front of the ticket. Each Play Symbol is printed in Symbol font in black ink in positive. The possible play symbols are: 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, \$1.00, \$2.00, \$4.00, \$5.00, \$10.00, \$20.00, \$40.00, \$100, and \$2,000.

D. Play Symbol Caption - the small printed material appearing below each Play Symbol which explains the Play Symbol. One and only one of these Play Symbol Captions appears under each Play Symbol and each is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Table 1 of this section

Figure 1: GAME NO. 310 - 1.2D

| PLAY SYMBOL | CAPTION  |
|-------------|----------|
| 2           | TWO LBS  |
| 3           | THR LBS  |
| 4           | FOR LBS  |
| 5           | FIV LBS  |
| 6           | SIX LBS  |
| 7           | SVN LBS  |
| 8           | EGT LBS  |
| 9           | NIN LBS  |
| 10          | TEN LBS  |
| 11          | ELV LBS  |
| 12          | TLV LBS  |
| 13          | TRN LBS  |
| 14          | FTN LBS  |
| 15          | FFN LBS  |
| 16          | SXN LBS  |
| \$1.00      | ONE\$    |
| \$2.00      | TWO\$    |
| \$4.00      | FOUR\$   |
| \$5.00      | FIVE\$   |
| \$10.00     | TEN\$    |
| \$20.00     | TWENTY   |
| \$40.00     | FORTY    |
| \$100       | ONE HUND |
| \$2,000     | TWO THOU |

Table 2 of this section.

E. Retailer Validation Code - Three small letters found under the removable scratch-off covering in the play area, which retailers use to verify and validate instant winners. The possible validation codes are:

Figure 2: GAME NO. 310 - 1.2E

| CODE | PRIZE   |
|------|---------|
| ONE  | \$1.00  |
| TWO  | \$2.00  |
| FOR  | \$4.00  |
| FIV  | \$5.00  |
| TEN  | \$10.00 |
| TWN  | \$20.00 |

Low-tier winning tickets use the required codes listed in Figure 2:16. Non-winning tickets and high-tier tickets use a non-required combination of the required codes listed in Figure 2:16 with the exception of Ø, which will only appear on low-tier winners and will always have a slash through it.

F. Serial Number - A unique 13 digit number appearing under the latex scratch-off covering on the front of the ticket. There is a four (4) digit security number which will be boxed and placed randomly within the Serial Number. The remaining nine (9) digits of the Serial Number are the Validation Number. The Serial Number is positioned beneath the bottom row of play data in the scratched-off play area. The format will be : 0000000000000.

G. Low-Tier Prize - A prize of \$1.00, \$2.00, \$4.00, \$5.00, \$10.00, \$20.00.

H. Mid-Tier Prize - A prize of \$40.00 or \$100.

I. High-Tier Prize - A prize of \$2,000.

J. Bar Code - A 22 (twenty-two) character interleaved two (2) of five (5) bar code which will include a three (3) digit game ID, the seven (7) digit pack number, the three (3) digit ticket number and the nine (9) digit Validation Number. The bar code appears on the back of the ticket.

K. Pack-Ticket Number - A 13 (thirteen) digit number consisting of the three (3) digit game number (310), a seven (7) digit pack number, and a three (3) digit ticket number. Ticket numbers start with 000 and end with 249 within each pack. The format will be: 310-0000001-000.

L. Pack - A pack of "REEL IN THE MONEY" Instant Game tickets contain 250 tickets, which are packed in plastic shrink-wrapping and fanfolded in pages of five (5). Tickets 000-004 will be on the first page, tickets 005-009 will be on the next page and so forth with tickets 245-249 on the last page. Tickets 000 and 249 will be folded down to expose the pack-ticket number through the shrink-wrap.

M. Non-Winning Ticket - A ticket which is not programmed to be a winning ticket or a ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

N. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "REEL IN THE MONEY" Instant Game No. 310 ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general ticket validation requirements set forth in Texas Lottery Rule 401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each instant ticket. A prize winner in the "REEL IN THE MONEY" Instant Game is determined once the latex on the ticket is scratched off to expose nine (9) play symbols. If any of the player's YOUR FISH weigh more than the BIG FISH, the player will win the prize shown for that fish. No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

#### 2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly nine (9) Play Symbols must appear under the latex overprint on the front portion of the ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink;
5. The ticket shall be intact;
6. The Serial Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;
8. The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The ticket must not be counterfeit in whole or in part;

10. The ticket must have been issued by the Texas Lottery in an authorized manner;

11. The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;

12. The Play Symbols, Serial Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;

13. The ticket must be complete and not miscut, and have exactly nine (9) Play Symbols under the latex overprint on the front portion of the ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;

14. The Serial Number of an apparent winning ticket shall correspond with the Texas Lottery's Serial Numbers for winning tickets, and a ticket with that Serial Number shall not have been paid previously;

15. The ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the nine (9) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures.

17. Each of the nine (9) Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The ticket must have been received by the Texas Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket, solely at the Executive Director's discretion.

#### 2.2 Programmed Game Parameters.

A. Consecutive non-winning tickets will not have identical play data, spot for spot.

B. No duplicate Your Fish play symbols on a ticket.

C. No duplicate non-winning prize symbols on a ticket.

D. No ties between Your Fish and the Big Fish Number.

#### 2.3 Procedure for Claiming Prizes.

A. To claim a "REEL IN THE MONEY" Instant Game prize of \$1.00, \$2.00, \$4.00, \$5.00, \$10.00, \$20.00, \$40.00 or \$100, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas

Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, make payment of the amount due the claimant and physically void the ticket; provided that the Texas Lottery Retailer may, but is not, in some cases, required to pay a \$40.00 or \$100 ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and 2.3.C of these Game Procedures.

B. To claim a "REEL IN THE MONEY" Instant Game prize of \$2,000, the claimant must sign the winning ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "REEL IN THE MONEY" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;
2. delinquent in making child support payments administered or collected by the Attorney General; or
3. delinquent in reimbursing the Texas Department of Human Services for a benefit granted in error under the food stamp program or the program of financial assistance under Chapter 31, Human Resource Code;
4. in default on a loan made under Chapter 52, Education Code; or
5. in default on a loan guaranteed under Chapter 57, Education Code

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "REEL IN THE MONEY" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of more than \$600 from the "REEL IN THE MONEY" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game. Any prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated therefor, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated therefor, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated therefor. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 12,247,500 tickets in the Instant Game No. 310. The approximate number and value of prizes in the game are as follows:

Table 3 of this section

Figure 3: GAME NO. 310 - 4.0

| Prize Amount | Approximate Number of Winners* | Approximate Odds are 1 in ** |
|--------------|--------------------------------|------------------------------|
| \$1          | 1,469,802                      | 8.33                         |
| \$2          | 538,724                        | 22.73                        |
| \$4          | 342,875                        | 35.72                        |
| \$5          | 97,880                         | 125.13                       |
| \$10         | 73,580                         | 166.45                       |
| \$20         | 48,990                         | 250.00                       |
| \$40         | 24,225                         | 505.57                       |
| \$100        | 1,533                          | 7,989.24                     |
| \$2,000      | 51                             | 240,147.06                   |

\*The number of actual prizes may vary based on sales, distribution, testing, and number of prizes claimed.

\*\*The overall odds of winning a prize are 1 in 4.71. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery.

5.0 End of the Instant Game. The Executive Director may, at any time, announce a closing date (end date) for the Instant Game No. 310 without advance notice, at which point no further tickets in that game may be sold.

6.0 Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game No. 310, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401, and all final decisions of the Executive Director.

TRD-200203103  
 Kimberly L. Kiplin  
 General Counsel  
 Texas Lottery Commission  
 Filed: May 21, 2002



Instant Game No. 350 "Bingo"

1.0 Name and Style of Game.

A. The name of Instant Game No. 350 is "BINGO". The play style is "bingo".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 350 shall be \$5.00 per ticket.

1.2 Definitions in Instant Game No. 350.

A. Display Printing - That area of the instant game ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the ticket.

C. Play Symbol - One of the symbols which appears under the Latex Overprint on the front of the ticket. Each Play Symbol is printed in Symbol font in black ink in positive. The possible play symbols are: B01, B02, B03, B04, B05, B06, B07, B08, B09, B10, B11, B12, B13, B14, B15, I16, I17, I18, I19, I20, I21, I22, I23, I24, I25, I26, I27, I28, I29, I30, N31, N32, N33, N34, N35, N36, N37, N38, N39, N40, N41, N42, N43, N44, N45, G46, G47, G48, G49, G50, G51, G52, G53, G54, G55, G56, G57, G58, G59, G60, O61, O62, O63, O64, O65, O66, O67, O68, O69, O70, O71, O72, O73, O74, O75, 01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, and FREE.

D. Play Symbol Caption - the small printed material appearing below each Play Symbol which explains the Play Symbol. One and only one of these Play Symbol Captions appears under each Play Symbol and each is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Table 1 of this section



Figure 1: GAME NO. 350 - 1.2D

| PLAY SYMBOL | CAPTION |
|-------------|---------|
| B01         |         |
| B02         |         |
| B03         |         |
| B04         |         |
| B05         |         |
| B06         |         |
| B07         |         |
| B08         |         |
| B09         |         |
| B10         |         |
| B11         |         |
| B12         |         |
| B13         |         |
| B14         |         |
| B15         |         |
| I16         |         |
| I17         |         |
| I18         |         |
| I19         |         |
| I20         |         |
| I21         |         |
| I22         |         |
| I23         |         |
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| I25         |         |
| I26         |         |
| I27         |         |
| I28         |         |
| I29         |         |
| I30         |         |
| N31         |         |
| N32         |         |
| N33         |         |
| N34         |         |
| N35         |         |
| N36         |         |
| N37         |         |
| N38         |         |
| N39         |         |
| N40         |         |
| N41         |         |
| N42         |         |
| N43         |         |
| N44         |         |
| N45         |         |
| G46         |         |

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| G52 |  |
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| G55 |  |
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| 70   |  |
| 71   |  |
| 72   |  |
| 73   |  |
| 74   |  |
| 75   |  |
| FREE |  |

Table 2 of this section.

E. Retailer Validation Code - Three small letters found under the removable scratch-off covering in the play area, which retailers use to verify and validate instant winners. The possible validation codes are:

Figure 2: GAME NO. 350 - 1.2E

| <b>CODE</b> | <b>PRIZE</b> |
|-------------|--------------|
| FIV         | \$5.00       |
| TEN         | \$10.00      |
| FTN         | \$15.00      |
| TWN         | \$20.00      |

Low-tier winning tickets use the required codes listed in Figure 2:16. Non-winning tickets and high-tier tickets use a non-required combination of the required codes listed in Figure 2:16 with the exception of  $\emptyset$ , which will only appear on low-tier winners and will always have a slash through it.

F. Serial Number - A unique 13 digit number appearing under the latex scratch-off covering on the front of the ticket. There is a four (4) digit security number which will be boxed and placed randomly within the Serial Number. The remaining nine (9) digits of the Serial Number are the Validation Number. The Serial Number is positioned beneath the bottom row of play data in the scratched-off play area. The format will be : 0000000000000.

G. Low-Tier Prize - A prize of \$5.00, \$10.00, \$15.00, or \$20.00.

H. Mid-Tier Prize - A prize of \$25.00, \$30.00, \$40.00, \$50.00, \$75.00, \$100, \$200, or \$500.

I. High-Tier Prize - A prize of \$1,000, \$2,000, \$5,000, \$20,000, or \$50,000.

J. Bar Code - A 22 (twenty-two) character interleaved two (2) of five (5) bar code which will include a three (3) digit game ID, the seven (7) digit pack number, the three (3) digit ticket number and the nine (9) digit Validation Number. The bar code appears on the back of the ticket.

K. Pack-Ticket Number - A 13 (thirteen) digit number consisting of the three (3) digit game number (350), a seven (7) digit pack number, and a three (3) digit ticket number. Ticket numbers start with 000 and end with 074 within each pack. The format will be: 350-0000001-000.

L. Pack - A pack of "BINGO" Instant Game tickets contain 75 tickets, which are packed in plastic shrink-wrapping and fanfolded in pages of one (1). Ticket 000 will be shown on the front of the pack; the back of ticket 074 will be revealed on the back of the pack. Every other book will reverse i.e., the back of ticket 000 will be shown on the front of the pack and the front of ticket 074 will be shown on the back of the pack.

M. Non-Winning Ticket - A ticket which is not programmed to be a winning ticket or a ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

N. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "BINGO" Instant Game No. 350 ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general ticket validation requirements set forth in Texas Lottery Rule 401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each instant ticket. A prize winner in the "BINGO" Instant Game is determined once the latex on the ticket is scratched off to expose 190 (one hundred ninety) play symbols. The player must scratch off the "LUCKY NUMBERS" area to reveal 40 (forty) Lucky Numbers. The player must then mark all the Bingo Numbers on Cards 1 through 6 that match the Lucky Numbers. Each card has a corresponding prize box. If the player matches all

bingo numbers in a complete horizontal, vertical, or diagonal line in a single card the player will win \$5 in Card 1, \$10 in Card 2, \$15 in Card 3, \$20 in Card 4, \$25 in Card 5, or \$30 in Card 6. If the player matches all bingo numbers in all four (4) corners in a single card the player will win \$20 in Card 1, \$40 in Card 2, \$50 in Card 3, \$75 in Card 4, \$100 in Card 5, or \$200 in Card 6. If the player matches all bingo numbers to make a complete "X" in a single card the player will win \$200 in Card 1, \$500 in Card 2, \$1,000 in Card 3, \$5,000 in Card 4, \$20,000 in Card 5, or \$50,000 in Card 6. No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

#### 2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly 190 (one hundred ninety) Play Symbols must appear under the latex overprint on the front portion of the ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink;
5. The ticket shall be intact;
6. The Serial Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;
8. The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The ticket must not be counterfeit in whole or in part;
10. The ticket must have been issued by the Texas Lottery in an authorized manner;
11. The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;
13. The ticket must be complete and not miscut, and have exactly 190 (one hundred ninety) Play Symbols under the latex overprint on the front portion of the ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;
14. The Serial Number of an apparent winning ticket shall correspond with the Texas Lottery's Serial Numbers for winning tickets, and a ticket with that Serial Number shall not have been paid previously;
15. The ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;
16. Each of the 190 (one hundred ninety) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures.

17. Each of the 190 (one hundred ninety) Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The ticket must have been received by the Texas Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket, solely at the Executive Director's discretion.

#### 2.2 Programmed Game Parameters.

A. A ticket will win as indicated by the prize structure.

B. A ticket can win up to six times.

C. Adjacent tickets in a pack will not have identical patterns.

D. There will never be more than one win on a single Bingo Card.

E. No duplicate numbers will appear on the Lucky Numbers.

F. No duplicate numbers will appear on each individual Player's Card.

G. The number range used for each letter will be as follows: B: 01-15; I: 16-30; N: 31-45; G: 46-60; O: 61-75.

H. Each Player's card on the same ticket must be unique.

I. The 40 Lucky numbers will match 53 to 83 numbers per ticket.

#### 2.3 Procedure for Claiming Prizes.

A. To claim a "BINGO" Instant Game prize of \$5.00, \$10.00, \$15.00, \$20.00, \$25.00, \$30.00, \$40.00, \$50.00, \$75.00, \$100, \$200, or \$500, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, make payment of the amount due the claimant and physically void the ticket; provided that the Texas Lottery Retailer may, but is not, in some cases, required to pay a \$50.00, \$75.00, \$100, \$200, or \$500 ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and 2.3.C of these Game Procedures.

B. To claim a "BINGO" Instant Game prize of \$1,000, \$2,000, \$5,000, \$20,000, or \$50,000, the claimant must sign the winning ticket and

present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "BINGO" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;

2. delinquent in making child support payments administered or collected by the Attorney General; or

3. delinquent in reimbursing the Texas Department of Human Services for a benefit granted in error under the food stamp program or the program of financial assistance under Chapter 31, Human Resource Code;

4. in default on a loan made under Chapter 52, Education Code; or

5. in default on a loan guaranteed under Chapter 57, Education Code

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "BINGO" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of more than \$600 from the "BINGO" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game. Any

prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated therefor, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated therefor, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on

the back of the ticket in the space designated therefor. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 3,040,950 tickets in the Instant Game No. 350. The approximate number and value of prizes in the game are as follows:

Table 3 of this section

Figure 3: GAME NO. 350 - 4.0

| Prize Amount | Approximate Number of Winners* | Approximate Odds are 1 in ** |
|--------------|--------------------------------|------------------------------|
| \$5          | 395,297                        | 7.69                         |
| \$10         | 202,713                        | 15.00                        |
| \$15         | 111,491                        | 27.28                        |
| \$20         | 60,842                         | 49.98                        |
| \$25         | 36,521                         | 83.27                        |
| \$30         | 7,365                          | 412.89                       |
| \$40         | 6,084                          | 499.83                       |
| \$50         | 7,505                          | 405.19                       |
| \$75         | 3,638                          | 835.89                       |
| \$100        | 2,530                          | 1,201.96                     |
| \$200        | 1,273                          | 2,388.81                     |
| \$500        | 252                            | 12,067.26                    |
| \$1,000      | 30                             | 101,365.00                   |
| \$2,000      | 10                             | 304,095.00                   |
| \$5,000      | 8                              | 380,118.75                   |
| \$20,000     | 4                              | 760,237.50                   |
| \$50,000     | 3                              | 1,013,650.00                 |

\*The number of actual winners may vary based on sales, distribution, and number of prizes claimed.

\*\*The overall odds of winning a prize are 1 in 3.64. The individual odds of winning for a particular prize level may vary based on sales, distribution, and number of prizes claimed.

A. The actual number of tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery.

5.0 End of the Instant Game. The Executive Director may, at any time, announce a closing date (end date) for the Instant Game No. 350 without advance notice, at which point no further tickets in that game may be sold.

6.0 Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game No. 350, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant

to the State Lottery Act and referenced in 16 TAC, Chapter 401, and all final decisions of the Executive Director.

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 Kimberly L. Kiplin  
 General Counsel  
 Texas Lottery Commission  
 Filed: May 21, 2002



Instant Game No. 351 "Crossword"

1.0 Name and Style of Game.

A. The name of Instant Game No. 351 is "CROSSWORD". The play style is "extended play puzzle".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 351 shall be \$3.00 per ticket.

1.2 Definitions in Instant Game No. 351.

A. Display Printing - That area of the instant game ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the ticket.

C. Play Symbol - One of the symbols which appears under the Latex Overprint on the front of the ticket. Each Play Symbol is printed in Symbol font in black ink in positive. The possible play symbols are: A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, V, W, X, Y, Z, and blackened square.

D. Play Symbol Caption - the small printed material appearing below each Play Symbol which explains the Play Symbol. One and only one of these Play Symbol Captions appears under each Play Symbol and each is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Table 1 of this section

Figure 1: GAME NO. 351 - 1.2D

| PLAY SYMBOL | CAPTION |
|-------------|---------|
| A           |         |
| B           |         |
| C           |         |
| D           |         |
| E           |         |
| F           |         |
| G           |         |
| H           |         |
| I           |         |
| J           |         |
| K           |         |
| L           |         |
| M           |         |
| N           |         |
| O           |         |
| P           |         |
| Q           |         |
| R           |         |
| S           |         |
| T           |         |
| U           |         |
| V           |         |
| W           |         |
| X           |         |
| Y           |         |
| Z           |         |

Table 2 of this section.

E. Retailer Validation Code - Three small letters found under the removable scratch-off covering in the play area, which retailers use to verify and validate instant winners. The possible validation codes are:



Figure 2: GAME NO. 351 - 1.2E

| CODE | PRIZE   |
|------|---------|
| THR  | \$3.00  |
| FIV  | \$5.00  |
| TEN  | \$10.00 |
| TWN  | \$20.00 |

Low-tier winning tickets use the required codes listed in Figure 2:16. Non-winning tickets and high-tier tickets use a non-required combination of the required codes listed in Figure 2:16 with the exception of Ø, which will only appear on low-tier winners and will always have a slash through it.

F. Serial Number - A unique 13 digit number appearing under the latex scratch-off covering on the front of the ticket. There is a four (4) digit security number which will be boxed and placed randomly within the Serial Number. The remaining nine (9) digits of the Serial Number are the Validation Number. The Serial Number is positioned beneath the bottom row of play data in the scratched-off play area. The format will be : 0000000000000.

G. Low-Tier Prize - A prize of \$3.00, \$5.00, \$10.00, or \$20.00.

H. Mid-Tier Prize - A prize of \$100 or \$500.

I. High-Tier Prize - A prize of \$5,000 or \$35,000.

J. Bar Code - A 22 (twenty-two) character interleaved two (2) of five (5) bar code which will include a three (3) digit game ID, the seven (7) digit pack number, the three (3) digit ticket number and the nine (9) digit Validation Number. The bar code appears on the back of the ticket.

K. Pack-Ticket Number - A 13 (thirteen) digit number consisting of the three (3) digit game number (351), a seven (7) digit pack number, and a three (3) digit ticket number. Ticket numbers start with 000 and end with 124 within each pack. The format will be: 351-0000001-000.

L. Pack - A pack of "CROSSWORD" Instant Game tickets contain 125 tickets, which are packed in plastic shrink-wrapping and fanfolded in pages of one (1). Ticket 000 will be shown on the front of the pack; the back of ticket 124 will be revealed on the back of the pack. Every other book will reverse, i.e., reverse order will be: the back of ticket 000 will be shown on the front of the pack and the front of ticket 124 will be shown on the back of the pack.

M. Non-Winning Ticket - A ticket which is not programmed to be a winning ticket or a ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

N. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "CROSSWORD" Instant Game No. 351 ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general ticket validation requirements set forth in Texas Lottery Rule 401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each instant ticket. A prize winner in the "CROSSWORD" Instant Game is determined once the latex on the ticket is scratched off to expose 139 (one hundred thirty-nine) play symbols. The player must scratch off the "YOUR LETTERS" area to reveal 18 (eighteen) Letters. The player must then scratch the corresponding letters found in the CROSSWORD puzzle. If the player scratches at least three (3) complete "words" in the CROSSWORD puzzle, the player will win the corresponding prize

found in the Prize Legend. Letters combined to form a complete "word" must appear in an unbroken horizontal (left to right) sequence or vertical (top to bottom) sequence of letters within the CROSSWORD puzzle. Only letters within the CROSSWORD Puzzle that are matched with the YOUR LETTERS can be used to form a complete "word". The three (3) small letters outside the squares in the YOUR LETTERS area are for validation purposes and cannot be used to play CROSSWORD. In the CROSSWORD puzzle, every letter within an unbroken horizontal or vertical sequence must be matched with the YOUR LETTERS to be considered a complete "word". Words within words are not eligible for a prize. A complete "word" must contain at least three (3) letters. No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly 139 (one hundred thirty-nine) Play Symbols must appear under the latex overprint on the front portion of the ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink;
5. The ticket shall be intact;
6. The Serial Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;
8. The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The ticket must not be counterfeit in whole or in part;
10. The ticket must have been issued by the Texas Lottery in an authorized manner;
11. The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;
13. The ticket must be complete and not miscut, and have exactly 139 (one hundred thirty-nine) Play Symbols under the latex overprint on the front portion of the ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;
14. The Serial Number of an apparent winning ticket shall correspond with the Texas Lottery's Serial Numbers for winning tickets, and a ticket with that Serial Number shall not have been paid previously;
15. The ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the 139 (one hundred thirty-nine) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures.

17. Each of the 139 (one hundred thirty-nine) Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The ticket must have been received by the Texas Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket, solely at the Executive Director's discretion.

## 2.2 Programmed Game Parameters.

A. A ticket can only win once.

B. Adjacent tickets within a pack will not have identical patterns.

C. Each ticket consists of a Your Letters area and one Crossword Puzzle Grid.

D. The Crossword puzzle Grid will be formatted with at least 1,000 configurations (i.e. puzzle layouts not including words).

E. All Crossword Puzzle Grid configurations will be formatted within a grid that contains 11 spaces (height) by 11 spaces (width).

F. Each word will appear only once per ticket on the Crossword Puzzle Grid.

G. Each letter will only appear once per ticket in the YOUR LETTERS play area.

H. Each Crossword Puzzle Grid will contain the following: 4 sets of 3-letter words; 5 sets of 4-letter words; 3 sets of 5-letter words; 3 sets of 6-letter words; 1 set of 7-letter words; 2 sets of 8-letter words; 1 set of 9-letter words; 19 words per puzzle per ticket.

I. There will be a minimum of three (3) vowels in the YOUR LETTERS play area.

J. The length of words found in the Crossword Puzzle Grid will range from 3-9 letters.

K. Only words from the approved wordlist will appear in the Crossword Puzzle Grid.

L. You will never find a word horizontally (in either direction), vertically (in either direction) or diagonally (in either direction) in the YOUR LETTERS play area that matches a word in the Crossword Puzzle Grid.

M. Each Crossword Puzzle Grid will have a maximum number of different grid formations with respect to other constraints. That is, for identically formatted Crossword puzzles (i.e. the same grid), all "approved words" will appear in every logical (i.e. 3 letter word = 3 letter space) position, with regards to limitations caused by the actual letters contained in each word (i.e. will not place the word ZOO in a position that causes an intersecting word to require the second letter to be "Z", when in fact, there are no approved words with a "Z" in the second letter position).

N. No one (1) letter, with the exception of vowels, will appear more than nine (9) times in the Crossword Puzzle grid.

O. No ticket will match eleven (11) words or more.

P. Three (3) to ten (10) completed words will be revealed as per the prize structure.

Q. All non-winning tickets will contain one (1) completed word approximately 20% of the time and two (2) completed words approximately 80% of the time.

R. Sixteen (16) to eighteen (18) YOUR LETTERS will open at least one (1) letter in the Crossword Puzzle Grid.

## 2.3 Procedure for Claiming Prizes.

A. To claim a "CROSSWORD" Instant Game prize \$3.00, \$5.00, \$10.00, \$20.00, \$100, or \$500, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, make payment of the amount due the claimant and physically void the ticket; provided that the Texas Lottery Retailer may, but is not, in some cases, required to pay a \$100 or \$500 ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and 2.3.C of these Game Procedures.

B. To claim a "CROSSWORD" Instant Game prize of \$5,000 or \$35,000, the claimant must sign the winning ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "CROSSWORD" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;
  2. delinquent in making child support payments administered or collected by the Attorney General; or
  3. delinquent in reimbursing the Texas Department of Human Services for a benefit granted in error under the food stamp program or the program of financial assistance under Chapter 31, Human Resource Code;
  4. in default on a loan made under Chapter 52, Education Code; or
  5. in default on a loan guaranteed under Chapter 57, Education Code
- E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

- A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;
- B. if there is any question regarding the identity of the claimant;
- C. if there is any question regarding the validity of the ticket presented for payment; or
- D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "CROSSWORD" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of more than \$600 from the "CROSSWORD" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game. Any prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated therefor, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated therefor, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated therefor. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 2,944,875 tickets in the Instant Game No. 351. The approximate number and value of prizes in the game are as follows:

Table 3 of this section

Figure 3: GAME NO. 351 - 4.0

| Prize Amount | Approximate Number of Winners* | Approximate Odds are 1 in ** |
|--------------|--------------------------------|------------------------------|
| \$3          | 465,259                        | 6.33                         |
| \$5          | 371,108                        | 7.94                         |
| \$10         | 70,715                         | 41.64                        |
| \$20         | 29,421                         | 100.09                       |
| \$100        | 4,782                          | 615.82                       |
| \$500        | 972                            | 3,029.71                     |
| \$5,000      | 15                             | 196,325.00                   |
| \$35,000     | 4                              | 736,218.75                   |

\*The number of actual winners may vary based on sales, distribution, and number of prizes claimed.

\*\*The overall odds of winning a prize are 1 in 3.13. The individual odds of winning for a particular prize level may vary based on sales, distribution, and number of prizes claimed.

A. The actual number of tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery.

5.0 End of the Instant Game. The Executive Director may, at any time, announce a closing date (end date) for the Instant Game No. 351 without advance notice, at which point no further tickets in that game may be sold.

6.0 Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game No. 351, the State Lottery Act (Texas Government Code,

Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401, and all final decisions of the Executive Director.

The following is a list of words approved by the Texas Lottery for use in this game:

|     |     |     |     |     |      |
|-----|-----|-----|-----|-----|------|
| ACE | CAR | GUT | MAT | POP | TIE  |
| ACT | CAT | GUY | MAY | PRO | TIP  |
| ADD | COB | HAM | MET | PRY | TOE  |
| ADO | COW | HAT | MID | PUT | TON  |
| AFT | COY | HAY | MIX | RAG | TOO  |
| AGE | CRY | HEM | MOB | RAM | TOP  |
| AGO | CUB | HEN | MOO | RAN | TOT  |
| AHA | CUE | HER | MOP | RAP | TOW  |
| AID | CUP | HIM | MUD | RAT | TOY  |
| AIM | CUT | HIP | MUG | RAW | TRI  |
| AIR | DAB | HIS | NAB | RAY | TRY  |
| ALL | DAY | HIT | NAP | RED | TUB  |
| ALP | DEN | HOE | NET | RIB | TUG  |
| AMP | DEW | HOG | NEW | RIG | TWO  |
| AND | DIG | HOP | NIL | RIM | URN  |
| ANT | DIM | HOT | NOD | RIP | USE  |
| ANY | DIP | HOW | NOR | ROT | VAN  |
| APE | DOG | HUB | NOT | ROW | VAT  |
| APT | DOT | HUE | NOW | RUB | VET  |
| ARC | DRY | HUG | NUT | RUG | VIA  |
| ARM | DUB | HUM | OAF | RUN | VIM  |
| ART | DUO | HUT | OAK | RUT | WAG  |
| ASH | DYE | ICE | OAR | RYE | WAX  |
| ASK | EAR | INK | OAT | SAW | WAY  |
| AWE | EAT | INN | ODD | SAY | WEB  |
| AYE | EBB | IVY | OFF | SEA | WET  |
| BAD | EGG | JAB | OIL | SEE | WHO  |
| BAH | EGO | JAR | OLD | SET | WHY  |
| BAN | ELK | JAW | ONE | SEW | WIG  |
| BAR | END | JAY | OPT | SHY | WIT  |
| BAT | ERA | JIG | ORE | SIP | YAK  |
| BAY | EYE | JOB | OUR | SIR | YEN  |
| BED | FAN | JOG | OUT | SIT | YES  |
| BEE | FAR | JOY | OWE | SIX | YET  |
| BEG | FEE | JUG | OWL | SKI | YOU  |
| BET | FEW | KEY | OWN | SLY | ZAP  |
| BID | FEZ | KID | PAN | SON | ZIP  |
| BIG | FIR | KIN | PAR | SOW | ZOO  |
| BIN | FIT | KIT | PAW | SPA | ABLE |
| BIT | FIX | LAB | PAY | SPY | ACHE |
| BOA | FOE | LAD | PEA | SUB | ACID |
| BOG | FOG | LAG | PEG | SUM | ACRE |
| BOW | FOR | LAP | PEN | SUN | AFAR |
| BOY | FOX | LAW | PEP | TAB | AHOY |
| BUD | FRY | LEE | PET | TAG | AIDE |
| BUG | FUN | LEG | PIE | TAN | AJAR |
| BUS | FUR | LET | PIG | TAP | AKIN |
| BUY | GAG | LOW | PIN | TAR | ALAS |
| CAB | GAP | MAD | PIT | TEA | ALIT |
| CAN | GEM | MAN | PLY | TEE | ALLY |
| CAP | GET | MAP | POD | TEN | ALOE |

The following is a list of words approved by the Texas Lottery for use in this game:

|      |      |      |      |      |      |
|------|------|------|------|------|------|
| ALSO | BIKE | CELL | DATA | EPIC | FUSS |
| ALTO | BILL | CHAT | DATE | ETCH | GAIN |
| AMID | BIND | CHEF | DAWN | EVEN | GALA |
| ANEW | BIRD | CHIN | DAZE | EXAM | GAME |
| ANTE | BLOT | CHIP | DEAL | EXIT | GATE |
| ANTI | BLUE | CITE | DEAN | FACE | GAZE |
| APEX | BLUR | CITY | DECK | FACT | GEAR |
| AQUA | BOAT | CLAM | DEED | FADE | GIFT |
| ARCH | BODY | CLAW | DEEM | FAIL | GIRL |
| AREA | BOIL | CLAY | DEEP | FAIR | GIVE |
| ARID | BOLD | CLIP | DEER | FALL | GLAD |
| ATOM | BOLT | CLUB | DENT | FAME | GLEE |
| AUNT | BOND | CLUE | DESK | FARE | GLOW |
| AURA | BOOK | COAL | DIAL | FARM | GLUE |
| AUTO | BOON | COAT | DICE | FAST | GLUT |
| AVID | BOOT | COAX | DILL | FAWN | GNAT |
| AWAY | BOSS | CODE | DIME | FEAR | GOAL |
| AXIS | BOTH | COIL | DIRE | FEED | GOAT |
| AXLE | BOUT | COIN | DIRT | FEEL | GOLF |
| BABY | BOWL | COLD | DISH | FEET | GONE |
| BACK | BRAG | COLT | DISK | FILE | GOOD |
| BAIL | BRAN | COMB | DIVE | FILL | GOWN |
| BAIT | BRIM | CONE | DOCK | FILM | GRAB |
| BAKE | BROW | COOK | DOLL | FINE | GRAY |
| BALD | BUCK | COOL | DOME | FIRE | GREY |
| BALK | BULB | COPE | DONE | FISH | GRID |
| BALL | BULK | COPY | DOOR | FLAG | GRIN |
| BAND | BULL | CORD | DOVE | FLAP | GRIP |
| BANK | BUMP | CORE | DOWN | FLAT | GROW |
| BARE | BUNK | CORK | DRAW | FLAW | GULF |
| BARK | BUNT | CORN | DROP | FLEA | GULL |
| BARN | BUOY | COST | DRUM | FLEE | GULP |
| BASE | BURY | COVE | DUAL | FLEW | GUST |
| BASH | BUSH | COZY | DUCK | FLIP | HAIL |
| BASS | BUSY | CREW | DUCT | FLOW | HAIR |
| BATH | CAGE | CRIB | DUEL | FOAM | HALF |
| BEAD | CAKE | CROP | DUET | FOLD | HALL |
| BEAK | CALF | CROW | DULL | FOND | HALT |
| BEAM | CALL | CUBE | DUNE | FOOD | HAND |
| BEAN | CALM | CUFF | DUSK | FOOT | HARD |
| BEAR | CAMP | CURB | DUST | FORK | HARE |
| BEAU | CANE | CURE | DUTY | FORM | HARK |
| BEEF | CAPE | CURL | EACH | FORT | HARP |
| BEEP | CARD | CUTE | EARL | FOUR | HATS |
| BEET | CARE | CYAN | EARN | FREE | HAUL |
| BELL | CARS | DALE | EAST | FROG | HAVE |
| BELT | CART | DAMP | EASY | FROM | HAWK |
| BEND | CASE | DARE | ECHO | FUEL | HAYS |
| BENT | CASK | DARK | EDGE | FULL | HAZE |
| BEST | CAST | DART | EDIT | FUND | HAZY |
| BIAS | CAVE | DASH | ELSE | FUSE | HEAL |

The following is a list of words approved by the Texas Lottery for use in this game:

|      |      |      |      |      |      |
|------|------|------|------|------|------|
| HEAR | JOIN | LIMB | MINE | OPEN | PURE |
| HEAT | JOKE | LIME | MINK | OPUS | PURR |
| HEEL | JOLT | LINE | MINT | OUCH | PUSH |
| HEIR | JUDO | LINK | MISS | OVAL | PUTT |
| HELD | JULY | LINT | MIST | OVEN | QUIP |
| HELP | JUMP | LION | MOAT | OVER | QUIT |
| HERB | JUNE | LIST | MOCK | OXEN | QUIZ |
| HERD | JUNK | LIVE | MODE | PACE | RACE |
| HERE | JURY | LOAD | MOLD | PACK | RACK |
| HERO | JUST | LOAF | MOOD | PACT | RAFT |
| HIDE | KEEN | LOAN | MOON | PAGE | RAGE |
| HIGH | KEEP | LOCK | MORE | PAID | RAID |
| HIKE | KEYS | LOFT | MOSS | PALE | RAIL |
| HILL | KICK | LONG | MOST | PALM | RAIN |
| HINT | KIND | LOOK | MOTH | PARK | RAKE |
| HIRE | KING | LOOP | MOVE | PART | RAMP |
| HIVE | KITE | LOUD | MUCH | PASS | RARE |
| HOAX | KNEE | LOVE | MULE | PAST | RATE |
| HOLD | KNIT | LUCK | MUST | PATH | READ |
| HOLE | KNOT | LULL | MYTH | PAVE | REAL |
| HOME | KNOW | LURE | NAIL | PAWN | REAR |
| HOOD | LACE | LURK | NAME | PEAK | REED |
| HOOK | LACK | LUTE | NARY | PEAL | REEF |
| HOOP | LADY | LYNX | NEAR | PEAR | REEL |
| HOPE | LAIR | MADE | NEAT | PEER | RELY |
| HOSE | LAKE | MAIL | NEED | PICK | RENT |
| HOST | LAMB | MAIN | NEON | PIER | REST |
| HOUR | LAMP | MAKE | NEST | PILE | RICE |
| HOWL | LAND | MALL | NEXT | PINE | RICH |
| HUGE | LANE | MALT | NICE | PINK | RIDE |
| HULA | LARD | MANY | NICK | PINT | RING |
| HULL | LARK | MARK | NINE | PIPE | RINK |
| HUNT | LASH | MARS | NODE | PITA | RIPE |
| HUSH | LAST | MASK | NONE | PITY | RISE |
| HYPE | LATE | MAST | NOOK | PLAN | RISK |
| ICON | LAVA | MATH | NOON | PLAY | ROAD |
| IDEA | LAWN | MAZE | NORM | PLEA | ROAM |
| IDLE | LAZY | MEAL | NOSE | PLOT | ROAR |
| INCH | LEAD | MEET | NOTE | PLOW | ROBE |
| INTO | LEAF | MELT | NOUN | PLUM | ROCK |
| IOTA | LEAK | MEMO | NUMB | PLUS | ROLE |
| IRIS | LEAN | MEND | OATH | POEM | ROLL |
| IRON | LEAP | MENU | OBEY | POLL | ROOF |
| ITCH | LEFT | MESH | OBOE | POND | ROOM |
| ITEM | LEND | MESS | OKAY | PONY | ROOT |
| JACK | LESS | MICE | ONCE | POOL | ROPE |
| JADE | LEVY | MILD | ONLY | POSE | ROSE |
| JAZZ | LIFE | MILE | ONTO | POSH | RUBY |
| JEEP | LIFT | MILK | ONUS | POST | RUDE |
| JEST | LIKE | MILL | ONYX | POUR | RUIN |
| JIVE | LILY | MIND | OOZE | PULL | RULE |

The following is a list of words approved by the Texas Lottery for use in this game:

|      |      |      |      |       |       |
|------|------|------|------|-------|-------|
| RUNG | SMOG | TASK | TWIG | WINE  | AFTER |
| RUSH | SNAP | TAXI | TWIN | WING  | AGAIN |
| RUST | SNOW | TEAK | TYPE | WIPE  | AGENT |
| SACK | SNUG | TEAM | UNDO | WIRE  | AGILE |
| SAGE | SOAK | TEAR | UNIT | WISE  | AGONY |
| SAKE | SOAP | TEEN | URGE | WISH  | AGREE |
| SALE | SOAR | TELL | USED | WITH  | AHEAD |
| SALT | SOCK | TEND | VAIL | WOLF  | AISLE |
| SAME | SODA | TENT | VARY | WOOD  | ALARM |
| SAND | SOFA | TERM | VASE | WOOL  | ALBUM |
| SAVE | SOFT | TEST | VAST | WORD  | ALERT |
| SCAN | SOIL | TEXT | VEAL | WORK  | ALIAS |
| SCAR | SOLD | THAT | VENT | WORM  | ALIBI |
| SEAL | SOLE | THAW | VERB | WORN  | ALIEN |
| SEAM | SOLO | THEN | VERY | WRAP  | ALIGN |
| SEAT | SOME | THEY | VEST | WREN  | ALIKE |
| SEED | SONG | THIN | VETO | YARD  | ALIVE |
| SEEK | SOON | THUS | VIEW | YARN  | ALLEY |
| SEEM | SORE | TIDE | VINE | YAWN  | ALLOT |
| SELF | SORT | TIDY | VISA | YEAR  | ALLOW |
| SELL | SOUL | TIER | VOLT | YELL  | ALLOY |
| SEMI | SOUP | TILE | VOTE | YOGA  | ALOHA |
| SEND | SOUR | TILT | WADE | YOLK  | ALONE |
| SENT | SOYA | TIME | WAGE | YORE  | ALONG |
| SERF | SPAN | TINT | WAIT | YOUR  | ALOOF |
| SHED | SPIN | TINY | WAKE | ZEAL  | ALPHA |
| SHIN | SPOT | TIRE | WALK | ZERO  | ALTER |
| SHIP | STAR | TOAD | WALL | ZEST  | AMASS |
| SHOE | STAY | TOIL | WAND | ZINC  | AMAZE |
| SHOP | STEM | TOLD | WANT | ZONE  | AMBER |
| SHOW | STEP | TOLL | WARD | ZOOM  | AMIGO |
| SHUT | STEW | TONE | WARM | ABATE | AMINO |
| SICK | STIR | TOOL | WARN | ABIDE | AMISS |
| SIDE | STOP | TOSS | WARY | ABODE | AMONG |
| SIFT | SUCH | TOUR | WASH | ABOUT | AMPLE |
| SIGN | SUIT | TOWN | WATT | ABOVE | AMUSE |
| SILK | SURE | TRAP | WAVE | ABUSE | ANGER |
| SILO | SURF | TRAY | WEAK | ABYSS | ANGLE |
| SING | SWAN | TREE | WEAR | ACORN | ANGST |
| SINK | SWAT | TRIM | WEEK | ACTOR | ANKLE |
| SIZE | SWIM | TRIO | WEEP | ACUTE | ANNEX |
| SKEW | TACK | TRIP | WELD | ADAGE | ANNOY |
| SKIM | TACT | TROT | WELL | ADAPT | ANTIC |
| SKIN | TAIL | TRUE | WEST | ADEPT | ANVIL |
| SKIP | TAKE | TUBE | WHAT | ADIEU | APART |
| SKIS | TALE | TUCK | WHEN | ADIOS | APPLE |
| SLAP | TALK | TUNA | WHIM | ADMIT | APPLY |
| SLED | TALL | TUNE | WIDE | ADOPT | APRON |
| SLIM | TAME | TURF | WIFE | ADORE | ARENA |
| SLIP | TANK | TURN | WILD | ADULT | ARGUE |
| SLOW | TAPE | TUSK | WIND | AFFIX | ARISE |

The following is a list of words approved by the Texas Lottery for use in this game:

|       |       |       |       |       |       |
|-------|-------|-------|-------|-------|-------|
| ARMOR | BIRDS | CABIN | CLOSE | DOZEN | FLEET |
| AROMA | BISON | CABLE | CLOTH | DRAFT | FLOAT |
| ARRAY | BLACK | CACHE | CLOUD | DRAIN | FLOCK |
| ARROW | BLAME | CADET | CLOWN | DRAMA | FLOOR |
| ASCOT | BLAND | CAMEL | CLUES | DREAM | FLORA |
| ASHES | BLANK | CAMEO | COACH | DRESS | FLOSS |
| ASIDE | BLARE | CANAL | COAST | DRIFT | FLOUR |
| ASPEN | BLAST | CANDY | COBRA | DRIVE | FLUID |
| ASSET | BLAZE | CANOE | COMET | DWELL | FLUTE |
| ATLAS | BLEND | CARGO | COMIC | EAGLE | FOCUS |
| ATOLL | BLIND | CARRY | CONGA | EARLY | FORAY |
| ATTIC | BLINK | CARVE | CORAL | EARTH | FORCE |
| AUDIO | BLITZ | CATCH | COUCH | EIGHT | FOUND |
| AUDIT | BLOCK | CAUSE | COUNT | ELBOW | FRAIL |
| AVAIL | BLOOM | CEASE | COURT | EMCEE | FRAME |
| AVERT | BLUFF | CEDAR | COVER | EMPTY | FRANK |
| AVOID | BLUNT | CELLO | CRAFT | ENACT | FRESH |
| AWAIT | BLUSH | CHAIN | CRANE | ENJOY | FRONT |
| AWAKE | BOARD | CHAIR | CRATE | ENTER | FROST |
| AWARD | BOAST | CHALK | CRAVE | ENTRY | FROWN |
| AWARE | BONUS | CHAOS | CRAWL | ENVOY | FRUIT |
| AWASH | BOOST | CHARM | CREEK | EQUAL | FUNNY |
| AWFUL | BOOTH | CHART | CREST | ERASE | GAMES |
| AWOKE | BOUND | CHASE | CRISP | ERODE | GIANT |
| AXIOM | BRACE | CHEAP | CROWD | ERROR | GIVEN |
| AZURE | BRAID | CHECK | CROWN | ESSAY | GLARE |
| BACON | BRAIN | CHEER | CRUSH | EVADE | GLASS |
| BADGE | BRAKE | CHESS | CRUST | EVENT | GLAZE |
| BAGEL | BRAND | CHIEF | CURVE | EVERY | GLITZ |
| BAKER | BRASS | CHILD | CYCLE | EXACT | GLOBE |
| BANJO | BRAVE | CHILI | DAILY | EXIST | GLOOM |
| BARGE | BRAVO | CHILL | DAIRY | EXTRA | GLORY |
| BARON | BRAWN | CHIME | DAISY | FABLE | GLOSS |
| BASIC | BREAD | CHIRP | DANCE | FACET | GLOVE |
| BASIL | BREAK | CHORD | DEBIT | FAINT | GOING |
| BASIN | BREED | CHORE | DECAL | FAULT | GOOSE |
| BASIS | BRIAR | CHUTE | DECOY | FAUNA | GORGE |
| BATCH | BRICK | CIDER | DELAY | FEAST | GRACE |
| BATON | BRIEF | CIVIC | DELTA | FEIGN | GRADE |
| BAYOU | BRING | CIVIL | DENIM | FEMUR | GRAIN |
| BEACH | BROOK | CLAIM | DEPOT | FENCE | GRAND |
| BEARD | BROOM | CLASH | DEPTH | FETCH | GRANT |
| BEECH | BROWN | CLASS | DEUCE | FEVER | GRAPE |
| BEGIN | BRUSH | CLEAN | DIARY | FIELD | GRAPH |
| BEIGE | BUDDY | CLEAR | DIGIT | FINAL | GRASP |
| BEING | BUDGE | CLERK | DINER | FLAGS | GRASS |
| BELOW | BUGLE | CLICK | DISCO | FLAIR | GRAVY |
| BENCH | BUILD | CLIFF | DITCH | FLAKE | GREAT |
| BERET | BUILT | CLIMB | DODGE | FLAME | GREEN |
| BERRY | BUNCH | CLOAK | DOUBT | FLARE | GREET |
| BIRCH | BURST | CLOCK | DOUGH | FLASH | GRILL |



The following is a list of words approved by the Texas Lottery for use in this game:

|       |       |       |       |       |       |
|-------|-------|-------|-------|-------|-------|
| GRINS | IVORY | LODGE | NATAL | PEALS | PUTTY |
| GROAN | JAUNT | LOGIC | NERVE | PEARL | QUAIL |
| GROOM | JEANS | LOOSE | NEVER | PECAN | QUAKE |
| GROUP | JELLY | LOYAL | NEWER | PEDAL | QUART |
| GUARD | JEWEL | LUCKY | NICHE | PENNY | QUEEN |
| GUESS | JOIST | LUNAR | NIECE | PETAL | QUERY |
| GUEST | JOKER | LUNCH | NIGHT | PETTY | QUEST |
| GUIDE | JOLLY | LYRIC | NINES | PHASE | QUEUE |
| HABIT | JOUST | MAUVE | NINTH | PHONE | QUICK |
| HANDS | JUDGE | MAYBE | NOBLE | PHOTO | QUIET |
| HANDY | JUICE | MAYOR | NOBLY | PIANO | QUILL |
| HAPPY | JUMBO | MEDAL | NOISE | PIECE | QUILT |
| HARDY | JUROR | MEDIA | NOISY | PILOT | QUIRK |
| HASTE | KARAT | MELON | NOMAD | PINCH | QUITE |
| HATCH | KAYAK | MERCY | NORTH | PINTO | QUITS |
| HEARD | KNACK | MERGE | NOVEL | PITCH | QUOTA |
| HEART | KNEAD | MERIT | NUDGE | PIVOT | QUOTE |
| HEAVY | KNOCK | MERRY | NURSE | PIXEL | RADAR |
| HEDGE | KOALA | MESSY | NYLON | PIZZA | RADIO |
| HELLO | LABEL | METAL | OASIS | PLACE | RAISE |
| HINGE | LACES | METER | OCCUR | PLAID | RALLY |
| HIPPO | LADLE | MIDST | OCEAN | PLAIN | RANCH |
| HITCH | LAKES | MIGHT | OFFER | PLANE | RANGE |
| HOBBY | LAMBS | MILKY | OFTEN | PLANK | RAPID |
| HONEY | LAPEL | MIMIC | OLIVE | PLANT | RATIO |
| HONOR | LAPSE | MINCE | ONION | PLATE | RAVEN |
| HORSE | LARGE | MINED | OPERA | PLUMB | RAZOR |
| HOTEL | LASER | MINES | OPTIC | PLUME | REACH |
| HOUND | LATCH | MINOR | ORBIT | PLUSH | REACT |
| HOUSE | LATER | MIRTH | ORDER | PLUTO | READY |
| HUMAN | LAUGH | MITER | OTHER | POINT | RECAP |
| HUMID | LAYER | MIXED | OTTER | POLAR | REFER |
| HUMOR | LEAFY | MODEM | OUGHT | POLKA | REGAL |
| HUNCH | LEARN | MOIST | OUNCE | POPPY | REIGN |
| HURRY | LEASE | MONEY | OUTDO | PORCH | RELAX |
| HUTCH | LEASH | MONTH | OZONE | POUCH | RELAY |
| HYDRO | LEAST | MOODY | PAILS | POUND | RELIC |
| HYPER | LEAVE | MOOSE | PAINT | POWER | RENEW |
| IDEAL | LEDGE | MOTOR | PALMS | PRESS | REPLY |
| IDEAS | LEGAL | MOTTO | PANDA | PRICE | RESET |
| IGLOO | LEMON | MOUSE | PANEL | PRIDE | RETRY |
| IMAGE | LEVEL | MOUTH | PAPER | PRIME | REUSE |
| IMPLY | LEVER | MOVER | PARCH | PRINT | RHINO |
| INDEX | LIGHT | MOVIE | PARTY | PRIOR | RHYME |
| INFER | LILAC | MUDDY | PASTA | PRISM | RIDGE |
| INNER | LIMIT | MUNCH | PASTE | PRIZE | RIGHT |
| INPUT | LINEN | MURAL | PATCH | PROOF | RINSE |
| IRATE | LINGO | MUSIC | PATIO | PROSE | RISEN |
| IRONY | LIVID | NACHO | PAUSE | PROUD | RIVAL |
| ISSUE | LOBBY | NAIVE | PEACE | PUPIL | RIVER |
| ITEMS | LOCAL | NASAL | PEACH | PURSE | ROAST |

The following is a list of words approved by the Texas Lottery for use in this game:

|       |       |       |       |       |       |
|-------|-------|-------|-------|-------|-------|
| ROBIN | SHINE | SPACE | STUDY | TODAY | USURP |
| ROBOT | SHIRT | SPARE | STUFF | TOKEN | UTTER |
| RODEO | SHOAL | SPARK | STUNT | TOOTH | VAGUE |
| ROTOR | SHOCK | SPEAK | STYLE | TOPIC | VALET |
| ROUGH | SHOES | SPEAR | SUAVE | TORCH | VALID |
| ROUND | SHORE | SPEED | SUEDE | TOTAL | VALOR |
| ROUTE | SHORT | SPELL | SUGAR | TOTEM | VALUE |
| ROYAL | SHRED | SPICE | SUITE | TOUCH | VALVE |
| RULES | SHRUB | SPIKE | SUNNY | TOUGH | VAPOR |
| RURAL | SIEGE | SPILL | SUPER | TOWEL | VAULT |
| SALAD | SIGHT | SPLIT | SURGE | TOWER | VENOM |
| SALON | SINCE | SPOIL | SWAMP | TOXIC | VENUE |
| SALVE | SINUS | SPOOL | SWARM | TRACE | VENUS |
| SATIN | SIREN | SPOON | SWEAT | TRACK | VERGE |
| SAUCE | SKATE | SPORT | SWEEP | TRADE | VERSE |
| SAUNA | SKIED | SPOUT | SWEET | TRAIL | VIDEO |
| SCALD | SKIES | SPRAY | SWIFT | TRAIN | VILLA |
| SCALE | SKILL | SQUAD | SWING | TRAIT | VINYL |
| SCARF | SLACK | SQUID | SWIRL | TRASH | VISIT |
| SCENE | SLANG | STACK | SWOON | TREAT | VISOR |
| SCENT | SLANT | STAFF | SYRUP | TREND | VITAL |
| SCOFF | SLASH | STAGE | TABLE | TRIAL | VIVID |
| SCOLD | SLATE | STAIN | TANGO | TRIBE | VOCAL |
| SCOOP | SLEEK | STAIR | TASTE | TRICK | VOGUE |
| SCOOT | SLEEP | STAKE | TEACH | TROOP | VOICE |
| SCORE | SLICE | STAMP | TEETH | TROUT | VOTER |
| SCOUT | SLICK | STAND | TEMPO | TRUCE | WAGON |
| SCRAP | SLIDE | STARE | TEMPT | TRUCK | WAIST |
| SCRUB | SLOOP | START | TENOR | TRUNK | WALTZ |
| SCUBA | SLOPE | STATE | TENSE | TRUST | WASTE |
| SEIZE | SMALL | STEAK | THANK | TRUTH | WATCH |
| SENSE | SMART | STEAM | THEIR | TULIP | WATER |
| SERVE | SMELL | STEEL | THEME | TWEAK | WAVER |
| SEVEN | SMILE | STEEP | THERE | TWEED | WEAVE |
| SHADE | SMOCK | STEER | THESE | TWINE | WEDGE |
| SHAKE | SNACK | STICK | THICK | TWIRL | WEIGH |
| SHALE | SNAIL | STILL | THING | TWIST | WHALE |
| SHALL | SNAKE | STING | THINK | UNCLE | WHARF |
| SHAME | SNEAK | STOCK | THIRD | UNDER | WHEAT |
| SHAPE | SNIFF | STOMP | THORN | UNFIT | WHEEL |
| SHARE | SNORE | STONE | THOSE | UNIFY | WHERE |
| SHARK | SNOWY | STORE | THREE | UNION | WHICH |
| SHARP | SOGGY | STORK | THROW | UNITY | WHILE |
| SHAVE | SOLAR | STORM | THUMB | UNTIE | WHIRL |
| SHAWL | SOLID | STORY | THUMP | UNTIL | WHITE |
| SHEEP | SOLVE | STOVE | TIDAL | UPPER | WHOLE |
| SHEER | SONAR | STRAP | TIGER | UPSET | WHOSE |
| SHEET | SONIC | STRAW | TIGHT | URBAN | WIDEN |
| SHELF | SORRY | STRAY | TIMID | USAGE | WIDTH |
| SHELL | SOUND | STRUT | TITLE | USHER | WINDY |
| SHIFT | SOUTH | STUCK | TOAST | USUAL | WORLD |

The following is a list of words approved by the Texas Lottery for use in this game:

|        |        |        |        |        |        |
|--------|--------|--------|--------|--------|--------|
| WORRY  | ALLEGE | BADGER | BREACH | CEREAL | CRAFTY |
| WORTH  | ALLIED | BAFFLE | BREATH | CHALET | CRATER |
| WOVEN  | ALLUDE | BAKERY | BREEZE | CHANCE | CRAVAT |
| WRECK  | ALLURE | BALLET | BRIDGE | CHANGE | CRAYON |
| WRIST  | ALMOND | BALLOT | BRIGHT | CHARGE | CREASE |
| WRITE  | ALMOST | BALSAM | BROACH | CHEESE | CREATE |
| WRONG  | ALPINE | BAMBOO | BROKEN | CHOICE | CREDIT |
| YACHT  | AMBUSH | BANANA | BROKER | CHOOSE | CRITIC |
| YEARN  | AMULET | BANDIT | BRONZE | CHORAL | CROCUS |
| YIELD  | ANTHEM | BANKER | BROWSE | CHORES | CRUISE |
| YOUNG  | ANTLER | BANTER | BRUNCH | CHORUS | CRUNCH |
| YOUTH  | APATHY | BARBER | BUBBLE | CHROME | CURFEW |
| ZEBRA  | APIARY | BARLEY | BUCKET | CINEMA | CUSTOM |
| ABACUS | APPALL | BARREL | BUCKLE | CIRCLE | DAMAGE |
| ABDUCT | APPEAL | BARTER | BUDGET | CIRCUS | DANCER |
| ABJECT | APPEAR | BASKET | BUFFET | CITRUS | DANGER |
| ABROAD | APPEND | BATTER | BURDEN | CLAUSE | DARING |
| ABRUPT | ARCADE | BATTLE | BUREAU | CLEVER | DAZZLE |
| ABSENT | ARCHER | BAUBLE | BURLAP | CLIENT | DEBATE |
| ABSORB | ARCTIC | BAZAAR | BURROW | CLINCH | DECADE |
| ACCENT | ARGENT | BEACON | BUSHEL | CLOSET | DECENT |
| ACCEPT | ARMADA | BEAGLE | BUTTER | CLOUDS | DECIDE |
| ACCESS | AROUND | BEAKER | BUTTON | CLOUDY | DECODE |
| ACCORD | ARREST | BEARER | CACTUS | CLOVER | DEDUCE |
| ACCRUE | ARRIVE | BEAUTY | CAMERA | COBWEB | DEFEAT |
| ACCUSE | ARTERY | BECAME | CAMPUS | COCOON | DEFINE |
| ACETIC | ARTIST | BECOME | CANADA | COFFEE | DEGREE |
| ACORNS | ASCEND | BEFORE | CANARY | COGNAC | DELUGE |
| ACROSS | ASHORE | BEHALF | CANCEL | COLLAR | DEMAND |
| ACTING | ASLEEP | BEHAVE | CANDID | COLONY | DENIAL |
| ACTION | ASPECT | BEHIND | CANDLE | COLUMN | DENTAL |
| ACTIVE | ASPIRE | BETTER | CANINE | COMEDY | DEPART |
| ACTUAL | ASSERT | BEWARE | CANOPY | COMMIT | DEPEND |
| ADJUST | ASSESS | BEYOND | CANVAS | COMMON | DEPICT |
| ADMIRE | ASSETS | BICEPS | CANYON | COMPEL | DERAIL |
| ADRIFT | ASSIGN | BILLOW | CARAFE | COMPLY | DERIVE |
| ADSORB | ASSIST | BINARY | CARBON | CONVEX | DESERT |
| ADVERB | ASSUME | BINDER | CAREER | CONVEY | DESIGN |
| ADVICE | ASSURE | BIONIC | CARPET | CONVOY | DESIRE |
| ADVISE | ASTUTE | BOILER | CARROT | COOKIE | DETACH |
| AERIAL | ATTACH | BORDER | CARTON | COPIER | DETAIL |
| AFFAIR | ATTAIN | BORING | CASHEW | COPPER | DETOUR |
| AFFECT | ATTEND | BORROW | CASTLE | CORNER | DEVICE |
| AFFIRM | ATTEST | BOTANY | CASUAL | CORRAL | DEVOTE |
| AFFORD | AUTUMN | BOTHER | CATTLE | COSMIC | DIESEL |
| AFLOAT | AVALON | BOTTLE | CAVERN | COTTON | DIGEST |
| AFRAID | AVENUE | BOTTOM | CELERY | COUGAR | DILUTE |
| AGENCY | AWHILE | BOUNCE | CELLAR | COUPLE | DINNER |
| AGENDA | AZALEA | BOVINE | CEMENT | COUPON | DIRECT |
| AGHAST | BABBLE | BOWLER | CENSUS | COURSE | DISHES |
| ALCOVE | BABOON | BRANCH | CENTER | COYOTE | DIVERT |

The following is a list of words approved by the Texas Lottery for use in this game:

|        |        |         |        |        |         |
|--------|--------|---------|--------|--------|---------|
| DIVIDE | FARMER | GOSSIP  | INSIDE | LEAVES | METEOR  |
| DOCTOR | FASTEN | GOVERN  | INSIST | LEDGER | METHOD  |
| DOLLAR | FASTER | GRAPES  | INTACT | LEEWAY | METRIC  |
| DOMAIN | FATHER | GROUND  | INTEND | LEGACY | METTLE  |
| DOMINO | FAUCET | GROWTH  | INTERN | LEGEND | MIDDLE  |
| DONATE | FEEDER | GUITAR  | INVEST | LENDER | MIDWAY  |
| DONKEY | FELINE | GYP SUM | INVITE | LENGTH | MIGHTY  |
| DOSAGE | FIDDLE | HAMLET  | IODINE | LESSON | MINGLE  |
| DRAGON | FIGURE | HAMMER  | ISLAND | LETTER | MINNOW  |
| DREAMS | FILLER | HAMPER  | ITALIC | LIGHTS | MINTED  |
| DUPLEX | FILTER | HANDLE  | ITSELF | LIKELY | MINUET  |
| DURING | FINGER | HANGAR  | JACKET | LILIES | MINUTE  |
| EASILY | FINISH | HAPPEN  | JAGUAR | LINEAR | MIRAGE  |
| EDITOR | FLAMES | HARBOR  | JARGON | LINGER | MIRROR  |
| EFFECT | FLAWED | HEALTH  | JAUNTY | LIQUID | MISFIT  |
| EFFORT | FLEECE | HEATER  | JERSEY | LISTEN | MISHAP  |
| EITHER | FLIGHT | HECKLE  | JESTER | LITTLE | MISSSES |
| EMERGE | FLORAL | HECTIC  | JIGGLE | LIVING | MISTED  |
| EMPIRE | FLOWER | HEIGHT  | JIGSAW | LIZARD | MITTEN  |
| ENAMEL | FLYING | HELIUM  | JINGLE | LOCATE | MOBILE  |
| ENCODE | FOLLOW | HELMET  | JOCKEY | LOCKER | MODERN  |
| ENCORE | FOREST | HERMIT  | JOKING | LOTION | MODEST  |
| ENDURE | FORGET | HIATUS  | JOVIAL | LOUNGE | MODIFY  |
| ENERGY | FORMAL | HIKING  | JOYFUL | LOVELY | MODULE  |
| ENGINE | FORMAT | HOBBLE  | JOYOUS | LUMBER | MOMENT  |
| ENIGMA | FORMER | HOCKEY  | JUGGLE | LUXURY | MONKEY  |
| ENOUGH | FOSSIL | HOLLOW  | JUMBLE | MAGNET | MORROW  |
| ENSIGN | FREEZE | HONEST  | JUNGLE | MAMMAL | MORTAR  |
| ENTAIL | FRIEND | HORNET  | JUNIOR | MANAGE | MOTION  |
| ENTIRE | FROLIC | HUDDLE  | KARATE | MANNER | MOTIVE  |
| ENTITY | FROZEN | HUMANE  | KENNEL | MANUAL | MURMUR  |
| EQUITY | FRUGAL | HUMBLE  | KERNEL | MARBLE | MUSCLE  |
| ERASER | FUNNEL | HUNGER  | KETTLE | MARGIN | MUSEUM  |
| ERRAND | FUSION | HUNGRY  | KINDLY | MARINE | MUSKOX  |
| ESCAPE | FUTURE | HURDLE  | KITTEN | MARKER | MUSLIN  |
| ESTATE | GADGET | HUSTLE  | KNIGHT | MARKET | MUSSEL  |
| ESTEEM | GALAXY | HYPHEN  | LABELS | MARLIN | MUTINY  |
| EXCEED | GANGES | ICICLE  | LACTIC | MAROON | MUTUAL  |
| EXCESS | GARDEN | IMMUNE  | LADDER | MARVEL | MYRIAD  |
| EXCUSE | GATHER | IMPACT  | LADIES | MASCOT | MYRTLE  |
| EXHALE | GAZEBO | IMPEDE  | LAGOON | MASTER | MYSELF  |
| EXPAND | GENIUS | IMPORT  | LARGER | MATRIX | MYSTIC  |
| EXPECT | GENTLE | IMPOSE  | LARYNX | MATTER | NAPKIN  |
| EXPERT | GLIDER | INCHES  | LATELY | MATURE | NARROW  |
| FABRIC | GLOBAL | INCOME  | LATEST | MEADOW | NATION  |
| FACADE | GLOOMY | INDEED  | LAUNCH | MEDIUM | NEEDLE  |
| FACIAL | GLOSSY | INDOOR  | LAWFUL | MELLOW | NEGATE  |
| FACTOR | GOBLET | INFANT  | LAWYER | MELODY | NEPHEW  |
| FALCON | GOGGLE | INFORM  | LAYOUT | MEMBER | NETTLE  |
| FAMILY | GOLDEN | INNING  | LEADER | MEMORY | NEURAL  |
| FAMOUS | GOLFER | INSECT  | LEAGUE | MERLIN | NEURON  |

The following is a list of words approved by the Texas Lottery for use in this game:

|        |        |        |        |        |        |
|--------|--------|--------|--------|--------|--------|
| NEWTON | PARADE | POROUS | RECORD | ROBUST | SENSOR |
| NIBBLE | PARCEL | PORTER | REDEEM | ROCKET | SEQUEL |
| NICELY | PARDON | POSSUM | REDUCE | RODENT | SERENE |
| NICKEL | PARENT | POTATO | REFILL | ROSTER | SERIES |
| NIMBLE | PARLOR | POWDER | REFINE | ROTATE | SESAME |
| NIMBLY | PARROT | PREFER | REFLEX | RUDDER | SETTLE |
| NIMBUS | PASTEL | PREFIX | REFORM | RUFFLE | SHADOW |
| NOBODY | PASTRY | PRETTY | REFUEL | RUMPUS | SHAGGY |
| NORMAL | PATENT | PROFIT | REFUGE | RUNNER | SHELVE |
| NOTARY | PATROL | PROMPT | REFUND | RUNOFF | SHIELD |
| NOTICE | PAUPER | PROPER | REFUSE | RUNWAY | SHIVER |
| NOTIFY | PAYOUT | PUBLIC | REGAIN | RUSSET | SHOULD |
| NOTING | PEAKED | PUDDLE | REGARD | RUSTLE | SHOVEL |
| NOTION | PEANUT | PULLEY | REGION | SACHET | SHOWER |
| NOVICE | PEBBLE | PUPPET | REGRET | SADDLE | SHRIMP |
| NOZZLE | PEDDLE | PURELY | REJECT | SAFARI | SHRINK |
| NUANCE | PENCIL | PURIFY | RELATE | SAFELY | SIERRA |
| NUGGET | PEOPLE | PURPLE | RELIEF | SAILOR | SIGNAL |
| NUMBER | PEPPER | PURSUE | RELISH | SALAMI | SILICA |
| NUZZLE | PERMIT | PUZZLE | REMAIN | SALARY | SILVER |
| OBJECT | PERSON | PYTHON | REMARK | SALINA | SIMPLE |
| OBTAIN | PERUSE | QUAINT | REMEDY | SALINE | SINGLE |
| OCTAVE | PHRASE | QUARRY | REMIND | SALTED | SISTER |
| OFFICE | PHYSIC | QUARTZ | REMOTE | SALUTE | SIZZLE |
| OFFSET | PICKED | QUENCH | REMOVE | SAMPLE | SKETCH |
| OLIVER | PICKLE | QUICHE | RENOWN | SANDAL | SKIING |
| OMELET | PICNIC | QUIVER | RENTAL | SATIRE | SLALOM |
| ONWARD | PIECED | RABBIT | REPAIR | SATURN | SLEEVE |
| OPAQUE | PIGEON | RACKET | REPEAT | SAVORY | SLEIGH |
| OPTION | PILLAR | RADISH | REPLAY | SCARCE | SLEUTH |
| ORANGE | PILLOW | RADIUM | REPORT | SCHEME | SLIGHT |
| ORCHID | PILOTS | RADIUS | RERUNS | SCHOOL | SLOGAN |
| ORIGIN | PIRATE | RAFFLE | RESCUE | SCORCH | SLOWLY |
| ORIOLE | PISTON | RAISIN | RESIDE | SCRAPE | SNAZZY |
| OTTAWA | PLANET | RAMBLE | RESIST | SCREAM | SNEEZE |
| OUTFIT | PLAQUE | RANDOM | RESORT | SCREEN | SOCCER |
| OUTING | PLASMA | RANGER | RESTED | SCRIBE | SOCIAL |
| OUTLAW | PLEASE | RAPIDS | RESULT | SCRIPT | SODIUM |
| OUTPUT | PLEDGE | RAPPEL | RESUME | SCROLL | SOFTEN |
| OUTRUN | PLURAL | RASCAL | RETAIL | SCYTHE | SOFTER |
| OUTSET | POCKET | RATHER | RETIRE | SEARCH | SOFTLY |
| OXYGEN | PODIUM | RATING | RETURN | SEASON | SOLEMN |
| OYSTER | POETRY | RATTLE | REVEAL | SEATED | SOMBER |
| PACIFY | POLICE | RAVINE | REVIEW | SECOND | SONNET |
| PACKED | POLICY | REALLY | REWARD | SECRET | SOOTHE |
| PADDLE | POLISH | REASON | REWIND | SECURE | SORROW |
| PAJAMA | POLITE | REBATE | RHYTHM | SEESAW | SOURCE |
| PALACE | POLLEN | RECALL | RIBBON | SELDOM | SPARSE |
| PALLET | PONIES | RECENT | RIDDLE | SELECT | SPEECH |
| PAMPER | POODLE | RECESS | RIPPLE | SENATE | SPIDER |
| PANTRY | POPLAR | RECIPE | RITUAL | SENIOR | SPIRAL |

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|        |        |        |         |         |         |
|--------|--------|--------|---------|---------|---------|
| SPIRIT | SUMMER | TRIVIA | VIABLE  | ADDRESS | APOLOGY |
| SPLASH | SUMMIT | TROPHY | VICTOR  | ADJOURN | APPAREL |
| SPLINT | SUNDAE | TUMBLE | VIOLET  | ADMIRAL | APPEASE |
| SPOKEN | SUNSET | TUNNEL | VIOLIN  | ADVANCE | APPLAUD |
| SPONGE | SUPERB | TURKEY | VIRTUE  | ADVERSE | APPLIES |
| SPORTS | SUPPER | TURNIP | VISION  | AEROBIC | APPOINT |
| SPRAIN | SUPPLY | TURTLE | VISUAL  | AEROSOL | APRICOT |
| SPREAD | SURREY | TUXEDO | VOLLEY  | AFFLICT | AQUATIC |
| SPRING | SURVEY | TWELVE | VOLUME  | AGAINST | ARCHAIC |
| SPRINT | SWITCH | TWENTY | VOYAGE  | AGELESS | ARKCITY |
| SPROUT | SYMBOL | TYCOON | WAFFLE  | AGILITY | ARRANGE |
| SPRUCE | SYSTEM | TYPIST | WAITER  | AGITATE | ARRIVAL |
| SQUALL | TACKLE | UMPIRE | WALLET  | AILMENT | ARTICLE |
| SQUARE | TACTIC | UNABLE | WALNUT  | AIMLESS | ARTISAN |
| SQUASH | TAILOR | UNEASY | WALRUS  | AIRFARE | ASHAMED |
| SQUEAK | TALENT | UNFAIR | WANDER  | AIRLINE | ASPHALT |
| SQUEAL | TAMPER | UNFOLD | WARDEN  | AIRPORT | ASSURED |
| SQUINT | TARGET | UNGLUE | WARMTH  | ALCHEMY | ASTOUND |
| SQUIRE | TARTAN | UNIQUE | WASHER  | ALFALFA | ATHLETE |
| STABLE | TATTOO | UNLESS | WEALTH  | ALGEBRA | ATTEMPT |
| STAPLE | TENANT | UNLIKE | WEASEL  | ALLERGY | ATTRACT |
| STATIC | TENDER | UNLOAD | WICKER  | ALMANAC | AUCTION |
| STATUE | TENDON | UNLOCK | WILLOW  | ALMONDS | AUDIBLE |
| STATUS | TENNIS | UNPACK | WINDOW  | ALREADY | AUDITOR |
| STEADY | TENURE | UNPLUG | WINTER  | ALUMNUS | AVERAGE |
| STEREO | THANKS | UNTIDY | WISDOM  | AMAZING | AVIATOR |
| STITCH | THEORY | UNWIND | WITHIN  | AMIABLE | AVOCADO |
| STORMY | THESIS | UNWRAP | WOBBLE  | AMMONIA | AWESOME |
| STRAIN | THIRST | UPDATE | WONDER  | AMNESIA | AWKWARD |
| STRAIT | THREAD | UPHILL | WORTHY  | AMPLIFY | AWNINGS |
| STREAK | THRIFT | UPLIFT | WRENCH  | AMUSING | BACKLOG |
| STREAM | THRILL | UPRISE | WRITER  | ANAGRAM | BAGGAGE |
| STREET | THROAT | UPROAR | YELLOW  | ANALOGY | BALANCE |
| STRIDE | THRONE | UPSIDE | YONDER  | ANALYST | BALCONY |
| STRIKE | TICKET | UPWARD | ZENITH  | ANALYZE | BALLOON |
| STRING | TICKLE | URGENT | ZIGZAG  | ANARCHY | BANDAGE |
| STRIVE | TIMBER | USEFUL | ZIPPER  | ANATOMY | BANQUET |
| STROBE | TISSUE | UTMOST | ZODIAC  | ANCIENT | BARBELL |
| STROLL | TOFFEE | UTOPIA | ABANDON | ANDROID | BARGAIN |
| STRONG | TOMATO | VACANT | ABDOMEN | ANGUISH | BAROQUE |
| STRUCK | TONGUE | VACATE | ABILITY | ANIMATE | BARRIER |
| STUCCO | TONSIL | VACUUM | ABOLISH | ANNUITY | BATTERY |
| STUDIO | TOPEKA | VALLEY | ABSENCE | ANOMALY | BEANBAG |
| STURDY | TOPPLE | VANISH | ACADEMY | ANOTHER | BEARING |
| SUBDUE | TOUCAN | VANITY | ACCLAIM | ANSWERS | BECAUSE |
| SUBLET | TOWARD | VELVET | ACCOUNT | ANTENNA | BEDPOST |
| SUBMIT | TRANCE | VENDOR | ACHIEVE | ANTIQUA | BEDROCK |
| SUBTLE | TRAVEL | VERIFY | ACQUIRE | ANTONYM | BEEHIVE |
| SUBURB | TREATY | VERNON | ACREAGE | ANXIETY | BELATED |
| SUBWAY | TREMOR | VERTEX | ACROBAT | ANXIOUS | BELLBOY |
| SUDDEN | TRENCH | VESSEL | ACTRESS | ANYBODY | BENEATH |

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|         |         |         |         |         |         |
|---------|---------|---------|---------|---------|---------|
| BENEFIT | CASCADE | CONCISE | DESERVE | ENQUIRY | GENERAL |
| BEQUEST | CATALOG | CONDUCT | DESKTOP | ENTROPY | GENERIC |
| BESIDES | CAUTION | CONDUIT | DESPITE | EQUINOX | GENUINE |
| BESIEGE | CEILING | CONFIRM | DESSERT | ERRATIC | GEOLOGY |
| BETWEEN | CENTRAL | CONFORM | DESTINY | ESSENCE | GESTURE |
| BICYCLE | CENTURY | CONFUSE | DEVELOP | EVENING | GIRAFFE |
| BILLION | CERTAIN | CONNECT | DEWDROP | EXAMINE | GLACIAL |
| BIOLOGY | CERTIFY | CONSENT | DIAGRAM | EXAMPLE | GLACIER |
| BISCUIT | CHAMBER | CONSIST | DIALECT | EXHAUST | GLASSES |
| BLANKET | CHANNEL | CONSOLE | DIAMOND | EXPENSE | GLIMMER |
| BLATANT | CHAPTER | CONSULT | DICTATE | EXPLAIN | GLIMPSE |
| BLOSSOM | CHARADE | CONSUME | DIFFUSE | EXPRESS | GOLFING |
| BLUNDER | CHARIOT | CONTACT | DIGITAL | EXTREME | GONDOLA |
| BOBSLED | CHARTER | CONTAIN | DIGNIFY | FACTORS | GOODBYE |
| BOLSTER | CHASSIS | CONTENT | DIGNITY | FACTORY | GORILLA |
| BONANZA | CHATTER | CONTEST | DILEMMA | FACULTY | GRADUAL |
| BONFIRE | CHEETAH | CONTEXT | DIPLOMA | FANFARE | GRAMMAR |
| BOOSTER | CHICKEN | CONTOUR | DISCARD | FARTHER | GRANOLA |
| BOREDOM | CHIMNEY | CONVENE | DISCERN | FASHION | GRAPHIC |
| BOULDER | CHRONIC | COOKIES | DISCORD | FATIGUE | GRAVITY |
| BOUQUET | CIRCUIT | COPIOUS | DISCUSS | FEATHER | GRIDDLE |
| BOWLING | CITIZEN | CORDIAL | DISMISS | FEATURE | GRIZZLY |
| BRACKET | CLASSIC | CORONET | DISPLAY | FEDERAL | GROCERY |
| BREATHE | CLEANER | COUNTER | DISPUTE | FEELING | GUITARS |
| BREVITY | CLEANSE | CURIOUS | DISTANT | FERTILE | GYMNAST |
| BRISTLE | CLIMATE | CURTAIN | DISTILL | FICTION | HABITAT |
| BROTHER | CLUSTER | CUSHION | DISTORT | FINANCE | HAIRCUT |
| BUFFALO | CLUTTER | CYCLIST | DISTURB | FINESSE | HAIRPIN |
| BUILDER | COASTAL | CYCLONE | DIVERGE | FISSION | HALOGEN |
| BULLPEN | COCONUT | DAMSELS | DIVERSE | FIXTURE | HAMMOCK |
| CABARET | COLLECT | DANCING | DIVIDED | FLANNEL | HAMSTER |
| CABBAGE | COLLEGE | DECEIVE | DOLPHIN | FLATTEN | HARMONY |
| CABINET | COLLIDE | DECIBEL | DOORWAY | FLORIST | HARNESS |
| CABOOSE | COMBINE | DECIMAL | DORMANT | FOOLISH | HARVEST |
| CADENCE | COMFORT | DECLARE | DRESSER | FOREIGN | HEALTHY |
| CALCIUM | COMMAND | DECLINE | DRIZZLE | FOREVER | HEATHER |
| CALORIE | COMMEND | DEFAULT | DYNAMIC | FORGIVE | HEIRESS |
| CALVARY | COMMENT | DEFENSE | DYNASTY | FORMULA | HELPFUL |
| CALYPSO | COMMUNE | DEFLECT | EARDRUM | FORTUNE | HELPING |
| CANTEEN | COMPACT | DEFROST | ECLIPSE | FORWARD | HERRING |
| CANYONS | COMPANY | DEGREES | ECONOMY | FOUNDER | HERSELF |
| CAPITAL | COMPARE | DELIGHT | EDITION | FRAGILE | HEXAGON |
| CAPSULE | COMPASS | DELIVER | EDUCATE | FRANTIC | HICKORY |
| CAPTAIN | COMPETE | DENSITY | ELEGANT | FREEDOM | HISTORY |
| CAPTION | COMPLEX | DENTIST | ELEMENT | FREEWAY | HOBBIES |
| CAPTIVE | COMPUTE | DEplete | ELEVATE | FREIGHT | HOLIDAY |
| CARAMEL | CONCEAL | DEPOSIT | ELLIPSE | FRIGATE | HONESTY |
| CAREFUL | CONCEDE | DEPRIVE | ELUSIVE | FUNERAL | HOPEFUL |
| CARIBOU | CONCEPT | DERRICK | EMERALD | FURIOUS | HORIZON |
| CARRIER | CONCERN | DESCEND | EMOTION | GALLERY | HOSTESS |
| CARTOON | CONCERT | DESCENT | ENCLOSE | GARNISH | HOUSTON |

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|         |         |          |         |         |         |
|---------|---------|----------|---------|---------|---------|
| HOWEVER | LEXICON | MISSION  | ORGANIC | PIONEER | PUMPKIN |
| HUSBAND | LIBERTY | MISTAKE  | OSTRICH | PIRATES | PUPPIES |
| HYDRANT | LIBRARY | MITTENS  | OUTDOOR | PITCHER | PURPOSE |
| HYGIENE | LICENSE | MIXTURE  | OUTLOOK | PLANNED | PURRING |
| ICEBERG | LIONESS | MOISTEN  | OUTPOST | PLASTER | PURSUIT |
| IMAGINE | LIQUIDS | MOLLUSK  | OUTRAGE | PLASTIC | PUZZLED |
| IMITATE | LITERAL | MONITOR  | OUTSIDE | PLATEAU | PYRAMID |
| IMMENSE | LOBSTER | MONSOON  | OVERALL | PLATOON | QUALIFY |
| IMPRESS | LOGGING | MOORING  | OVERJOY | PLIABLE | QUALITY |
| IMPRINT | LOOMING | MORAINES | OXIDIZE | PLUMAGE | QUARTER |
| IMPROVE | LOTTERY | MORNING  | PACIFIC | POLYGON | QUARTET |
| IMPULSE | LOVABLE | MUFFLER  | PACKAGE | POMPOUS | QUICKLY |
| INCLUDE | LOYALTY | MUNDANE  | PADDOCK | POPCORN | QUIETLY |
| INDOORS | LOZENGE | MUSICAL  | PADLOCK | POPULAR | RACCOON |
| INERTIA | LUGGAGE | MUSKRAT  | PAGEANT | PORTAGE | RADIATE |
| INFLATE | LULLABY | MUSTANG  | PAJAMAS | PORTRAY | RADICAL |
| INHABIT | MACHINE | MUSTARD  | PANCAKE | POSTAGE | RAILWAY |
| INHERIT | MAGENTA | MYSTERY  | PANTHER | POSTURE | RAINBOW |
| INQUIRE | MAGICAL | NARRATE  | PARADED | POWERED | RAMBLER |
| INSPECT | MAGNIFY | NATURAL  | PARADOX | PRAIRIE | RANCHER |
| INSPIRE | MAILBOX | NECKTIE  | PARASOL | PRECEDE | RANKING |
| INSTALL | MAJESTY | NEITHER  | PARKING | PREDICT | RAPPORT |
| INSTANT | MANAGER | NEMESIS  | PARSLEY | PREFACE | RAVIOLI |
| INSTEAD | MANDATE | NEPTUNE  | PARSONS | PRELUDE | READOUT |
| INSTILL | MANNERS | NERVOUS  | PARTIAL | PREMIUM | REALIGN |
| IRONING | MANSION | NETWORK  | PARTNER | PRETEND | REALISM |
| ISOLATE | MARBLES | NEUTRAL  | PASSAGE | PRETZEL | REALITY |
| ITALICS | MARQUEE | NOMINAL  | PASSIVE | PREVAIL | REALIZE |
| ITEMIZE | MASONRY | NOMINEE  | PASTURE | PREVENT | REALTOR |
| JEWELER | MASSIVE | NONSTOP  | PATIENT | PREVIEW | REASONS |
| JEWELRY | MAXIMUM | NOSTRIL  | PATRIOT | PRIMARY | REBOUND |
| JOGGING | MEANING | NOTABLE  | PATTERN | PRINTER | REBUILD |
| JUGGLER | MEASURE | NOTHING  | PAUSING | PRIVATE | RECEIPT |
| JUNIPER | MEDIATE | NOURISH  | PAYLOAD | PROBLEM | RECEIVE |
| JUSTIFY | MEDICAL | NOVELTY  | PEACOCK | PROCEED | RECITAL |
| KETTLES | MEETING | NUMERAL  | PELICAN | PROCESS | RECLAIM |
| KEYHOLE | MENTION | NURSERY  | PENALTY | PROCURE | RECLINE |
| KINGDOM | MERCURY | OATMEAL  | PERCENT | PRODUCE | RECOVER |
| KNEECAP | MERMAID | OBSCURE  | PERFECT | PRODUCT | RECRUIT |
| LACKING | MERRIAM | OBSERVE  | PERFORM | PROFILE | RECTIFY |
| LANDING | MESSAGE | OBVIOUS  | PERFUME | PROGRAM | RECYCLE |
| LANTERN | METEORS | OCTAGON  | PERHAPS | PROJECT | REFEREE |
| LASTING | MIGRATE | OCTOBER  | PERPLEX | PROMISE | REFINED |
| LAUNDRY | MILEAGE | OCTOPUS  | PERSIST | PRONOUN | REFLECT |
| LEAWOOD | MINERAL | ODYSSEY  | PHANTOM | PROTECT | REFRAIN |
| LECTURE | MINIMAL | OFFENSE  | PIANIST | PROTEIN | REFRESH |
| LEISURE | MINIMUM | OPERATE  | PICCOLO | PROVERB | REFUSAL |
| LENGTHY | MINUTES | OPINION  | PICTURE | PROVIDE | REGIMEN |
| LENIENT | MIRACLE | OPTICAL  | PIGMENT | PROWESS | REGULAR |
| LEOPARD | MISSILE | ORCHARD  | PILLOWS | PRUDENT | REJOICE |
| LETTUCE | MISSING | OREGANO  | PINBALL | PUDDING | RELAPSE |



The following is a list of words approved by the Texas Lottery for use in this game:

|         |         |         |         |          |          |
|---------|---------|---------|---------|----------|----------|
| RELEASE | SCRATCH | SOLDIER | TERRIER | VARIETY  | ABRASION |
| RELIEVE | SCREECH | SOMEDAY | TEXTILE | VARIOUS  | ABSOLUTE |
| REMARKS | SCRUPLE | SOPRANO | THEATER | VARNISH  | ABUNDANT |
| REMNANT | SCUTTLE | SPANIEL | THERMAL | VEHICLE  | ACADEMIC |
| REMODEL | SEAFOOD | SPARKLE | THIRSTY | VENTURE  | ACCIDENT |
| RENEWAL | SEAGULL | SPARROW | THOUGHT | VERANDA  | ACCOLADE |
| REPLACE | SEAPORT | SPECIAL | THROUGH | VERBOSE  | ACCOUNTS |
| REPLICA | SEASIDE | SPINACH | THUNDER | VERDICT  | ACCURACY |
| REPTILE | SEAWEED | SPINDLE | TOASTER | VERSION  | ACCURATE |
| REQUEST | SECTION | SPONSOR | TONIGHT | VERTIGO  | ACOUSTIC |
| REQUIRE | SEGMENT | SQUEEZE | TOOLBOX | VIBRANT  | ACQUAINT |
| RESERVE | SEISMIC | STADIUM | TORNADO | VICTORY  | ADDENDUM |
| RESIDUE | SELFISH | STAMINA | TOURISM | VILLAGE  | ADDITION |
| RESOLVE | SELLOUT | STANDBY | TOURIST | VINEGAR  | ADEQUATE |
| RESPECT | SELTZER | STAPLER | TRACTOR | VINTAGE  | ADHESIVE |
| RESPOND | SERIOUS | STARTLE | TRAFFIC | VIRTUAL  | ADJACENT |
| RESTFUL | SERVANT | STATION | TRAGEDY | VISIBLE  | ADMONISH |
| RESTORE | SERVICE | STELLAR | TRAILER | VISITOR  | ADVOCATE |
| RETREAT | SESSION | STOMACH | TRANSIT | VITAMIN  | AEROBICS |
| REUNION | SETBACK | STORAGE | TRAPEZE | VOLCANO  | AFFINITY |
| REVENUE | SETTING | STRANGE | TREETOP | VOLTAGE  | AFFLUENT |
| REVERSE | SETTLER | STRETCH | TREMBLE | VOUCHER  | AIRBORNE |
| REVOLVE | SEVENTY | STUDENT | TRIBUTE | VOYAGER  | AIRCRAFT |
| REWRITE | SEVERAL | STYLISH | TRICEPS | VULTURE  | AIRPLANE |
| RHUBARB | SHAMPOO | SUBSIDE | TRILOGY | WALLABY  | AIRSPEED |
| ROASTED | SHATTER | SUCCEED | TRIUMPH | WARNING  | AIRTIGHT |
| ROMANCE | SHAWNEE | SUCCESS | TRIVIAL | WASHING  | ALLOCATE |
| ROOFTOP | SHELTER | SUGGEST | TROLLEY | WAYBILL  | ALPHABET |
| ROOSTER | SHERIFF | SUMMARY | TROUBLE | WAYWARD  | ALTITUDE |
| ROSEBUD | SHIMMER | SUNBURN | TRUMPET | WEALTHY  | ALUMINUM |
| ROUTINE | SHUDDER | SUNDIAL | TUESDAY | WEATHER  | AMBITION |
| ROWBOAT | SHUFFLE | SUNDOWN | TUITION | WEDDING  | AMORTIZE |
| ROYALTY | SHUTTER | SUNRISE | TYPHOON | WEEKEND  | ANACONDA |
| RUNNING | SIBLING | SUPPORT | TYPICAL | WELCOME  | ANALYSIS |
| SALVAGE | SIGNIFY | SUPPOSE | UNAWARE | WESTERN  | ANCESTOR |
| SANDALS | SILENCE | SUPREME | UNCOVER | WHETHER  | ANECDOTE |
| SANDBAG | SILICON | SURFACE | UNDERGO | WHISKER  | ANNOUNCE |
| SAPLING | SINCERE | SURPLUS | UNICORN | WHISPER  | ANTELOPE |
| SARCASM | SITTING | SUSPEND | UNIFORM | WHISTLE  | ANYTHING |
| SARDINE | SIXTEEN | SUSTAIN | UNKNOWN | WICHITA  | APPENDIX |
| SAUSAGE | SKIRTED | SWALLOW | UNUSUAL | WILDCAT  | APPETITE |
| SAWDUST | SKYDIVE | SWEATER | UPFRONT | WINNING  | APPRAISE |
| SAWFISH | SKYLARK | SWIFTLY | UPGRADE | WISHFUL  | APPROACH |
| SAWMILL | SLEIGHT | SYMPTOM | UPSTAGE | WITHOUT  | APPROVAL |
| SCALLOP | SLUMBER | SYNONYM | UTENSIL | WITNESS  | APTITUDE |
| SCAMPER | SMARTLY | TARNISH | UTILITY | WORKDAY  | AQUARIUM |
| SCANNER | SNIPPET | TEACHER | VACANCY | WRANGLE  | ARACHNID |
| SCARLET | SNORKEL | TEDIOUS | VACCINE | WRAPPER  | ARGUMENT |
| SCENTED | SNUGGLE | TENSION | VALIANT | ZILLION  | ARMCHAIR |
| SCIENCE | SOARING | TERRACE | VAMPIRE | ZOOLOGY  | AROMATIC |
| SCOOTER | SOCIETY | TERRAIN | VANILLA | ABDICATE | ARPEGGIO |

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|          |          |          |          |          |          |
|----------|----------|----------|----------|----------|----------|
| ARRANGED | BRACELET | CONCRETE | DISCOUNT | EYEGLASS | HOMEWORK |
| ARROGANT | BROCHURE | CONFETTI | DISCOVER | FABULOUS | HONEYBEE |
| ARTIFACT | BUILDING | CONFLICT | DISGUISE | FAMILIAR | HOSPITAL |
| ARTISTIC | BULLETIN | CONFOUND | DISKETTE | FAREWELL | HUMIDITY |
| ASBESTOS | BULLSEYE | CONQUEST | DISPATCH | FEEDBACK | HUMILITY |
| ASHCROFT | BUNGALOW | CONSERVE | DISPENSE | FESTIVAL | HYACINTH |
| ASSEMBLE | CALCULUS | CONSIDER | DISSOLVE | FILAMENT | HYDROGEN |
| ASSEMBLY | CALENDAR | CONSTANT | DISTANCE | FIREWOOD | HYSTERIA |
| ASTERISK | CALLIOPE | CONSUMER | DISTINCT | FLAGPOLE | ILLUSION |
| ASTEROID | CALORIES | CONTINUE | DISTRACT | FLAMINGO | IMPOSING |
| ASTONISH | CAMPAIGN | CONTRACT | DISTRICT | FLOTILLA | INCIDENT |
| ATHLETIC | CAMPFIRE | CONTRAST | DIVIDEND | FLOURISH | INCREASE |
| ATLANTIC | CANISTER | CONVERGE | DIVISION | FOOTBALL | INDIRECT |
| ATTITUDE | CAPACITY | CONVERSE | DOCUMENT | FORCEFUL | INDUSTRY |
| ATTORNEY | CARDINAL | CONVINCE | DOMESTIC | FORECAST | INFINITE |
| AUDIENCE | CAREFREE | COOKBOOK | DOMINANT | FOUNTAIN | INFINITY |
| AUTOMATE | CARELESS | CORRIDOR | DOMINION | FRACTION | INFORMAL |
| AVIATION | CARNIVAL | CRITICAL | DOUBTFUL | FRAGMENT | INFUSION |
| BACHELOR | CARRIAGE | CROSSBAR | DOUGHNUT | FRECKLES | INNOCENT |
| BACKDROP | CASSETTE | CUCUMBER | DOWNHILL | FREQUENT | INNOVATE |
| BACKFIRE | CATAPULT | CUFFLINK | DOWNTOWN | FRESHMAN | INSECURE |
| BACKPACK | CATEGORY | CUPBOARD | DRAWBACK | FRICTION | INSIGNIA |
| BACKSPIN | CAUSEWAY | CUSTOMER | DRESSING | FRIENDLY | INSTANCE |
| BACKWARD | CAUTIOUS | CYLINDER | DRIVEWAY | FRONTIER | INSTINCT |
| BACKYARD | CEREMONY | DAFFODIL | DWELLING | FUNCTION | INSTRUCT |
| BACTERIA | CHAMPION | DARKROOM | ECONOMIC | GALACTIC | INSULATE |
| BAGPIPES | CHARCOAL | DAUGHTER | EGGPLANT | GENEROUS | INTENDED |
| BALLPARK | CHARISMA | DAYDREAM | ELDORADO | GEODESIC | INTERCOM |
| BALLROOM | CHECKERS | DAYLIGHT | ELECTION | GERANIUM | INTEREST |
| BANISTER | CHEERFUL | DECEMBER | ELECTRIC | GLORIOUS | INTERIOR |
| BARBECUE | CHESTNUT | DECIPHER | ELEPHANT | GLOSSARY | INTERNAL |
| BARRACKS | CHIPMUNK | DECISION | ELEVATOR | GOLDFISH | INTERVAL |
| BASEBALL | CINNAMON | DEDICATE | EMPHASIS | GRACEFUL | INTREPID |
| BASEMENT | CITATION | DEFIANCE | EMPLOYEE | GRADUATE | INTRIGUE |
| BATHROOM | CLARINET | DEFINITE | EMPLOYER | GRAPHICS | INVESTOR |
| BEGINNER | CLEARING | DELEGATE | ENGINEER | GRATUITY | IRRIGATE |
| BEHAVIOR | CODEWORD | DELICATE | ENQUIRER | GREENERY | IRRITATE |
| BEVERAGE | COHERENT | DELIVERY | ENTIRETY | GUARDIAN | JEALOUSY |
| BIRTHDAY | COINCIDE | DESCRIBE | ENTRANCE | GUIDANCE | JETLINER |
| BLACKOUT | COLESLAW | DESERVED | ENVELOPE | HANDBAGS | JUDGMENT |
| BLIZZARD | COLLAPSE | DESIGNER | EPILOGUE | HANDSOME | JUVENILE |
| BLUEBIRD | COLONIAL | DIAGNOSE | EQUALITY | HARDWARE | KANGAROO |
| BOATYARD | COLOSSAL | DIAGONAL | EQUATION | HARDWOOD | KEROSENE |
| BONAFIDE | COMMERCE | DIALOGUE | ESTIMATE | HAYSTACK | KINDNESS |
| BOOKCASE | COMPLAIN | DIAMETER | EVALUATE | HEADACHE | KNAPSACK |
| BOOKMARK | COMPLETE | DILIGENT | EVENTFUL | HEREDITY | LACROSSE |
| BOOKSHOP | COMPOUND | DIMINISH | EVERYDAY | HERITAGE | LAMINATE |
| BOOKWORM | COMPRESS | DIPLOMAT | EXERCISE | HILLSIDE | LANDLORD |
| BOULDERS | COMPUTER | DIRECTOR | EXPEDITE | HISTORIC | LANDMARK |
| BOUNDARY | CONCERTO | DISAGREE | EXTERIOR | HOLIDAYS | LANGUAGE |
| BOUTIQUE | CONCLUDE | DISASTER | EXTERNAL | HOLOGRAM | LANTERNS |

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|          |           |          |          |          |          |
|----------|-----------|----------|----------|----------|----------|
| LATITUDE | MERCIFUL  | NORMALLY | PERCEIVE | QUESTION | SAILBOAT |
| LAUGHTER | MERIDIAN  | NORTHERN | PERIODIC | QUICKEST | SAILFISH |
| LAWRENCE | MERINGUE  | NOTARIZE | PERMEATE | QUOTIENT | SANCTITY |
| LEAPFROG | METALLIC  | NOVEMBER | PEROXIDE | RADIATOR | SANDWICH |
| LEFTOVER | METAPHOR  | NUISANCE | PERSONAL | RAILROAD | SANITARY |
| LEMONADE | MIDNIGHT  | OBEDIENT | PERSUADE | RAINCOAT | SAPPHIRE |
| LENGTHEN | MIDPOINT  | OBLIVION | PETULANT | RAINDROP | SATURATE |
| LEVERAGE | MINIMIZE  | OBSOLETE | PHARMACY | RAINFALL | SAWTOOTH |
| LICORICE | MINSTREL  | OBSTACLE | PHEASANT | RATIONAL | SCABBARD |
| LIFEBOAT | MISCHIEF  | OCCASION | PHONETIC | RAVENOUS | SCAFFOLD |
| LIFETIME | MISPLACE  | ODOMETER | PHYSICAL | REACTION | SCENARIO |
| LIGAMENT | MISSPELL  | OFFICIAL | PINAFORE | REAPPEAR | SCHEDULE |
| LIKEWISE | MOCCASIN  | OFFSHORE | PINNACLE | REASSIGN | SCHOONER |
| LINOLEUM | MODERATE  | OMISSION | PINPOINT | REASSURE | SCISSORS |
| LIPSTICK | MODESTLY  | OPERATOR | PIONEERS | RECENTLY | SCORPION |
| LITERACY | MOISTURE  | OPPONENT | PIPELINE | RECKLESS | SCRABBLE |
| LITERARY | MOLASSES  | OPTIMISM | PLATFORM | RECREATE | SCRAMBLE |
| LOCATION | MOLECULE  | ORDINARY | PLATINUM | REDEFINE | SCRIBBLE |
| LOGISTIC | MOLEHILL  | ORNAMENT | PLEASANT | REFERRAL | SCRUTINY |
| LOOPHOLE | MONARCHY  | OUTBOUND | POPULACE | REGAINED | SCULPTOR |
| LOWLANDS | MONOPOLY  | OUTBREAK | PORPOISE | REGARDED | SEABOARD |
| LUMINOUS | MONOTONE  | OUTDOORS | PORRIDGE | REGIONAL | SEACOAST |
| LUNCHEON | MONUMENT  | OUTFIELD | PORTABLE | REGISTER | SEAHORSE |
| MACARONI | MORTGAGE  | OVERCAST | PORTRAIT | REINDEER | SEASHORE |
| MACKEREL | MOSQUITO  | OVERCOAT | POSITION | RELATION | SEASONAL |
| MAGAZINE | MOTHBALL  | OVERHAUL | POSSIBLE | RELATIVE | SECRETLY |
| MAGICIAN | MOTORCAR  | OVERTIME | POSTCARD | RELAXING | SECURITY |
| MAINLAND | MOTORIZED | OVERTURE | POSTPONE | RELEVANT | SEDATION |
| MAINTAIN | MOUNTAIN  | OVERVIEW | PRACTICE | RELOCATE | SEDIMENT |
| MAJESTIC | MOVEMENT  | PAMPHLET | PRECINCT | REMEMBER | SEMESTER |
| MAJORITY | MULBERRY  | PANORAMA | PRECIOUS | REMINDER | SENSIBLE |
| MANDOLIN | MULTIPLE  | PARABOLA | PRESENCE | REPHRASE | SENTENCE |
| MANEUVER | MULTIPLY  | PARADIGM | PRESSURE | REPLACED | SEPARATE |
| MANICURE | MUSHROOM  | PARADISE | PRESTIGE | REPORTER | SEQUENCE |
| MANIFEST | MUSTACHE  | PARAFFIN | PREVIOUS | REPUBLIC | SERENADE |
| MANIFOLD | NAMESAKE  | PARAKEET | PRIMROSE | RESEARCH | SHAMROCK |
| MARATHON | NAUTILUS  | PARALLAX | PRIORITY | RESIDENT | SHEPHERD |
| MARGINAL | NAVIGATE  | PARALLEL | PRISTINE | RESOLVED | SHERBERT |
| MARIGOLD | NECKLACE  | PARKLAND | PRODUCER | RESONANT | SHILLING |
| MARINADE | NEEDLESS  | PARTICLE | PROGRESS | RESOURCE | SHIPMATE |
| MARINATE | NEIGHBOR  | PASSPORT | PROPERLY | RESPONSE | SHIPMENT |
| MARITIME | NEWCOMER  | PASSWORD | PROPERTY | RESTLESS | SHIPYARD |
| MARRIAGE | NEWSCAST  | PATIENCE | PROSPECT | RESTRAIN | SHOELACE |
| MATERIAL | NICKNAME  | PAVEMENT | PROTOCOL | RESTRICT | SHOPPING |
| MATTRESS | NINETEEN  | PAVILION | PROVINCE | RESTROOM | SHOULDER |
| MAVERICK | NINETIES  | PEACOCKS | PULLOVER | REVIEWER | SHOWBOAT |
| MEANTIME | NITROGEN  | PEDESTAL | PUNCTUAL | REVISION | SHOWERED |
| MECHANIC | NOBILITY  | PEDICURE | PURCHASE | RHAPSODY | SHOWROOM |
| MEDICINE | NOBLEMAN  | PEGBOARD | QUADRANT | RHETORIC | SHUTDOWN |
| MEDIOCRE | NOMINATE  | PENDULUM | QUANTIFY | ROMANTIC | SIDELINE |
| MERCHANT | NONSENSE  | PENGUINS | QUANTITY | ROTATION | SIDESTEP |

The following is a list of words approved by the Texas Lottery for use in this game:

|          |          |           |           |           |           |
|----------|----------|-----------|-----------|-----------|-----------|
| SIDEWALK | SUCCINCT | UNCOMMON  | AESTHETIC | BLUEBERRY | CROCODILE |
| SIDEWAYS | SUITABLE | UNDERCUT  | AFFIDAVIT | BLUEGRASS | DANDELION |
| SIMPLIFY | SUITCASE | UNDERDOG  | AFFILIATE | BLUEPRINT | DANGEROUS |
| SIMULATE | SUNLIGHT | UNDERSEA  | AFTERMATH | BOOKSTORE | DEDICATED |
| SINGULAR | SUNSHINE | UNDERWAY  | AFTERNOON | BOOMERANG | DEFICIENT |
| SLIGHTLY | SUPERIOR | UNICYCLE  | ALABASTER | BOULEVARD | DELICIOUS |
| SLIPPERY | SURPRISE | UNIVERSE  | ALBATROSS | BREAKFAST | DEMOCRACY |
| SMITHERS | SURROUND | UNLIKELY  | ALGORITHM | BRIEFCASE | DEPARTURE |
| SNOWBALL | SUSPENSE | UNSETTLE  | ALLIGATOR | BRILLIANT | DESPERATE |
| SNOWSHOE | SWIMSUIT | UNSTABLE  | AMBIGUOUS | BROADCAST | DETECTIVE |
| SOCIABLE | SYMMETRY | UPCOMING  | AMBITIOUS | BULLDOZER | DETERGENT |
| SOFTBALL | SYMPATHY | VACATION  | AMPERSAND | CAFETERIA | DETERMINE |
| SOFTWARE | SYMPHONY | VAGABOND  | AMPHIBIAN | CALCULATE | DIAGNOSIS |
| SOLIDIFY | SYNDROME | VALIDATE  | AMPLIFIER | CALIBRATE | DIFFERENT |
| SOLITARY | TACTICAL | VALUABLE  | AMPLITUDE | CAPACITOR | DIFFICULT |
| SOLITUDE | TANGIBLE | VANGUARD  | ANCESTRAL | CAPTIVATE | DIGNIFIED |
| SOLSTICE | TAPESTRY | VARIABLE  | ANCHOVIES | CARDBOARD | DIMENSION |
| SOLUTION | TEASPOON | VARIANCE  | ANONYMOUS | CARPENTER | DIRECTION |
| SOMBRERO | TEENAGER | VELOCITY  | ANTHOLOGY | CARTWHEEL | DISAPPEAR |
| SOMEBODY | TELECAST | VERTEBRA  | ANTIQUITY | CASSEROLE | DISCOVERY |
| SOMETIME | TELEGRAM | VERTICAL  | APARTMENT | CENTIPEDE | DISPENSER |
| SONGBOOK | TENDENCY | VICINITY  | APOLOGIZE | CERTITUDE | DOCTORATE |
| SORCERER | TERMINAL | VIGNETTE  | APPETIZER | CHALLENGE | DORMITORY |
| SOUTHERN | TERRIBLE | VINEYARD  | APPLIANCE | CHAMPAGNE | DUPLICATE |
| SOUVENIR | TERRIFIC | VIRTUOSO  | AQUEDUCTS | CHARACTER | EARTHWORM |
| SPACIOUS | TEXTBOOK | VITALITY  | ARBITRARY | CHECKLIST | ECCENTRIC |
| SPARWOOD | THEMATIC | WAITRESS  | ARGONAUTS | CHEMISTRY | EDITORIAL |
| SPECIFIC | THIRTEEN | WARDROBE  | ARMSTRONG | CHILDHOOD | EDUCATION |
| SPECTRUM | THURSDAY | WARRANTY  | ARROGANCE | CHOCOLATE | EMERGENCY |
| SPLENDID | TOBOGGAN | WHATEVER  | ARROWHEAD | CLASSROOM | EMOTIONAL |
| SPLENDOR | TOGETHER | WHEREVER  | ARTICHOKE | CLEARANCE | ENCHANTED |
| SPOONFUL | TOLERANT | WINDFALL  | ASPARAGUS | CLOCKWISE | ENCOUNTER |
| SPORADIC | TOLERATE | WINDMILL  | ASSISTANT | COMMITTEE | ENDURANCE |
| SPRINKLE | TOMORROW | WIRELESS  | ASTROLOGY | COMMUNITY | ENTERTAIN |
| SQUADRON | TORTILLA | WITHDRAW  | ASTRONAUT | COMPANION | EQUIPMENT |
| SQUIRREL | TRANQUIL | WORKLOAD  | ASTRONOMY | COMPETENT | ESTABLISH |
| STALLION | TRANSFER | WORKSHOP  | ATTENTION | COMPONENT | ESTIMATES |
| STAMPEDE | TRANSMIT | WRANGLER  | AUTHORITY | CONCIERGE | ETIQUETTE |
| STANDARD | TRAVERSE | YOURSELF  | AUTOGRAPH | CONDITION | EVAPORATE |
| STANDOFF | TREASURE | YOUTHFUL  | AUTOMATIC | CONFIDENT | EVERGREEN |
| STRAIGHT | TRESPASS | ZUCCHINI  | AVAILABLE | CONFUSING | EVERYBODY |
| STRAINER | TRIANGLE | ABSURDITY | BACKWARDS | CONNECTED | EXCELLENT |
| STRATEGY | TRICYCLE | ACCORDION | BADMINTON | CONSCIOUS | EXCLUSIVE |
| STRENGTH | TRILLION | ACROBATIC | BALLERINA | CONSONANT | EXECUTIVE |
| STRUGGLE | TROMBONE | ADMIRABLE | BANDSTAND | CONSTRUCT | EXHAUSTED |
| STUBBORN | TROPICAL | ADMISSION | BAROMETER | CONTAINER | EXISTENCE |
| STUDIOUS | TURNOVER | ADVANTAGE | BINOCULAR | CONTENDER | EXPANSION |
| STUNNING | TWEEZERS | ADVENTURE | BIOGRAPHY | CONTINENT | EXPENSIVE |
| SUBMERGE | ULTIMATE | ADVERSARY | BIOSPHERE | COROLLARY | EXPERTISE |
| SUBTRACT | UMBRELLA | ADVERTISE | BLEACHERS | CRANBERRY | EXTENSION |
| SUBURBAN | UNBROKEN | AEROSPACE | BLINDFOLD | CRITICISM | FANTASTIC |

The following is a list of words approved by the Texas Lottery for use in this game:

|           |           |           |           |           |           |
|-----------|-----------|-----------|-----------|-----------|-----------|
| FINGERTIP | IMMEDIATE | MAGNITUDE | PARACHUTE | PUPPETEER | SAXOPHONE |
| FLOWERPOT | IMPATIENT | MANHATTAN | PARAGRAPH | QUADRUPLE | SCAPEGOAT |
| FLUCTUATE | IMPETUOUS | MARGARINE | PARAMETER | QUALIFIED | SCARECROW |
| FORBIDDEN | IMPLEMENT | MARKETING | PARCHMENT | QUALITIES | SCORECARD |
| FORESIGHT | IMPORTANT | MARMALADE | PARTITION | QUARTERLY | SCRIBBLER |
| FORGETFUL | IMPROMPTU | MARVELOUS | PARTRIDGE | QUICKSAND | SCRIMMAGE |
| FORTUNATE | IMPROVISE | MCPHERSON | PASSENGER | QUOTATION | SCULPTURE |
| FOUNTAINS | IMPULSIVE | MEANWHILE | PATCHWORK | RACETRACK | SECESSION |
| FRAMEWORK | INAUGURAL | MEDALLION | PEACETIME | RASPBERRY | SECLUSION |
| FRANCHISE | INCENTIVE | MENAGERIE | PENINSULA | REARRANGE | SECRETARY |
| FREQUENCY | INCLUSION | MESSENGER | PEPPERONI | REASONING | SECTIONAL |
| FURNITURE | INCORRECT | METEORITE | PERENNIAL | RECEPTION | SEEDLINGS |
| GATHERING | INFLUENCE | MEZZANINE | PERISCOPE | RECIPIENT | SEEMINGLY |
| GENERATOR | INGENIOUS | MICROFILM | PERMANENT | RECOGNIZE | SELECTION |
| GENTLEMAN | INGENUITY | MICROWAVE | PERPETUAL | RECOMMEND | SEMANTICS |
| GEOMETRIC | INSERTION | MIDSUMMER | PERSEVERE | RECONCILE | SEMICOLON |
| GOLDENROD | INSURANCE | MILLIPEDE | PETROLEUM | RECORDING | SENSATION |
| GRATITUDE | INTEGRITY | MILLSTONE | PHENOMENA | RECTANGLE | SENSITIVE |
| GREATBEND | INTELLECT | MINCEMEAT | PHYSICIAN | RECYCLING | SENTIMENT |
| GREYHOUND | INTERCEPT | MINIATURE | PINEAPPLE | REDUNDANT | SERIOUSLY |
| GROCERIES | INTERFERE | MISTLETOE | PISTACHIO | REFERENCE | SHEEPSKIN |
| GUIDELINE | INTERLUDE | MODERNIZE | PLENTIFUL | REFLECTOR | SHELLFISH |
| GYMNASIUM | INTERPRET | MONOLOGUE | PLUTONIUM | REGARDING | SHIPBOARD |
| GYMNASTIC | INTERRUPT | MOONLIGHT | PNEUMATIC | REGULATOR | SHIPSHAPE |
| HAILSTORM | INTERVIEW | MULTIPLEX | POLLUTION | REHEARSAL | SHIPWRECK |
| HAMBURGER | INTRICATE | MUNICIPAL | POLYESTER | REINFORCE | SIDEBURNS |
| HANDSHAKE | INTRODUCE | MYTHOLOGY | PORCELAIN | REITERATE | SIGNATURE |
| HAPPENING | INVENTION | NECESSARY | PORCUPINE | REJECTION | SIMILARLY |
| HAPPINESS | INVENTIVE | NECESSITY | POTASSIUM | RELEVANCE | SIMULATED |
| HARMONICA | INVISIBLE | NEGOTIATE | POTENTIAL | RELUCTANT | SINCERELY |
| HEADLIGHT | IRREGULAR | NEWSPAPER | POTPOURRI | REMOVABLE | SITUATION |
| HEADPHONE | JELLYFISH | NIGHTFALL | PRECEDENT | RENEWABLE | SKETCHPAD |
| HEARTBEAT | KNOWLEDGE | NOCTURNAL | PREEMPTED | REPRESENT | SLAPSTICK |
| HIBERNATE | LABYRINTH | NONLINEAR | PRESENTLY | REQUISITE | SNOWFLAKE |
| HIERARCHY | LANDOWNER | NORTHEAST | PRESIDENT | RESEMBLES | SOCIALIZE |
| HIGHLANDS | LANDSCAPE | NORTHWEST | PRETENDER | RESERVOIR | SOCIOLOGY |
| HIGHLIGHT | LAZYBONES | NOSTALGIA | PREVALENT | RESIDENCE | SOLICITOR |
| HISTORIAN | LEGENDARY | NUMERATOR | PRIMARILY | RESILIENT | SOLILOQUY |
| HONEYCOMB | LEISURELY | NUTRITION | PRIMITIVE | RESISTANT | SOLITAIRE |
| HONEYMOON | LIBRARIAN | OBEDIENCE | PRINCETON | RESONANCE | SOMETHING |
| HOROSCOPE | LIFESTYLE | OBLIGATED | PRINCIPAL | RESPECTED | SOURDOUGH |
| HORSEBACK | LIGHTNING | OBSESSION | PRIVILEGE | RESTRAINT | SOVEREIGN |
| HORSESHOE | LIMELIGHT | OCCUPANCY | PROCESSED | RIVERVIEW | SPACESHIP |
| HOURLASS  | LIMESTONE | OLFACTORY | PROFESSOR | ROADBLOCK | SPAGHETTI |
| HOUSEHOLD | LIMOUSINE | OPTOMETRY | PROJECTOR | SADDLEBAG | SPEARMINT |
| HOUSEWORK | LIVESTOCK | ORCHESTRA | PROMENADE | SAFEGUARD | SPECTATOR |
| HURRICANE | LOCKSMITH | OVERBOARD | PROMOTION | SAGEBRUSH | SPOKESMAN |
| HYDRAULIC | LONGEVITY | OVERWHELM | PROOFREAD | SANDPAPER | SPOTLIGHT |
| HYPNOTIZE | LUMINANCE | PALLADIUM | PROVISION | SATELLITE | SPRINKLER |
| IDENTICAL | LUXURIOUS | PANTOMIME | PROXIMITY | SATISFIES | STABILITY |
| IMAGINARY | MACHINERY | PAPERWORK | PUBLISHER | SATURATED | STAINLESS |

The following is a list of words approved by the Texas Lottery for use in this game:

|           |           |           |           |  |  |
|-----------|-----------|-----------|-----------|--|--|
| STALEMATE | TELEGRAPH | UNDECIDED | WHOLESALE |  |  |
| STARLIGHT | TELEPHONE | UNDERLINE | WHOLESOME |  |  |
| STATEMENT | TELESCOPE | UNDERPASS | WONDERFUL |  |  |
| STEAMBOAT | TEMPORARY | UNIVERSAL | WORKHORSE |  |  |
| STOCKINGS | TENTATIVE | UNWILLING | WORLDWIDE |  |  |
| STOPWATCH | TERRITORY | UTILITIES | WRESTLING |  |  |
| STOREROOM | TESTIMONY | VALENTINE | YARDSTICK |  |  |
| STRATEGIC | THEREFORE | VARIATION | YESTERDAY |  |  |
| STREETCAR | THESAURUS | VEGETABLE | YOUNGSTER |  |  |
| STRUCTURE | THRESHOLD | VENERABLE |           |  |  |
| STYROFOAM | TIMETABLE | VENTILATE |           |  |  |
| SUBMARINE | TOOTHPICK | VERSATILE |           |  |  |
| SUBSCRIBE | TOUCHDOWN | VESTIBULE |           |  |  |
| SUBSTANCE | TRADEMARK | VICTORIAN |           |  |  |
| SUNFLOWER | TRADITION | VIDEOTAPE |           |  |  |
| SUPERVISE | TRANSFORM | VOLUNTARY |           |  |  |
| SURRENDER | TRANSLATE | VOLUNTEER |           |  |  |
| SYMBOLISM | TRANSPORT | WALLPAPER |           |  |  |
| TANGERINE | TURQUOISE | WAREHOUSE |           |  |  |
| TECHNICAL | UNANIMOUS | WEDNESDAY |           |  |  |
| TECHNIQUE | UNCERTAIN | WHIRLPOOL |           |  |  |

TRD-200203105

Kimberly L. Kiplin  
 General Counsel  
 Texas Lottery Commission  
 Filed: May 21, 2002

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## Texas Natural Resource Conservation Commission

### Enforcement Orders

An agreed order was entered regarding Young Brothers, Inc., Contractors, Docket No. 1999-1533-AIR-E on May 13, 2002 assessing \$8,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Darren Ream, Staff Attorney at (817) 588-5878, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Lasalle Landing Water Supply Corporation, Docket No. 1999-0360-PWS-E on May 13, 2002 assessing \$3,438 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Troy Nelson, Staff Attorney at (903) 525-0380, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding B. C. R., Inc. dba Chevron Country Food Mart, Docket No. 2000-0400-PST-E on May 13, 2002 assessing \$15,000 in administrative penalties with \$14,400 deferred.

Information concerning any aspect of this order may be obtained by contacting Rebecca Nash Petty, Staff Attorney at (512) 239-3693, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Tandem Energy Corporation, Docket No. 2000-1263-AIR-E on May 13, 2002 assessing \$3,125 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Elisa Roberts, Staff Attorney at (512) 239-6939, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Mayfield McCraw dba McCraw Materials, Docket No. 2000-1343-AIR-E on May 13, 2002 assessing \$6,500 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Troy Nelson, Staff Attorney at (903) 525-0380, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Tajuddin Jiwani dba Quick & Easy No. 2, Docket No. 2001-0624-PWS-E on May 13, 2002 assessing \$1,313 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Darren Ream, Staff Attorney at (817) 588-5878, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Asif Dawood dba EZ 4 U, Docket No. 2001-0476-PST-E on May 13, 2002 assessing \$9,000 in administrative penalties with \$1,800 deferred.

Information concerning any aspect of this order may be obtained by contacting Rebecca Johnson, Enforcement Coordinator at (713) 422-8931, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding El Paso Electric Company, Docket No. 2001-1083-AIR-E on May 13, 2002 assessing \$3,750 in administrative penalties with \$750 deferred.

Information concerning any aspect of this order may be obtained by contacting Bethany Carl, Enforcement Coordinator at (915) 234-4965, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding EOTT Energy Pipeline, Limited Partnership, Docket No. 2001-1238-AIR-E on May 13, 2002 assessing \$4,500 in administrative penalties with \$900 deferred.

Information concerning any aspect of this order may be obtained by contacting Jorge Ibarra, Enforcement Coordinator at (817) 588-5890, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding E. I. DuPont de Nemours, Inc., Docket No. 2001-0996-AIR-E on May 13, 2002 assessing \$1,875 in administrative penalties with \$375 deferred.

Information concerning any aspect of this order may be obtained by contacting Katharine Hodgins, SEP Coordinator at (512) 239-5731, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Oxy Vinyls, LP, Docket No. 2001-1450-AIR-E on May 13, 2002 assessing \$7,500 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rebecca Johnson, Enforcement Coordinator at (713) 422-8931, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Sandel Energy, Inc., Docket No. 2001-1256-AIR-E on May 13, 2002 assessing \$750 in administrative penalties with \$150 deferred.

Information concerning any aspect of this order may be obtained by contacting Stacey Young, Enforcement Coordinator at (512) 239-1899, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding San Antonio Shoe, Inc., Docket No. 2001-0898-AIR-E on May 13, 2002 assessing \$2,500 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Toni Toliver, SEP Coordinator at (512) 239-6122, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Port Alto Water Supply Corporation, Docket No. 2001-0560-PWS-E on May 13, 2002 assessing \$938 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Carol McGrath, Enforcement Coordinator at (361) 825-3275, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Port Alto Homeowners' Association - District #1, Inc., Docket No. 2001-0559-PWS-E on May 13, 2002 assessing \$2,813 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Carol McGrath, Enforcement Coordinator at (361) 825-3275, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Phillips Petroleum Company, Docket No. 2001-0514-AIR-E on May 13, 2002 assessing \$5,500 in administrative penalties with \$1,100 deferred.

Information concerning any aspect of this order may be obtained by contacting Ronnie Kramer, Enforcement Coordinator at (816) 468-0512, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Cemex Inc, Docket No. 2001-1143-AIR-E on May 13, 2002 assessing \$60,075 in administrative penalties with \$12,015 deferred.

Information concerning any aspect of this order may be obtained by contacting Rebecca Clausewitz, Enforcement Coordinator at (210) 403-4012, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Jerry Webb & Janice Webb dba Vinson's Water System Well No. 2, Docket No. 2001-0478-PWS-E on May 13, 2002 assessing \$1,875 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Cheryl Thompson, Enforcement Coordinator at (817) 588-5886, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Tiffany Brick, Incorporated, Docket No. 2001-1239-AIR-E on May 13, 2002 assessing \$2,500 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Jorge Ibarra, Enforcement Coordinator at (817) 588-5890, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding The Hackberry CO-OP of Post, Texas, Docket No. 2001- 0884-PST-E on May 13, 2002 assessing \$8,000 in administrative penalties with \$1600 deferred.

Information concerning any aspect of this order may be obtained by contacting Gary Shipp, Enforcement Coordinator at (806) 796-7092, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Abdul Rehman dba Super Star, Docket No. 2001-0843- PST-E on May 13, 2002 assessing \$4,000 in administrative penalties with \$800 deferred.

Information concerning any aspect of this order may be obtained by contacting John Barry, Enforcement Coordinator at (409) 899-8781, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding El Paso Natural Gas Company, Docket No. 2001-1202- AIR-E on May 13, 2002 assessing \$3,750 in administrative penalties with \$750 deferred.

Information concerning any aspect of this order may be obtained by contacting Dan Landenberger, Enforcement Coordinator at (915) 570-1359, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Gary McNutt, Guy McNutt & Jesse Torres dba McNutt Dairy, Docket No. 2001-0685-AGR-E on May 13, 2002 assessing \$2,500 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Alita Champagne, Enforcement Coordinator at (254) 965-5793, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Sun Coast Resources, Inc., Docket No. 2001-1115-PST- E on May 13, 2002 assessing \$500 in administrative penalties with \$100 deferred.

Information concerning any aspect of this order may be obtained by contacting Gloria Stanford, Enforcement Coordinator at (512) 239-1871, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Speedy Stop Food Stores, Ltd. dba Speedy Stop No. 48, Docket No. 2001-1289-PWS-E on May 13, 2002 assessing \$1,438 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Kent Heath, Enforcement Coordinator at (512) 239-4575, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding North Central Oil Corporation, Docket No. 2001-1034- AIR-E on May 13, 2002 assessing \$750 in administrative penalties with \$150 deferred.

Information concerning any aspect of this order may be obtained by contacting John Mead, Enforcement Coordinator at (512) 239-6010, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Muleshoe Area Hospital District dba Muleshoe Area Medical Center, Docket No. 2001-0888-PST-E on May 13, 2002 assessing \$900 in administrative penalties with \$180 deferred.

Information concerning any aspect of this order may be obtained by contacting Gary Shipp, Enforcement Coordinator at (806) 796-7092, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Marshall Distributing Company, Inc., Docket No. 2001- 1266-PST-E on May 13, 2002 assessing \$500 in administrative penalties with \$100 deferred.

Information concerning any aspect of this order may be obtained by contacting A. Sunday Udoetok, Enforcement Coordinator at (512) 239-0739, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Lakeway Airpark, Incorporated, Docket No. 2001-1349- PST-E on May 13, 2002 assessing \$500 in administrative penalties with \$100 deferred.

Information concerning any aspect of this order may be obtained by contacting Lawrence King, Enforcement Coordinator at (512) 339-2929, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CarMax Auto Superstores, Inc., Docket No. 2001-1141- AIR-E on May 13, 2002 assessing \$3,600 in administrative penalties with \$720 deferred.

Information concerning any aspect of this order may be obtained by contacting Stacey Young, Enforcement Coordinator at (512) 239-1899, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Luis Aguilar dba Cactus Grocery, Docket No. 2001- 1435-PST-E on May 13, 2002 assessing \$3,000 in administrative penalties with \$600 deferred.

Information concerning any aspect of this order may be obtained by contacting Ronnie Kramer, Enforcement Coordinator at (806) 468-0512, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Amcor Financial Corporation dba Lake Valley Water Company, Docket No. 2001-0259-MLM-E on



May 13, 2002 assessing \$5,225 in administrative penalties with \$770 deferred.

Information concerning any aspect of this order may be obtained by contacting Malcolm Ferris, Enforcement Coordinator at (210) 403-4061, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Jobe Concrete Products Inc, Docket No. 2001-0676- IWD-E on May 13, 2002 assessing \$1,250 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Pamela Campbell, Enforcement Coordinator at (512) 239-4493, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Granite Construction Company, Docket No. 2001-0973- PST-E on May 13, 2002 assessing \$750 in administrative penalties with \$150 deferred.

Information concerning any aspect of this order may be obtained by contacting Gary Shipp, Enforcement Coordinator at (806) 796-7092, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding GLI Distributing, Inc., Docket No. 2001-1117-PST-E on May 13, 2002 assessing \$3,500 in administrative penalties with \$700 deferred.

Information concerning any aspect of this order may be obtained by contacting Alita Champagne, Enforcement Coordinator at (512) 239-0784, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Power Resources, Ltd., Docket No. 2001-0862-AIR-E on May 13, 2002 assessing \$1,875 in administrative penalties with \$375 deferred.

Information concerning any aspect of this order may be obtained by contacting Dan Landenberger, Enforcement Coordinator at (915) 570-1359, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Valor Telecommunications of Texas, LP, Docket No. 2001-0908-PST-E on May 13, 2002 assessing \$4,500 in administrative penalties with \$900 deferred.

Information concerning any aspect of this order may be obtained by contacting Gary Shipp, Enforcement Coordinator at (806) 796-7092, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding A.A.A. Navi Corporation dba AAA Food Mart, Docket No. 2001-0827-PST-E on May 13, 2002 assessing \$7,000 in administrative penalties with \$1,400 deferred.

Information concerning any aspect of this order may be obtained by contacting Carolyn Lind, Enforcement Coordinator at (903) 535-5145, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Mitchell Energy Company, L.P. dba Kolar Production Facility, Docket No. 2001-1056-AIR-E on May 13, 2002 assessing \$1875 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Gary McDonald, Enforcement Coordinator at (361) 825-3122, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Cistern Water Well Company, Incorporated, Docket No. 2001-0521-PWS-E on May 13, 2002 assessing \$3,425 in administrative penalties with \$2,825 deferred.

Information concerning any aspect of this order may be obtained by contacting Lawrence King, Enforcement Coordinator at (512) 339-2929, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Mohsen Mousai dba Bernard's Liquor Store, Docket No. 2001-1377-PST-E on May 13, 2002 assessing \$4,000 in administrative penalties with \$800 deferred.

Information concerning any aspect of this order may be obtained by contacting Mark Newman, Enforcement Coordinator at (915) 655-9479, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding El Paso Field Services, L.P., Docket No. 2001-1207- AIR-E on May 13, 2002 assessing \$9,875 in administrative penalties with \$1,350 deferred.

Information concerning any aspect of this order may be obtained by contacting Dan Landenberger, Enforcement Coordinator at (915) 570-1359, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Mr. Darrell Earnest dba Hiway Grocery, Docket No. 2001-0978-PST-E on May 13, 2002 assessing \$1,600 in administrative penalties with \$320 deferred.

Information concerning any aspect of this order may be obtained by contacting George Ortiz, Enforcement Coordinator at (915) 698-9674, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Sunesara Investment, Inc., Docket No. 2001-0358-PST-E on May 13, 2002 assessing \$8,750 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Troy Nelson, Staff Attorney at (903) 525-0380, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Philip Services Corporation dba Chemical Reclamation Services, Inc., Docket No. 2001-1073-IHW-E on May 13, 2002 assessing \$9,000 in administrative penalties with \$1,800 deferred.

Information concerning any aspect of this order may be obtained by contacting Subhash Jain, Enforcement Coordinator at (512) 239-5867, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-200203141  
LaDonna Castañuela  
Chief Clerk  
Texas Natural Resource Conservation Commission  
Filed: May 22, 2002

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Extension of Comment Period

In the May 24, 2002 issue of the *Texas Register*, the Texas Natural Resource Conservation Commission (commission) published amendments to 30 TAC Chapter 116, *Control of Air Pollution by Permits for New Construction or Modification*. The preamble to the proposal stated that the commission must receive all written comments by 5:00 p.m.,

June 10, 2002. The commission has extended the deadline for receipt of written comments to 5:00 p.m., June 17, 2002.

Comments should be mailed to Joyce Spencer, Office of Environmental Policy, Analysis, and Assessment, MC 205, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. For further information, please contact Beecher Cameron, Air Permits Division, at (512) 239-1495 or Jill Burditt, Policy and Regulations Division, at (512) 239-0560. Copies of the proposal can be obtained from the commission's website at [www.tnrcc.state.tx.us/oprd/rules/propadop.html](http://www.tnrcc.state.tx.us/oprd/rules/propadop.html), or by calling Ms. Spencer at (512) 239-5017.

TRD-200203112

Stephanie Bergeron

Division Director, Environmental Law Division

Texas Natural Resource Conservation Commission

Filed: May 21, 2002



### Notice - Extension of Comment Period on the Review of Chapters 328, 330, 332

In the April 26, 2002 issue of the *Texas Register*, the Texas Natural Resource Conservation Commission (commission) published amendments to TAC Chapter 328, Waste Minimization and Recycling; Chapter 330, Municipal Solid Waste; and Chapter 332, Composting. The preamble to the proposal stated that the commission must receive all written comments by 5:00 p.m., May 28, 2002. The commission has extended the deadline for receipt of written comments to 5:00 p.m., June 7, 2002.

Comments should be mailed to Angela Slupe, Office of Environmental Policy, Analysis, and Assessment, MC 205, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. For further information, please contact Michael Bame, Policy and Regulations Division, at (512) 239-5658. Copies of the proposal can be obtained from the commission's website at [www.tnrcc.state.tx.us/oprd/rules/propadop.html](http://www.tnrcc.state.tx.us/oprd/rules/propadop.html), or by calling Ms. Slupe at (512) 239-4712.

TRD-200203116

Stephanie Bergeron

Director, Environmental Law Division

Texas Natural Resource Conservation Commission

Filed: May 21, 2002



### Notice of Application for Industrial Hazardous Waste Permits/Compliance Plans

For the Period of May 21, 2002

APPLICATION CROWN CENTRAL PETROLEUM CORPORATION (Pasadena), located immediately east of the Washburn Tunnel and along the southern bank of the Houston Ship Channel on approximately 170 acres in Pasadena, Harris County, Texas, has applied to the Texas Natural Resource Conservation Commission (TNRCC) for renewal of hazardous waste permit (Permit No. HW-50112) and renewal of compliance plan (Compliance Plan No. CP-50112). The permit would authorize continued closure and post-closure care of hazardous waste, Class 1, Class 2 and Class 3 industrial solid waste. The compliance plan renewal authorizes and requires the permittee to continue to monitor the concentration of hazardous constituents in ground water and to remediate ground-water quality to specified standards.

The Executive Director of the TNRCC has prepared a draft permit and compliance plan which, if approved, would establish the conditions

under which the facility must operate. The facility is located in an area subject to the Coastal Management Program (CMP). The Executive Director has reviewed this action for consistency with the goals and policies of the CMP in accordance with the regulations of the Coastal Coordination Council and has determined that the action is consistent with the applicable CMP goals and policies.

This notice satisfies the requirements of the Resource Conservation and Recovery Act (RCRA), as amended, 42 U.S. 6901 et seq. and 40 CFR 124.10. Once the final permit and compliance plan decisions of the TNRCC and U.S. Environmental Protection Agency (EPA) are effective regarding this facility, they will implement the requirements of RCRA as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA). The final permit and compliance plan decision will also implement the federally authorized State requirements. The TNRCC and EPA have entered into a joint permitting agreement whereby permits will be issued in Texas in accordance with the Texas Solid Waste Disposal Act, Texas Health and Safety Code Ann., Chapter 361 and RCRA, as amended. In order for the applicant to have a fully effective RCRA permit, both the TNRCC and EPA must issue the permit. All permit provisions are fully enforceable under State and Federal law. The State of Texas has not received full HSWA authority. Areas in which the TNRCC has not been authorized by EPA are denoted in the draft permit with an asterisk (\*). Persons wishing to comment or request a hearing on a HSWA requirement denoted with an asterisk (\*) in the draft permit should also notify in writing, Chief, RCRA Permits Branch, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733. EPA will accept hearing requests submitted to the TNRCC.

**PUBLIC COMMENT / PUBLIC MEETING.** Written public comments and requests for a public meeting should be submitted to the Office of the Chief Clerk at the address provided in the information section below, within 45 days of the date of newspaper publication of the notice. A public meeting is intended for the taking of public comment, and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application or if requested in writing by an affected person within 45 days of the date of newspaper publication of the notice.

**CONTESTED CASE HEARING.** The TNRCC may grant a contested case hearing on this application if a written hearing request is filed within 45 days from the date of newspaper publication of this notice. The Executive Director may approve the application unless a written request for a contested case hearing is filed.

To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and permit number; (3) the statement "[I/we] request a contested case hearing;" (4) a brief and specific description of how you would be affected by the granting of the application in a way not common to the general public; and (5) the location and distance of your property relative to the proposed activity. You may also submit your proposed adjustments to the application/permit 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.

If a hearing request is filed, the Executive Director will not issue the permit and will forward the application and 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.

**INFORMATION.** Written hearing requests, public comments, or requests for a public meeting should be submitted to the Office of the

Chief Clerk, MC 105, TNRCC, P.O. Box 13087, Austin, TX 78711-3087. For information concerning the hearing process, please contact the Office of Public Interest Counsel, MC 103, the same address as above. Individual members of the general public may contact the Office of Public Assistance, c/o Office of the Chief Clerk, at the address above, or by calling 1-800-687-4040 to: (a) review or obtain copies of available documents (such as draft permit, technical summary, and application); (b) inquire about the information in this notice; or (a) inquire about other agency permit applications or permitting processes. 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-200203140

LaDonna Castañuela

Chief Clerk

Texas Natural Resource Conservation Commission

Filed: May 22, 2002



### Notice of District Petition

Notices mailed during the period May 1, through May 21, 2002.

TNRCC Internal Control No. 10092000-D06 (PETITION) Johnson County Rural Water Supply Corporation has filed a petition with the Texas Natural Resource Conservation Commission (TNRCC) to convert Johnson County Rural Water Supply Corporation (WSC) to Johnson County Special Utility District and to transfer water and sewer Certificate of Convenience and Necessity (CNN) Nos. 10081 and 20713 from Johnson County Rural Water Supply Corporation to Johnson County Special Utility District. Johnson County Special Utility District's business address will be P.O. Box 509, Cleburne, Texas 76033-0509. The petition was filed pursuant to Chapters 13 and 65 of the Texas Water Code; 30 Texas Administrative Code Chapters 291 and 293; and under the procedural rules of the TNRCC. The nature and purpose of the petition are for the conversion of Johnson County Rural Water Supply Corporation and the organization, creation and establishment of Johnson County Special Utility District under the provisions of Article XVI, Section 59, Texas Constitution, and Chapter 65 of the Texas Water Code, as amended. The District shall have the purposes and powers provided in Chapter 65 of the Texas Water Code, and CCN Nos. 10081 and 20713 shall be transferred as provided in Chapter 13 of the Texas Water Code, as amended. The nature of the services presently performed by Johnson County Rural Water Supply Corporation is to purchase, own, hold, lease and otherwise acquire sources of water supply; to build, operate and maintain facilities for the transportation of water; and to sell water to individual members, towns, cities, private businesses, and other political subdivisions of the State. The nature of the services proposed to be provided by Johnson County Special Utility District is to purchase, own, hold, lease, and otherwise acquire sources of water supply; to build, operate, and maintain facilities for the storage, treatment, and transportation of water; and to sell water to individuals, towns, cities, private business entities, and other political subdivisions of the State. Johnson County Special Utility District will also have the power to provide the facilities and services necessary to collect, transport, process, store, treat, and dispose of sewage and wastewater and provide such services for compensation to generators of wastewater. Presently, Johnson County Rural Water Supply Corporation is authorized to provide sewer service under CCN No. 20713, but does not provide such service. Additionally, it is proposed that the District will protect, preserve and restore the purity and sanitary condition of the water within the District. It is anticipated that conversion will have no adverse effects on the rates and services provided to the customers. The proposed District is located primarily in Johnson County but also extends into

Hill, Tarrant, and Ellis Counties, Texas, with a total approximate area of 260 square miles. The proposed District is within portions of the extra-territorial jurisdictions of the Cities of Alvarado, Burleson, Cleburne, Fort Worth, Godley, Joshua, Keene, Mansfield, and Rio Vista. The territory to be included within the proposed District is set forth in the following boundary description designated as Exhibit "A" hereto and is also depicted in the following vicinity map designated as Exhibit "B" hereto. CCN Nos. 10081 and 20713 will be transferred after a positive confirmation election. The TNRCC may grant a contested case hearing on this petition if a written hearing request is filed within 30 days after the date of posting or mailing of this notice.

TNRCC Internal Control No. 01232002-D07 (PETITION) West Wise Rural Water Supply Corporation (Petitioner) has filed a petition with the Texas Natural Resource Conservation Commission (TNRCC) to convert West Wise Rural Water Supply Corporation to West Wise Special Utility District (District) and to transfer Certificate of Convenience and Necessity (CCN) No. 10284 from West Wise Rural Water Supply Corporation to West Wise Special Utility District. West Wise Special Utility District's business address will be: P.O. Box 566; Bridgeport, Texas 76426. The petition was filed pursuant to Chapters 13 and 65 of the Texas Water Code; 30 Texas Administrative Code Chapters 291 and 293; and the procedural rules of the TNRCC. The nature and purpose of the petition are for the conversion of West Wise Rural Water Supply Corporation and the organization, creation and establishment of West Wise Special Utility District under the provisions of Article XVI, Section 59, Texas Constitution, and Chapter 65 of the Texas Water Code, as amended. The District shall have the purposes and powers provided in Chapter 65 of the Texas Water Code, and CCN No. 10284 shall be transferred as provided in Chapter 13, of the Texas Water Code, as amended. The nature of the services presently performed by West Wise Rural Water Supply Corporation is to purchase, own, hold, lease and otherwise acquire sources of water supply; to build, operate and maintain facilities for the transportation of water; and to sell water to individual members, towns, cities, private businesses, and other political subdivisions of the State. The nature of the services proposed to be provided by West Wise Special Utility District is to purchase, own, hold, lease, and otherwise acquire sources of water supply; to build, operate, and maintain facilities for the storage, treatment, and transportation of water; and to sell water to individuals, towns, cities, private business entities and other political subdivisions of the State. Additionally, it is proposed that the District will protect, preserve and restore the purity and sanitary condition of the water within the District. It is anticipated that conversion will have no adverse effects on the rates and services provided to the customers. The proposed District is located in Wise County, Texas, and will contain approximately 64 square miles. The territory to be included within the proposed District includes all of the singly certified service area covered by CCN No. 10284 and is set forth in the following boundary description designated as Exhibit "A" hereto. The proposed District is also depicted in the following vicinity map designated as Exhibit "B" hereto. CCN No. 10284 will be transferred after a positive confirmation election. 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.

TNRCC Internal Control No. 07262001-D01 (PETITION) Cypress Springs Water Supply Corporation (Petitioner) has filed a petition with the Texas Natural Resource Conservation Commission (TNRCC) to convert Cypress Springs Water Supply Corporation to Cypress Springs Special Utility District (District) and to transfer Certificate of Convenience and Necessity (CCN) No. 10532 from Cypress Springs Water Supply Corporation to Cypress Springs Special Utility District. Cypress Springs Special Utility District's business address will be: P.O. Box 591; Mt. Vernon, Texas 75457. The petition was filed pursuant to Chapters 13 and 65 of the Texas Water Code; 30 Texas Administrative

Code Chapters 291 and 293; and the procedural rules of the TNRCC. The nature and purpose of the petition are for the conversion of Cypress Springs Water Supply Corporation and the organization, creation and establishment of Cypress Springs Special Utility District under the provisions of Article XVI, Section 59, Texas Constitution, and Chapter 65 of the Texas Water Code, as amended. The District shall have the purposes and powers provided in Chapter 65 of the Texas Water Code, and CCN No. 10532 shall be transferred as provided in Chapter 13, of the Texas Water Code, as amended. The nature of the services presently performed by Cypress Springs Water Supply Corporation is to purchase, own, hold, lease and otherwise acquire sources of water supply; to build, operate and maintain facilities for the transportation of water; and to sell water to individual members, towns, cities, private businesses, and other political subdivisions of the State. The nature of the services proposed to be provided by Cypress Springs Special Utility District is to purchase, own, hold, lease, and otherwise acquire sources of water supply; to build, operate, and maintain facilities for the storage, treatment, and transportation of water; and to sell water to individuals, towns, cities, private business entities and other political subdivisions of the State. Additionally, it is proposed that the District will protect, preserve and restore the purity and sanitary condition of the water within the District. It is anticipated that conversion will have no adverse effects on the rates and services provided to the customers. The proposed District is located in Franklin, Hopkins, Titus, and Wood Counties and will contain approximately 321 square miles. The territory to be included within the proposed District includes all of the singly certified service area covered by CCN No. 10532 and is set forth in the following boundary description designated as Exhibit "A" hereto. The proposed District is also depicted in the following vicinity map designated as Exhibit "B" hereto. CCN No. 10532 will be transferred after a positive confirmation election. 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.

TNRCC Internal Control No. 11052001-D03 PETITION. Gunter Rural Water Supply Corporation (Petitioner) has filed a petition with the Texas Natural Resource Conservation Commission (TNRCC) to convert Gunter Rural Water Supply Corporation to Gunter Special Utility District and to transfer Certificate of Convenience and Necessity (CCN) No. 10150 from Gunter Rural Water Supply Corporation to Gunter Special Utility District. Gunter Special Utility District's business address will be P.O. Box 1017, Celina, Texas, 75009. The petition was filed pursuant to Chapters 13 and 65 of the Texas Water Code; 30 Texas Administrative Code Chapters 291 and 293; and the procedural rules of the TNRCC. The nature and purpose of the petition are for the conversion of Gunter Rural Water Supply Corporation and the organization, creation and establishment of Gunter Special Utility District under the provisions of Article XVI, Section 59, Texas Constitution, and Chapter 65 of the Texas Water Code, as amended. The District shall have the purposes and powers provided in Chapter 65 of the Texas Water Code, and CCN No. 10150 shall be transferred as provided in Chapter 13, of the Texas Water Code, as amended. The nature of the services presently performed by Gunter Rural Water Supply Corporation is to purchase, own, hold, lease and otherwise acquire sources of water supply; to build, operate and maintain facilities for the transportation of water; and to sell water to individual members, towns, cities, private businesses, and other political subdivisions of the State. The nature of the services proposed to be provided by Gunter Special Utility District is to purchase, own, hold, lease, and otherwise acquire sources of water supply; to build, operate, and maintain facilities for the storage, treatment, and transportation of water; and to sell water to individuals, towns, cities, private business entities and other political subdivisions of the State. Additionally, it is proposed that the District will protect, preserve and restore the purity and sanitary condition of the water within the District. It is anticipated that conversion will have

no adverse effects on the rates and services provided to the customers. The proposed District is located in Collin and Grayson Counties, Texas, and will contain approximately 132 square miles. The territory to be included within the proposed District includes all of the singly certified service area covered by CCN No. 10150 and is set forth in the following boundary description designated as Exhibit "A" hereto. The proposed District is also depicted in the following vicinity map designated as Exhibit "B" hereto. CCN No. 10150 will be transferred after a positive confirmation election. 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.

The TNRCC may grant a contested case hearing on these petitions if a written hearing request is filed within 30 days after the newspaper publication of the 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 petitioner and the TNRCC Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition 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 petitions unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of the notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and 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, TX 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-200203138  
LaDonna Castañuela  
Chief Clerk  
Texas Natural Resource Conservation Commission  
Filed: May 22, 2002



#### Notice of Proposed Minor Amendment of a General Permit

The following notice was issued and mailed on May 21, 2002, for this Permit No. TXR05000.

The Texas Natural Resource Conservation Commission (TNRCC) has initiated a minor amendment of the existing general permit covering eligible storm water, and certain types of non- storm water, discharges directly to exceptional, high, intermediate, limited, or no significant aquatic life use receiving waters. No discharges to exceptional, high, intermediate, limited, or no significant aquatic life use receiving waters are allowed by the proposed general permit, except as specifically authorized by the general permit according to Section 26.040 of the Texas Water Code.

The executive director has prepared a draft minor amendment of an existing general permit that authorizes point source discharges of storm water, and certain types of non-storm water, from industrial activities that are grouped into thirty (30) similar sectors based on Standard Industrial Classification Codes. The proposed changes to this existing general permit include: annual discharge monitoring report requirements for certain permittees; annual non-compliance report requirements for all permittees that exceed certain other numeric effluent limitations; providing necessary discharge monitoring report forms; correction of clerical errors.

The executive director has reviewed this action for consistency with the goals and policies of the Texas Coastal management Program (CMP) according to Coastal Coordination Council (CCC) regulations, and has determined that the action is consistent with applicable CMP goals and policies. The draft permit, if approved, would establish the conditions under which the facility must operate. The executive director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements.

You may submit public comments or request a public meeting about this general permit. The purpose of a public meeting is to provide the opportunity to submit written or oral comment or to ask questions about the application. Generally, the TNRCC will hold a public meeting if the executive director determines that there is a significant degree of public interest in the application or if requested by a local legislator. A public meeting is not a contested case hearing.

Written public comments and requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TNRCC, P.O. Box 13087, Austin, TX 78711-3087 within 30 days of the date this notice is mailed. The notice was mailed on May 21, 2002.

After the deadline for public comments, the executive director will consider the comments and prepare a response to all relevant and material, or significant public comments. The response to comments will be mailed to everyone who submitted public comments or who requested to be on a mailing list for this application.

In addition to submitting public comments, you may ask to be placed on a mailing list to receive future public notices mailed by the Office of the Chief Clerk. You may request to be added to: (1) a permanent mailing list for a specific applicant name and permit number; and/or (2) a permanent mailing list for a specific county or counties.

Note that a request to be added to a mailing list for a specific county will result in notification of all permitting matters affecting that particular county.

To be added to a mailing list, send us your name and address, clearly specifying which mailing list(s) to which you wish to be added. Your written request should be sent to the TNRCC, Office of the Chief Clerk, Mail Code 105, P. O. Box 13087, Austin, TX 78711-3087.

If you need more information about this permit application or the permitting process, please call the TNRCC Office of Public Assistance, Toll Free, at 1-800-687-4040. General information about the TNRCC can be found at our web site at [www.tnrcc.state.tx.us](http://www.tnrcc.state.tx.us). Further information may also be obtained from calling the TNRCC Storm Water & General Permits Team at (512) 239-4433.

TRD-200203139

LaDonna Castañuela

Chief Clerk

Texas Natural Resource Conservation Commission

Filed: May 22, 2002



## Notice of Opportunity to Comment on Settlement Agreements of Administrative Enforcement Actions

The Texas Natural Resource Conservation Commission (TNRCC or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) pursuant to Texas Water Code (the Code), §7.075, which requires that the TNRCC may not approve these AOs unless the public has been provided an opportunity to submit written comments. Section 7.075 requires that notice of the proposed orders and the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **July 8, 2002**. Section 7.075 also requires that the TNRCC promptly consider any written comments received and that the TNRCC may withhold approval of an AO if a comment discloses facts or considerations that indicate the proposed AO is inappropriate, improper, inadequate, or inconsistent with the requirements of the Code, the Texas Health and Safety Code (THSC), and/or the Texas Clean Air Act (the Act). Additional notice is not required if changes to an AO are made in response to written comments.

A copy of each of the proposed AOs is available for public inspection at both the TNRCC's Central Office, located at 12100 Park 35 Circle, Building C, 1st Floor, Austin, Texas 78753, (512) 239-1864 and at the applicable regional office listed as follows. Written comments about these AOs should be sent to the enforcement coordinator designated for each AO at the TNRCC's Central Office at P.O. Box 13087, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on July 8, 2002**. Written comments may also be sent by facsimile machine to the enforcement coordinator at (512) 239-2550. The TNRCC enforcement coordinators are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, §7.075 provides that comments on the AOs should be submitted to the TNRCC in **writing**.

(1) COMPANY: David Pritchard dba Advanced Septic Systems; DOCKET NUMBER: 2001- 1555-OSI-E; IDENTIFIER: On-Site Sewage Facility (OSSF) Installer Number OS4852; LOCATION: Smithville and Dripping Springs; Bastrop and Hays Counties, Texas; TYPE OF FACILITY: septic system; RULE VIOLATED: 30 TAC §285.58(a)(10), by alleging to have abandoned the OSSF; PENALTY: \$200; ENFORCEMENT COORDINATOR: Laurie Eaves, (512) 239-4495; REGIONAL OFFICE: 1921 Cedar Bend Drive, Suite 150, Austin, Texas 78758-5336, (512) 339-2929.

(2) COMPANY: Bridgestone/Firestone, Inc.; DOCKET NUMBER: 2001-1412-IWD-E; IDENTIFIER: National Pollutant Discharge Elimination System (NPDES) Permit Number TX0002968 and Water Quality Permit Number 00454; LOCATION: Orange, Orange County, Texas; TYPE OF FACILITY: synthetic rubber manufacturing; RULE VIOLATED: NPDES Permit Number TX0002968, Water Quality Permit Number 00454, and the Code, §26.121, by failing to comply with the daily average loading limit for total zinc; PENALTY: \$6,000; ENFORCEMENT COORDINATOR: Michael Meyer, (512) 239-4492; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(3) COMPANY: Brookshire Brothers, Ltd. dba Brookshire Brothers #28; DOCKET NUMBER: 2001-1038-PST-E; IDENTIFIER: Petroleum Storage Tank (PST) Facility Identification Number 0064732; LOCATION: San Augustine, San Augustine County, Texas; TYPE OF FACILITY: grocery store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.8(c)(5)(A)(i) and the Code, §26.3467(a), by failing to make available a valid, current delivery certificate; PENALTY: \$18,040; ENFORCEMENT COORDINATOR: John Barry, (409) 898-3838; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(4) COMPANY: Cooper Cameron Corporation; DOCKET NUMBER: 2001-1209-MWD-E; IDENTIFIER: Texas Pollutant Discharge Elimination System (TPDES) Permit Number 13668-001; LOCATION: Liberty, Liberty County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §§305.125(1), (4), (5), (11)(B) and (C)(vi), and (19), 319.7(a)(4), (c) and (d), and 319.11(c), TPDES Permit Number 13668-001, and the Code, §26.121, by failing to operate and maintain the wastewater treatment plant, maintain compliance with the permitted effluent limits, comply with the permitted daily average flow, accurately calibrate the flow meter, maintain discharge monitoring reports (DMRs) and sludge disposal records, correctly calculate the daily average loading values for total suspended solids and carbonaceous biochemical oxygen demand, submit the DMRs on time, and report the daily average flow and daily minimum flow; and 30 TAC §335.323, by failing to pay the hazardous waste generation fee; PENALTY: \$29,250; ENFORCEMENT COORDINATOR: Catherine Albrecht, (713) 767-3500; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(5) COMPANY: J.P. Ventures, Inc. dba Corner Stop; DOCKET NUMBER: 2002-0011-PST-E; IDENTIFIER: PST Facility Identification Number 0035392; LOCATION: Houston, Harris County, Texas; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §115.245(1) and THSC, §382.085(b), by failing to perform the initial testing of the Stage II vapor recovery system (VRS); PENALTY: \$1,250; ENFORCEMENT COORDINATOR: Jonathan Walling, (713) 767-3500; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(6) COMPANY: The City of Cranfills Gap; DOCKET NUMBER: 2002-0210-PWS-E; IDENTIFIER: Public Water Supply Identification Number 0180013; LOCATION: Cranfills Gap, Bosque County, Texas; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.46(m)(4), (t), and (u), by failing to maintain all water system-related appurtenances in a watertight condition, initiate a maintenance program, post a legible sign, and test public water system wells; 30 TAC §290.44(d) and §290.46(r), by failing to design and maintain a water distribution system; and 30 TAC §290.41(c)(1)(F) and (3)(B), by failing to provide a sanitary easement and provide a well casing; PENALTY: \$750; ENFORCEMENT COORDINATOR: James Jackson, (254) 751-0335; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(7) COMPANY: Donna Lowrance dba D & D Grocery & Grill; DOCKET NUMBER: 2002-0006-PST-E; IDENTIFIER: PST Facility Identification Number 0031058; LOCATION: Westbrook, Mitchell County, Texas; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.8(c)(4)(B) and (5)(A)(i), and the Code, §26.346(a) and §26.3467(a), by failing to submit an underground storage tank (UST) and self-certification form and make available to a common carrier a valid, current delivery certificate; PENALTY: \$2,000; ENFORCEMENT COORDINATOR: Carolyn Easley, (915) 698-9674; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (915) 698-9674.

(8) COMPANY: Duke Energy Field Services, LP; DOCKET NUMBER: 2001-1479-AIR-E; IDENTIFIER: Air Account Number HD-0014-P; LOCATION: Gruver, Hansford County, Texas; TYPE OF FACILITY: natural gas processing; RULE VIOLATED: 30 TAC §101.20(1), §116.115(c), 40 Code of Federal Regulations (CFR) §§60.632, 60.636, 60.487(c)(2)(i), and 670.486(c)(2), and THSC, §382.085(b), by failing to record the dates of a first attempt to repair 11 leaking valves and report the number of valves for which leaks were detected; 30 TAC §122.145(2)(A), §122.146(5)(D) and THSC, §382.085(b), by failing to submit one accurate and complete annual

compliance certification, include a deviation report identifying all terms and conditions of the permit, and certify compliance with the Title V permit; and 30 TAC §334.128(a) and §335.323, by failing to pay outstanding nonhazardous waste generation and above ground storage tank fees; PENALTY: \$14,800; ENFORCEMENT COORDINATOR: Ronnie Kramer, (806) 353-9251; REGIONAL OFFICE: 3918 Canyon Drive, Amarillo, Texas 79109-4933, (80) 353-9251.

(9) COMPANY: Duke Energy Field Services, LP; DOCKET NUMBER: 2001-1480-AIR-E; IDENTIFIER: Air Account Number HW-0020-F; LOCATION: Borger, Hutchinson County, Texas; TYPE OF FACILITY: natural gas processing; RULE VIOLATED: 30 TAC §101.4 and THSC, §382.085(a) and (b), by failing to prevent the discharge of a trapped liquid consisting of iron sulfide and condensate from the plant's vent stack; and 30 TAC §101.7(a) and THSC, §382.085(b), by failing to properly maintain a four-inch drain line on abatement equipment; PENALTY: \$6,000; ENFORCEMENT COORDINATOR: Ronnie Kramer, (806) 353-9251; REGIONAL OFFICE: 3918 Canyon Drive, Amarillo, Texas 79109-4933, (80) 353-9251.

(10) COMPANY: El Paso Natural Gas Company; DOCKET NUMBER: 2002-0035-AIR-E; IDENTIFIER: Air Account Number EE-0289-O and Operating Permit Number O-00294; LOCATION: El Paso, El Paso County, Texas; TYPE OF FACILITY: natural gas transmission; RULE VIOLATED: 30 TAC §122.146(2) and THSC, §382.085(b), by failing to submit annual permit compliance certifications; and 30 TAC §122.145(2)(c), by failing to submit permit deviation summary reports; PENALTY: \$3,000; ENFORCEMENT COORDINATOR: Kevin Smith, (915) 834-4949; REGIONAL OFFICE: 401 East Franklin Avenue, Suite 560, El Paso, Texas 79901-1206, (915) 834-4949.

(11) COMPANY: Exxon Mobil Corporation dba Exxon Mobil Refining & Supply Company; DOCKET NUMBER: 2001-1256-AIR-E; IDENTIFIER: Air Account Number HG-0232-Q; LOCATION: Baytown, Harris County, Texas; TYPE OF FACILITY: petroleum refinery; RULE VIOLATED: 30 TAC §116.715(a), Flexible Air Permit Number 18287, and THSC, §382.085(b), by failing to demonstrate that the upset that occurred could not have been prevented; PENALTY: \$7,500; ENFORCEMENT COORDINATOR: Trina Grieco, (713) 767-3500; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(12) COMPANY: Gian T. O'Donnell dba Fadco; DOCKET NUMBER: 2001-1443-PST-E; IDENTIFIER: PST Facility Identification Number 0018756; LOCATION: Pasadena, Harris County, Texas; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.8(c)(4)(B) and (5)(A)(i), and the Code, §26.346(a) and §26.3467(a), by failing to submit a UST registration and self-certification form and make available to a common carrier a valid, current delivery certificate; 30 TAC §37.815(a) and (b), by failing to demonstrate the required financial assurance; and 30 TAC §334.22(a), by failing to pay outstanding UST fees; PENALTY: \$4,800; ENFORCEMENT COORDINATOR: Catherine Albrecht, (713) 767-3500; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(13) COMPANY: Freeman Feedlot, Inc.; DOCKET NUMBER: 2001-1441-AGR-E; IDENTIFIER: TPDES Permit Number 0001535-000; LOCATION: Texhoma, Sherman County, Texas; TYPE OF FACILITY: animal feeding operation; RULE VIOLATED: 30 TAC §321.35(h)(5) and the Code, §26.121, by failing to renew or obtain a new registration; PENALTY: \$3,200; ENFORCEMENT COORDINATOR: Ronnie Kramer, (806) 353-9251; REGIONAL OFFICE: 3918 Canyon Drive, Amarillo, Texas 79109-4933, (806) 353-9251.

(14) COMPANY: City of Georgetown; DOCKET NUMBER: 2001-1118-MWD-E; IDENTIFIER: TPDES Permit Number 10489-002; LOCATION: Georgetown, Williamson County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §305.125(a), TPDES Permit Number 10489-002, and the Code, §26.121, by failing to comply with the permitted limits for heptachlor, methyl parathion, ammon-nitrogen, and five-day carbonaceous biochemical oxygen demand; PENALTY: \$31,500; ENFORCEMENT COORDINATOR: Brad Brock, (512) 239-1165; REGIONAL OFFICE: 1921 Cedar Bend Drive, Suite 150, Austin, Texas 78758-5336, (512) 339-2929.

(15) COMPANY: City of Gonzales; DOCKET NUMBER: 2002-0264-PST-E; IDENTIFIER: PST Facility Identification Number 10183; LOCATION: Gonzales, Gonzales County, Texas; TYPE OF FACILITY: vehicle refueling; RULE VIOLATED: 30 TAC §37.815(a) and (b), by failing to demonstrate the required financial responsibility; and 30 TAC §334.8(c)(4)(B) and (5)(A)(i), and the Code, §26.346(a) and §26.3467(a), by failing to submit a PST self-certification form and make available to a common carrier a valid, current delivery certificate; PENALTY: \$4,375; ENFORCEMENT COORDINATOR: Audra Baumgartner, (361) 825-3100; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5503, (361) 825-3100.

(16) COMPANY: HEC Petroleum, Inc.; DOCKET NUMBER: 2001-1408-AIR-E; IDENTIFIER: Air Account Number SD-0086-A; LOCATION: Taft, San Patricio County, Texas; TYPE OF FACILITY: natural gas compressor station; RULE VIOLATED: 30 TAC §122.145(2)(B), §122.146(2), and THSC, §382.085(b), by failing to submit the federal operating permit compliance certification; PENALTY: \$3,125; ENFORCEMENT COORDINATOR: Merrilee Gerberding, (512) 239-4490; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5503, (361) 825-3100.

(17) COMPANY: Horticultural Printers, Incorporated; DOCKET NUMBER: 2001-1544-AIR-E; IDENTIFIER: Air Account Number DB-1250-P; LOCATION: Mesquite, Dallas County, Texas; TYPE OF FACILITY: commercial printing; RULE VIOLATED: 30 TAC §116.115(c), Air Permit Number 29717, and THSC, §382.085(b), by failing to maintain a recordkeeping system and exercise good housekeeping procedures; PENALTY: \$1,375; ENFORCEMENT COORDINATOR: Jorge Ibarra, (817) 588-5800; REGIONAL OFFICE: 2301 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(18) COMPANY: Darin Jeffries; DOCKET NUMBER: 2001-1397-OSI-E; IDENTIFIER: OSSF License Number 2868; LOCATION: Abilene, Taylor County, Texas; TYPE OF FACILITY: OSSF; RULE VIOLATED: 30 TAC §285.61(4) and (5), and THSC, §366.051(c), by failing to obtain documentation that the owner or owner's agent has the permitting authority's authorization prior to construction of an OSSF and notify the permitting authority of the date on which construction will begin; PENALTY: \$400; ENFORCEMENT COORDINATOR: Carl Schnitz, (512) 239-1892; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (915) 698-9674.

(19) COMPANY: Lanar, Inc. dba Three Corners Food Store; DOCKET NUMBER: 2001-1512-PST-E; IDENTIFIER: PST Facility Identification Number 0045513; LOCATION: Kennedale, Tarrant County, Texas; TYPE OF FACILITY: gasoline retail station; RULE VIOLATED: 30 TAC §115.245(3) and THSC, §382.085(b), by failing to successfully perform five-year testing of the Stage II equipment; 30 TAC §115.242(3)(D) and THSC, §382.085(b), by failing to maintain the Stage II VRS; and 30 TAC §115.246(7)(A) and THSC, §382.085(b), by failing to maintain Stage II records onsite and available for review; PENALTY: \$3,200; ENFORCEMENT COORDINATOR: Alayne Furguson, (817) 588-5800; REGIONAL

OFFICE: 2301 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(20) COMPANY: Lone Star Dirt and Paving Enterprises, Inc.; DOCKET NUMBER: 2002-0067-AIR-E; IDENTIFIER: Air Account Number 94-5259-A; LOCATION: Lubbock, Lubbock County, Texas; TYPE OF FACILITY: portable asphalt batch plant; RULE VIOLATED: 30 TAC §116.115(c), Air Permit Number 45259, and THSC, §382.085(b), by failing to obtain written approval for the use of any fuel other than sweet natural gas for the dryer and hot oil heater; PENALTY: \$1,600; ENFORCEMENT COORDINATOR: Gary Shipp, (806) 796-7092; REGIONAL OFFICE: 4630 50th Street, Suite 600, Lubbock, Texas 79414-3520, (806) 796-7092.

(21) COMPANY: Manuel B. Lopez dba Lopez Stop-N-Go; DOCKET NUMBER: 2001-1006-PST-E; IDENTIFIER: PST Facility Identification Number 9417; LOCATION: Robstown, Nueces County, Texas; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and the Code, §26.3475, by failing to provide proper release detection for the UST systems; 30 TAC §37.815(a) and (b), by failing to demonstrate the required financial responsibility; and 30 TAC §334.7(c)(3), by failing to provide an amended registration; PENALTY: \$5,625; ENFORCEMENT COORDINATOR: Gary McDonald, (361) 825-3100; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5503, (361) 825-3100.

(22) COMPANY: Masters Resources, LLC; DOCKET NUMBER: 2002-0287-AIR-E; IDENTIFIER: Air Account Number CI-0175-U; LOCATION: Anahuac, Chambers County, Texas; TYPE OF FACILITY: natural gas production; RULE VIOLATED: 30 TAC §101.360(a) and THSC, §382.085(b), by failing to submit a completed ECT-3 form, level of activity certification; PENALTY: \$600; ENFORCEMENT COORDINATOR: Sushil Modak, (512) 239-2142; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(23) COMPANY: Masters Resources, LLC; DOCKET NUMBER: 2002-0288-AIR-E; IDENTIFIER: Air Account Number CI-0160-K; LOCATION: Anahuac, Chambers County, Texas; TYPE OF FACILITY: natural gas production; RULE VIOLATED: 30 TAC §101.360(a) and THSC, §382.085(b), by failing to submit a completed ECT-3 form, level of activity certification; PENALTY: \$600; ENFORCEMENT COORDINATOR: Sushil Modak, (512) 239-2142; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(24) COMPANY: Mike D. Hill dba Mike's Country Store; DOCKET NUMBER: 2001-1556-PST-E; IDENTIFIER: PST Facility Identification Number 0065408; LOCATION: Gardendale, Ector County, Texas; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.8(c)(4)(B) and (5)(A)(i) and the Code, §26.346(a) and §26.3467(a), by failing to submit a UST registration and self-certification form and make available a valid, current delivery certificate; PENALTY: \$6,000; ENFORCEMENT COORDINATOR: Dan Landenberger, (915) 570-1359; REGIONAL OFFICE: 3300 North A Street, Building 4, Suite 107, Midland, Texas 79705-5404, (915) 570-1359.

(25) COMPANY: Mission Petroleum Carriers, Inc.; DOCKET NUMBER: 2002-0039-PST-E; IDENTIFIER: Enforcement Identification Number 17269; LOCATION: Brownsville, Cameron County, Texas; TYPE OF FACILITY: fuel distribution; RULE VIOLATED: 30 TAC §334.5(b)(1)(A), by failing to ensure that no common carrier shall deposit any regulated substance into a regulated UST; PENALTY: \$42,400; ENFORCEMENT COORDINATOR: Jaime Garza, (956)

425-6010; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(26) COMPANY: Navajo Refining Company; DOCKET NUMBER: 2001-1204-AIR-E; IDENTIFIER: Air Account Number HT-0266-E; LOCATION: Big Spring, Howard County, Texas; TYPE OF FACILITY: crude oil gathering; RULE VIOLATED: 30 TAC §122.146(1) and THSC, §382.085(b), by failing to submit Title V compliance certifications; and 30 TAC §122.145(2)(B) and THSC, §382.085(b), by failing to submit deviation reports; PENALTY: \$3,000; ENFORCEMENT COORDINATOR: Dan Landenberger, (915) 570-1359; REGIONAL OFFICE: 3300 North A Street, Building 4, Suite 107, Midland, Texas 79705-5404, (915) 570-1359.

(27) COMPANY: Oil Patch Petroleum, Inc.; DOCKET NUMBER: 2001-1571-PST-E; IDENTIFIER: Enforcement Identification Number 17041; LOCATION: Port Lavaca, Calhoun County, Texas; TYPE OF FACILITY: fuel distributor; RULE VIOLATED: 30 TAC §334.5(b)(1)(A), by failing to ensure that the owners or operators had a valid, current delivery certificate; PENALTY: \$14,000; ENFORCEMENT COORDINATOR: Michelle Harris, (512) 239-0492; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5503, (361) 825-3100.

(28) COMPANY: Oldmoc, Inc.; DOCKET NUMBER: 2002-0109-PST-E; IDENTIFIER: Enforcement Identification Number 17218; LOCATION: Houston, Harris County, Texas; TYPE OF FACILITY: fuel distributor; RULE VIOLATED: 30 TAC §334.5(b)(1)(A), by failing to ensure that the owners or operators had a valid, current delivery certificate; PENALTY: \$400; ENFORCEMENT COORDINATOR: Gary Shipp, (806) 796-7092; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(29) COMPANY: Oneok Texas Field Services, L.P.; DOCKET NUMBER: 2001-1476-AIR-E; IDENTIFIER: Air Account Number CF-0017-D; LOCATION: Skellytown, Carson County, Texas; TYPE OF FACILITY: natural gas compression; RULE VIOLATED: 30 TAC §116.160(a), 40 CFR §52.21(b)(23)(i), and THSC, §382.085(b), by failing to comply with prevention of significant deterioration of air quality regulations; 30 TAC §122.121 and §122.130(c)(1) (now 30 TAC §122.130(b)(1)), and THSC, §382.054 and §382.085(b), by failing to submit an administratively complete abbreviated Title V site operating permit application; and 30 TAC §122.145(2)(A) - (C) and §122.146(5)(D), and THSC, §382.085(b), by failing to submit three deviation reports; PENALTY: \$56,875; ENFORCEMENT COORDINATOR: Ronnie Kramer, (806) 353-9251; REGIONAL OFFICE: 3918 Canyon Drive, Amarillo, Texas 79109-4933, (806) 353-9251.

(30) COMPANY: Savoy Kay dba S & S Fuels Company; DOCKET NUMBER: 2002-0089-AIR-E; IDENTIFIER: Air Account Number EE-0888-J; LOCATION: El Paso, El Paso County, Texas; TYPE OF FACILITY: gasoline dispensing station; RULE VIOLATED: 30 TAC §115.252(2) and THSC, §382.085(b), by allowing the transfer of gasoline with a Reid Vapor Pressure greater than seven pounds per square inch absolute; PENALTY: \$720; ENFORCEMENT COORDINATOR: Sheila Smith, (512) 239-1670; REGIONAL OFFICE: 401 East Franklin Avenue, Suite 560, El Paso, Texas 79901-1206, (915) 834-4949.

(31) COMPANY: San Antonio Shoe, Inc.; DOCKET NUMBER: 2001-1264-AIR-E; IDENTIFIER: Air Account Number VA-0045-J and General Operating Permit Number O-01881; LOCATION: Del Rio, Val Verde County, Texas; TYPE OF FACILITY: shoe manufacturing; RULE VIOLATED: 30 TAC §122.146(2) and THSC, §382.085(b), by failing to submit the annual Title V compliance certification; PENALTY: \$1,500; ENFORCEMENT COORDINATOR:

Rebecca Clausewitz, (210) 490-3096; REGIONAL OFFICE: 14520 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(32) COMPANY: SOS Liquid Waste Haulers, Ltd. Co. and South Loop Land & Cattle, L.C.; DOCKET NUMBER: 2001-1551-MLM-E; IDENTIFIER: Sludge Transporter Identification Number 22085 and Beneficial Reuse Registration Identification Number 710830; LOCATION: San Antonio, Bexar County, Texas; TYPE OF FACILITY: trucking company; RULE VIOLATED: 30 TAC §330.5(a) and the Code, §26.121, by allegedly allowing and causing wastewater treatment plant sludge to be disposed of outside the boundaries of land registered to receive the waste for beneficial reuse; PENALTY: \$5,400; ENFORCEMENT COORDINATOR: Malcolm Ferris, (210) 490-3096; REGIONAL OFFICE: 14520 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(33) COMPANY: South Hampton Refining Co.; DOCKET NUMBER: 2001-1547-AIR-E; IDENTIFIER: Air Account Number HF-0017-K; LOCATION: Silsbee, Hardin County, Texas; TYPE OF FACILITY: industrial organic chemical manufacturing; RULE VIOLATED: 30 TAC §101.20(1) and §116.115(c), Air Permit Number 3295, 40 CFR §60.104(a)(1), and THSC, §382.085(b), by failing to comply with the hydrogen sulfide limitation of 0.10 grams per dry standard cubic foot for fuel gas and to comply with an emission limit; PENALTY: \$5,938; ENFORCEMENT COORDINATOR: Laura Clark, (409) 898-3838; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(34) COMPANY: South Texas Moulding, Inc.; DOCKET NUMBER: 2001-1548-AIR-E; IDENTIFIER: Air Account Number HN-0185-U; LOCATION: Donna, Hidalgo County, Texas; TYPE OF FACILITY: woodworking plant; RULE VIOLATED: 30 TAC §101.4 and THSC, §382.085(a) and (b), by failing to control the discharge of an air contaminant; PENALTY: \$6,250; ENFORCEMENT COORDINATOR: Sandra Hernandez, (956) 425-6010; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(35) COMPANY: Sunesara Investment Inc. dba Baytown Market No. 2; DOCKET NUMBER: 2001-1403-PST-E; IDENTIFIER: PST Facility Identification Number 0071455; LOCATION: Baytown, Harris County, Texas; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §37.875(a) and (b), by failing to maintain evidence of mechanisms used to demonstrate financial assurance; 30 TAC §334.8(c)(4)(B) and (5)(A)(i), and the Code, §26.346(a) and §26.3467(a), by failing to submit a UST registration and self-certification form and make available a valid, current delivery certificate; PENALTY: \$8,250; ENFORCEMENT COORDINATOR: Catherine Sherman, (713) 7675-3500; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(36) COMPANY: VJ Enterprises, Inc. dba Swing N Stop; DOCKET NUMBER: 2002-0257-PST-E; IDENTIFIER: PST Facility Identification Number 0016318; LOCATION: Porter, Montgomery County, Texas; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.8(c)(4)(B) and (5)(A)(i), and the Code, §26.346(a) and §26.3467(a), by failing to submit a UST registration and self-certification form and make available a valid, current delivery certificate; PENALTY: \$2,000; ENFORCEMENT COORDINATOR: Trina Grieco, (713) 767-3500; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(37) COMPANY: ANF Corporation dba Texaco Popeyes; DOCKET NUMBER: 2002-0027-PST-E; IDENTIFIER: PST Facility Identification Number 0071722; LOCATION: Frisco, Collin County, Texas; TYPE OF FACILITY: convenience store with retail sales of gasoline;



RULE VIOLATED: 30 TAC §334.8(c)(4)(B) and (5)(A)(i), and the Code, §26.346(a) and §26.3467(a), by failing to submit a UST registration and self-certification form and make available a valid, current delivery certificate; PENALTY: \$1,200; ENFORCEMENT COORDINATOR: Sunday Udoetok, (512) 239-0739; REGIONAL OFFICE: 2301 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(38) COMPANY: Wall Colmonoy Corporation; DOCKET NUMBER: 2001-1382-IHW-E; IDENTIFIER: Solid Waste Registration Number 34385; LOCATION: San Antonio, Bexar County, Texas; TYPE OF FACILITY: engine aircraft maintenance; RULE VIOLATED: 30 TAC §335.4 and the Code, §26.121, by failing to prevent and contain unauthorized discharges; 30 TAC §335.69(a)(2) and (3), by failing to label a drum of hazardous waste; 30 TAC §335.6(c) and §335.503(b)(2), by failing to assign a unique four-digit sequence number to individual waste streams and include all waste generated on the notice of registration; and 30 TAC §335.10(b)(22), by failing to include the waste classification code number on two manifests; PENALTY: \$10,000; ENFORCEMENT COORDINATOR: Mac Vilas, (512) 239-2557; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(39) COMPANY: Western Marketing, Inc.; DOCKET NUMBER: 2002-0018-PST-E; IDENTIFIER: Enforcement Identification Number 17419; LOCATION: Westbrook, Mitchell County, Texas; TYPE OF FACILITY: fuel distribution; RULE VIOLATED: 30 TAC §334.5(b)(1)(A), by failing to observe that the owner or operator had a valid, current delivery certificate; PENALTY: \$1,200; ENFORCEMENT COORDINATOR: Carolyn Easley, (915) 698-9674; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (915) 698-9674.

(40) COMPANY: Westwood VII Management, LLC; DOCKET NUMBER: 2001-1297-AIR-E; IDENTIFIER: Air Account Number HF-0231-G; LOCATION: Lumberton, Hardin County, Texas; TYPE OF FACILITY: subdivision; RULE VIOLATED: 30 TAC §101.4 and THSC, §382.085(a) and (b), by failing to prevent the discharge of one or more air contaminants; and 30 TAC §111.201 and THSC, §382.085(b), by failing to comply with outdoor burning regulations; PENALTY: \$4,000; ENFORCEMENT COORDINATOR: Laura Clark, (409) 898-3838; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

TRD-200203106

Paul C. Sarahan

Director, Litigation Division

Texas Natural Resource Conservation Commission

Filed: May 21, 2002



### Notice of Water Quality Applications

The following notices were issued during the period of May 1, 2002 through May 16, 2002.

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, Mail Code 105, P O Box 13087, Austin Texas 78711-3087, WITHIN 30 DAYS OF THE DATE OF NEWSPAPER PUBLICATION OF THIS NOTICE.

AQUASOURCE UTILITY, INC. has applied for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. 14018-001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 450,000 gallons per day.

The plant site is located approximately 9.9 miles west of the intersection of State Highway 105 and Interstate 45 and approximately 600 feet directly west of the intersection of State Highway 105 and Lake Conroe Village Boulevard in Montgomery County, Texas.

THE CITY OF ASHERTON has applied for a renewal of TPDES Permit No. 13746-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 180,000 gallons per day. The facility is located 6,000 feet northeast of U.S. Highway 83 and 4,000 feet northwest of Farm-to-Market Road 190 in Dimmit County, Texas. The treated effluent is discharged to an unnamed tributary; thence to El Moro Creek; thence to Soldier Slough; thence to the Nueces River Above Holland Dam in Segment No. 2105 of the Nueces River Basin.

CITY OF BLOOMBURG has applied to the Texas Natural Resource Conservation Commission (TNRCC) for a renewal of TPDES Permit No. 13930-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 90,000 gallons per day. The facility is located approximately 200 feet south of the intersection of Anthony and Louisiana Streets in Cass County, Texas.

CAPE ROYALE UTILITY DISTRICT has applied for a renewal of TPDES Permit No. 10997-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 150,000 gallons per day. The facility is located approximately 5.5 miles north of the City of Coldspring in the northwest corner of the Cape Royal Subdivision, on the shore of Lake Livingston in San Jacinto County, Texas.

CITGO REFINING AND CHEMICALS COMPANY L.P. which operates its Deep Sea Terminal, a petroleum intermediates storage facility (SIC 4226), has applied for a renewal of TPDES Permit No. 02614, which authorizes the discharge of storm water on an intermittent and flow variable basis via Outfalls 001, 002 and 003. Issuance of this Texas Pollutant Discharge Elimination System (TPDES) permit will replace the existing NPDES Permit No. TX0092461 issued on July 11, 1985 and TNRCC Permit No. 02614, issued on October 5, 1999. The facility is located 4806 Up River Road, in the City of Corpus Christi, Nueces County, Texas.

COOPER CAMERON CORPORATION has applied for a renewal of TNRCC Permit No. 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.

DIANA WATER SUPPLY CORPORATION has applied for a renewal of TPDES Permit No. 11199-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 120,000 gallons per day. The facility is located approximately 1/4 mile east of the intersection of U.S. Highway 259 and Farm-to-Market Road 3245 on the north side of Farm-to-Market Road 3245 in Upshur County, Texas.

CITY OF DALHART has applied for a major amendment to TPDES Permit No. 10099-001 to authorize an increase in the discharge of treated domestic wastewater from an annual average flow not to exceed 1,000,000 gallons per day to an annual average flow not to exceed 1,500,000 gallons per day. The plant site is located approximately 0.5 mile west of U.S. Highway 87, approximately 2.5 miles southeast of the intersection of U.S. Highway 54 and U.S. Highway 87 in Hartley County, Texas. The treated effluent is discharged to Rita Blanca Lake in Segment No. 0105 of the Canadian River Basin.

WEST HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 11 has applied for a renewal of TNRCC Permit No. 13689-001, which

authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 1,500,000 gallons per day. The draft permit authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 1,500,000 gallons per day. The plant site is located adjacent to the west side of Sam Houston Toll Road and the north side of a Harris County Flood Control Ditch, south of West Road and east of Whiteoak Bayou in Harris County, Texas.

NORTHWEST HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 16 has applied for a renewal of TPDES Permit No. 11935-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 990,000 gallons per day. The facility is located approximately 5,800 feet southwest of the intersection of Farm-To-Market Road 529 and State Highway 6 in Harris County, Texas.

CITY OF KERENS has applied for a renewal of Permit No. 10745-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 210,000 gallons per day. The facility is located adjacent to Farm-to-Market Road 633 and approximately half mile southwest of the City of Kerens in Navarro County, Texas.

LOWER COLORADO RIVER AUTHORITY AND BRAZOS RIVER AUTHORITY have applied for a major amendment to TPDES Permit No. 11324-001 to authorize an increase in the discharge of treated domestic wastewater from a daily average flow not to exceed 400,000 gallons per day to a daily average flow not to exceed 950,000 gallons per day. The facility 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. The treated effluent is discharged to Cottonwood Creek; thence to Brushy Creek in Segment No. 1244 of the Brazos River Basin.

CITY OF MONTGOMERY has applied for a renewal of TPDES Permit No. 11521-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 250,000 gallons per day. The facility is located north of the City of Montgomery, approximately 4000 feet north of the intersection of Farm-to-Market Road 149 and State Highway 105, just west of the point where Farm-to-Market Road crosses Town Creek in Montgomery County, Texas.

MARY ANN MOORE has applied for a renewal of TPDES Permit No. 11465-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 15,000 gallons per day. The facility is located approximately 1250 feet north of Farm-to-Market Road 2457 at a point approximately 3 miles west of the intersection of Farm-to-Market Road 2457 and U.S. Highway 190, near the east shore of Lake Livingston in Polk County, Texas.

TOWN OF OAK RIDGE has applied for a renewal of TPDES Permit No. 13514-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 37,500 gallons per day. The facility is located approximately 1700 feet south of U.S. Highway 82 and approximately 9800 feet west of Farm-to-Market Road 678 in Cooke County, Texas.

PURE UTILITIES, L.C. has applied for a renewal of TPDES Permit No. 14014-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 30,000 gallons per day. The facility is located approximately 500 feet east of U.S. Highway 59, approximately 1 mile south of the intersection of U.S. Highway 59 and Farm-to-Market Road 1988, approximately 3 miles south of the intersection of U.S. Highway 59 and State Highway 190 in Polk County, Texas.

SAN ANTONIO WATER SYSTEM has applied for a renewal of TPDES Permit No. 10137-036, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed

64,000 gallons per day. The facility is located approximately 0.75 mile southeast of the intersection of Farm-to-Market Road 1560 and Farm-to-Market Road 471 and approximately one mile west of the intersection of State Highway Loop 1604 and Farm-to-Market Road 471 in Bexar 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 No. 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.

SUNBELT FRESH WATER SUPPLY DISTRICT has applied for a renewal of TPDES Permit No. 11670-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 990,000 gallons per day. The facility is located approximately 4000 feet east of the Fairbanks North Houston Road bridge over WhiteOak Bayou in Harris County, Texas. The treated effluent is discharged to Harris County Flood Control Ditch E124-00-00; thence to WhiteOak Bayou Above Tidal in Segment No. 1017 of the San Jacinto River Basin.

SWEETWATER UTILITY, L.L.C., has applied for a renewal of TPDES Permit No. 14094-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 156,000 gallons per day. The facility is located at the end of an existing dirt road; approximately 3,000 feet east of Rhode Lane; 6,000 feet northwest of the intersection of Highway 21, Rhode Lane and County Road 2001 and approximately 7,000 feet northeast of the intersection of Brushy Creek and Highway 21 in Hays County, Texas.

TXU GENERATION COMPANY LP has applied for a renewal of Permit No. 00556, which authorizes the disposal of cooling tower blow-down and low volume wastewater at a daily average flow not to exceed 4,000,000 gallons per day via evaporation and/or infiltration into an underground aquifer in the Monument Draw Pond, and low volume wastewater and storm water runoff at a daily flow not to exceed 352,000 gallons per day via evaporation and/or infiltration into an underground aquifer in the Plant Pond. The plant site is located on a private road approximately one-half mile north of Business 20 (former U.S. Highway 80), four miles west of the Business 20 and State Highway 18 intersection, in the City of Monahans, Ward County, Texas.

THOUSAND TRAILS INC a residential wastewater provider, has applied for a renewal of TPDES Permit No. 12349-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 30,000 gallons per day. The facility is located approximately 3 miles west of the intersection of Farm-to-Market Road 830 and Interstate Highway 45, 1.3 miles west-southwest of the intersection of Farm-to-Market 830 and Old Willis-Montgomery Road and 1000 feet northwest of the intersection of Old Willis-Montgomery Road with the shoreline of Lake Conroe in Montgomery County, Texas.

U.S. ARMY CORPS OF ENGINEERS has applied for a renewal of TPDES Permit No. 12060-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 5,000 gallons per day. The domestic wastewater treatment facility is located in Lakeland Park, on the east side of Lavon Lake at a point approximately 2 miles west of the intersection of State Highway 78 and State Highway Spur 509 in Collin County, Texas.

VIA BAYOU, INC. has applied for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. 14326-001,

to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 20,000 gallons per day. The facility is located at 10000 San Leon Drive in Galveston County, Texas. The treated effluent is discharged to a series of ponds; thence to a drainage ditch; thence to Dickinson Bayou Tidal in Segment No. 1103 of the San Jacinto-Brazos Coastal Basin.

Written comments or requests for a public meeting may be submitted to the Office of the Chief Clerk, at the address provided in the information section above, WITHIN 30 DAYS OF THE ISSUED DATE OF THIS NOTICE

CITY OF EAST TAWAKONI has applied for a Texas Pollutant Discharge Elimination System (TPDES) wastewater permit. The applicant has an existing Texas Natural Resource Conservation Commission (TNRCC) Permit No. 11428-001, 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 one mile due east of the intersection of State Highway 276 and Farm-to-Market Road 513 on the northeast side of Lake Tawakoni in Rains County, Texas.

The Texas Natural Resource Conservation Commission (TNRCC) has initiated a minor amendment of the Texas Pollutant Discharge Elimination System (TPDES) permit issued to CITY OF RIO GRANDE CITY. The minor amendment is to remove provisions in the biomonitoring language which prohibit the dechlorination of effluent samples after collection. The existing permit authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 1,500,000 gallons per day. The facility is located on the north bank of the Rio Grande, approximately 0.5 mile upstream of the International Bridge (Farm-to-Market Road 755) on the Old Fort Ringgold Site east of Rio Grande City in Starr County, Texas.

TRD-200203142

LaDonna Castañuela

Chief Clerk

Texas Natural Resource Conservation Commission

Filed: May 22, 2002



### Notice of Water Rights Application

Notices mailed during the period May 8, 2002 through May 21, 2002

APPLICATION NO. 23-939A Lorenzo Hernandez, P.O. Box 892, Presidio, TX, 79845, applicant, seeks to amend Certificate of Adjudication No. 23-939, pursuant to Texas Water Code (TWC) 11.122, and Texas Natural Resource Conservation Commission Rules 30 TAC 295.1, et seq. Applicant owns Certificate of Adjudication No. 23-939, which authorizes the diversion and use of not to exceed 45 acre-feet of water per annum at a maximum diversion rate of 2.3 cfs (1,500 gpm) from the Rio Grande, Rio Grande Basin in Presidio County for irrigation of 15 acres of land out of a 17.5 acre tract in Presidio, County, Texas. Applicant seeks to add a new diversion point on the Rio Grande approximately 65.97 river miles upstream of the currently authorized diversion point, to a point at Latitude 30.064 degrees N, Longitude 104.698 degrees W, also, bearing N 62 degrees E, 825 feet from the southeast corner of the T. & P. Ry. Survey for irrigation of 10 acres of land in Presidio County. Pursuant to an agreement between the landowner and applicant dated June 1, 2001, the applicant will allow the landowner to pump the water and irrigate on his land. The authority to use the water authorized under Certificate of Adjudication No. 23-939 is contingent on the maintenance of the agreement between the landowner and applicant. No changes to diversion amount or rate are requested. Pursuant to 30 TAC 295.153 and 295.158 (c)(2)(d), notice will be sent by certified

mail to the 19 water rights holders of record with diversion points on the Rio Grande between the original diversion point and the requested diversion point. The application was received on January 11, 2002. The Executive Director reviewed the application and determined it to be administratively complete on April 22, 2002. Written public comments and requests for a public meeting should be submitted to the Office of Chief Clerk, at the address provided in the information section below, by June 5, 2002. A public meeting is intended for the taking of public comment, and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application. The TNRCC may grant a contested case hearing on this application if a written hearing request is filed by June 5, 2002. The Executive Director may approve the application unless a written request for a contested case hearing is filed.

APPLICATION NO. 5772 Coleman Independent School District, West Pecan Street, P.O. Box 973, Coleman, Texas 76834, applicant, seeks a Water Use Permit pursuant to Texas Water Code (TWC) 11.042 and Texas Natural Resource Conservation Commission Rules 30 TAC 295.1, et seq. Mailed notice of the application is given pursuant to 30 TAC 295.153(a) & 295.161 to all of the downstream water right holders in the Colorado River Basin. Applicant seeks authorization to use the bed and banks of Little Concho Creek, tributary of Hords Creek, tributary of Pecan Bayou, tributary of the Colorado River, Colorado River Basin to convey purchased effluent water from the City of Coleman to the city's Memory Lake reservoir, authorized under Water Use Permit No. 3202, for subsequent diversion of not to exceed 22 acre-feet of water per annum for agricultural purposes to irrigate 2 acres of land in Coleman County. The water will be diverted from the perimeter of the aforesaid reservoir at a maximum rate of 0.155 cfs (70 gpm) and will travel approximately three quarters of a mile downstream, from the point of discharge to Memory Lake. The diversion point, which will be on the perimeter of the reservoir, is located approximately 1,080 feet in a southwesterly direction from the northeast corner of the J. E. McCord Survey, Abstract No. 1486, one mile southwest of Coleman, Coleman County, Texas, also being at Latitude 31.84 degrees N and Longitude 99.44 degrees W. The School District has contracted, via an Agreement for Sale and Purchase of Water, to purchase effluent from the City of Coleman's wastewater treatment plant, which will be discharged upstream. The application was received on February 14, 2002 and the additional information was received on April 2, 3, and 8, 2002. The application was determined to be administratively complete on April 18, 2002. Written public comments and requests for a public meeting should be submitted to the Office of the Chief Clerk at the address provided in the information section below by June 12, 2002. A public meeting is intended for the taking of public comment and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application. The TNRCC may grant a contested case hearing on this application if a written hearing request is filed by June 12, 2002. The Executive Director may approve the application unless a written request for a contested case hearing is filed by June 12, 2002.

APPLICATION No. 12-5322D Applicant, Chocolate Bayou Water Company (CBWC), P.O. Box 550, Alvin, Texas 77512-0550, seeks to amend Certificate of Adjudication No.12-5322, as amended, pursuant to Texas Water Code 11.122 and Texas Natural Resource Conservation Commission Rules 30 TAC 295.1, et seq. Pursuant to TAC 295.152 and TAC 295.153, notice is being published and mailed to all water right holders of record with diversion points on the Brazos River between the existing and proposed diversion points. Certificate of Adjudication No. 12-5322, as amended, authorizes the CBWC to maintain, and impound water in, three off-channel reservoirs (Juliff, Bonney, and Liverpool Reservoirs) used as buffer reservoirs to facilitate pumping and

efficiency, with no right to use the reservoirs for storage of state water other than during the irrigation season. Owner is further authorized to divert and use from the Brazos River, Brazos River Basin, not to exceed 155,000 acre-feet of water per annum for municipal, agriculture, and industrial purposes within the district's service area in Fort Bend, Brazoria and Harris Counties. Time priority is February 8, 1929 for diversion and use of the first 40,000 acre-feet at 400 cfs (180,000 gpm); March 14, 1955 for the next 40,000 acre-feet at 668 cfs (300,600 gpm) and July 25, 1983 for the remaining 75,000 acre-feet at 900 cfs (405,000 gpm). The diversion is subject to a special condition restricting diversion to streamflow exclusive of contract water released by the Brazos River Authority for downstream use. Applicant seeks to amend Certificate of Adjudication No 12-5322, as amended, to add a diversion point on the Brazos River approximately 65 miles up-stream of the currently authorized point to be located 6.4 miles S 1.7 degrees W from the City of Hempstead in Waller County, also being 30.004 degrees N Latitude and 96.080 degrees W Longitude. No increase in the diversion amount, the diversion rate, or the place of use is being requested. The amendment application was received on August 28, 2001. Additional information was received on November 12, 2001 and November 30, 2001. The application was determined to be administratively complete on December 12, 2001. Written public comments and requests for a public meeting should be submitted to the Office of Chief Clerk, at the address provided in the information section below, within 30 days of the date of newspaper publication of the notice. A public meeting is intended for the taking of public comment, and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application. The TNRCC may grant a contested case hearing on this application if a written hearing request is filed within 30 days from the date of newspaper publication of this notice. The Executive Director may approve the application unless a written request for a contested case hearing is filed within 30 days after newspaper publication of this notice.

APPLICATION NO. 5771 Three Par Golf, Inc., 417 South 11th Street, Abilene, Texas 79602, applicant, seeks a Water Use Permit pursuant to Texas Water Code (TWC) 11.121 and 11.143 and Texas Natural Resource Conservation Commission Rules 30 TAC 295.1, et seq. Published and mailed notice of the application are given pursuant to 30 TAC 295.152 and 295.153 to all of the water right holders in the Brazos River Basin. Applicant seeks authorization to maintain an existing dam and reservoir on Button Willow Creek, tributary of Cedar Creek, tributary of Elm Creek, tributary of the Clear Fork Brazos River, tributary of the Brazos River, the Brazos River Basin in Taylor County. Pursuant to a Water Supply Contract with the City of Abilene, applicant also seeks authorization to divert and use not to exceed 20 acre-feet of purchased effluent water per annum from a point on the aforesaid reservoir for agricultural use to irrigate 12 acres of land out of 34 acre tract in the Blind Asylum Lands Original Survey No. 66, Abstract No. 719 in Taylor County. Water will be diverted from the reservoir at a maximum rate of 0.133 cfs (60 gpm). The reservoir has a capacity of 20.8 acre-feet with a surface area of 5.2 acres. Station 1 on the centerline of the dam is located S 40 degrees E, 2,600 feet from the Blind Asylum Lands Original Survey No. 66, Abstract No. 719 in Taylor County, at Latitude 32.40 degrees N, Longitude 99.74 degrees W. The diversion point is located S 37 degrees E, 2,650 feet from the northwest corner of the aforesaid survey, also being at Latitude 32.40 degrees N, Longitude 99.74 degrees W. Ownership of the land is evidenced by Warranty Deed Nos. 6324 and 6325, Vol. 1583, Pages 406-412, as recorded in the Taylor County Records. Three Par Golf, Inc. will maintain the water level of the reservoir with purchased effluent water from the City of Abilene. The application was received on January 30, 2001. Additional information was received on May 11, 2001. The Executive

Director reviewed the application and determined it to be administratively complete on April 12, 2002. Written public comments and requests for a public meeting should be submitted to the Office of the Chief Clerk at the address provided in the information section below within 30 days of the date of newspaper publication of the notice. A public meeting is intended for the taking of public comment and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application. The TNRCC may grant a contested case hearing on this application if a written hearing request is filed within 30 days from the date of newspaper publication of this notice. The Executive Director may approve the application unless a written request for a contested case hearing is filed within 30 days after newspaper publication of this notice.

PROPOSED PERMIT NO. 8226 Hilltop Holdings, Inc., 6978 I.H. 35, New Braunfels, Texas 78130, seeks a Temporary Water Use Permit pursuant to 11.138, Texas Water Code, and Texas Natural Resource Conservation Commission Rules 30 TAC 295.1, et seq. Pursuant to 30 TAC 295.153, this notice should be mailed to the downstream water right holders of record in the Guadalupe River Basin. Applicant seeks authorization to divert and use 99 acre-feet of water within a period of three years from unnamed tributary of Water Hole Creek, a tributary of York Creek, a tributary of the San Marcos River, tributary of the Guadalupe River, Guadalupe River Basin for storage in an off-channel reservoir for recreational purposes. The water will also be used for the initial fill of the reservoir and to compensate for evaporative losses. The reservoir is located 5.8 miles northeast of New Braunfels, Texas, bearing N64.4 degrees W, 1099.2 feet from the northeast corner of a three lot subdivision no. 23 of the A.M. Esnaurizar Eleven League Grant, Comal County, also being 29.8 degrees N Latitude and 98.1 degrees W Longitude, and will impound a maximum of 39.1 acre-feet of water with a total surface area of 8.1 acres. The application was received on April 18, 2002. Additional fees were received on May 3, 2002. The application was declared administratively complete on May 3, 2002. Written public comments and requests for a public meeting should be submitted to the Office of Chief Clerk, at the address provided in the information section below by June 4, 2002. A public meeting is intended for the taking of public comment, and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application. The TNRCC may grant a contested case hearing on this application if a written hearing request is filed by June 4, 2002. The Executive Director may approve the application unless a written request for a contested case hearing is filed by June 4, 2002.

#### Information Section

A public meeting is intended for the taking of public comment, and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in an application.

The Executive Director can consider approval of an application unless a written request for a contested case hearing is filed. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and permit number; (3) the statement [I/we] request a contested case hearing; and (4) a brief and specific description of how you would be affected by the application in a way not common to the general public. You may also submit any proposed conditions to the requested application which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the TNRCC Office of the Chief Clerk at the address provided in the information section below.

If a hearing request is filed, the Executive Director will not issue the requested permit and may forward the application and hearing request to the TNRCC Commissioners for their consideration at a scheduled Commission meeting.

Written hearing requests, public comments or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TNRCC, P.O. Box 13087, Austin, TX 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Office of Public Assistance at 1-800-687-4040. General information regarding the TNRCC can be found at our web site at [www.tnrcc.state.tx.us](http://www.tnrcc.state.tx.us).

TRD-200203137

LaDonna Castañuela

Chief Clerk

Texas Natural Resource Conservation Commission

Filed: May 22, 2002

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**North Central Texas Council of Governments**

Request for Proposals to Conduct a Thoroughfare Assessment Program in the Dallas-Fort Worth Metropolitan Area

This request by the North Central Texas Council of Governments (NCTCOG) for consultant services is filed under the provisions of Government Code, Chapter 2254.

The North Central Texas Council of Governments is requesting written proposals from consultants to conduct a Thoroughfare Assessment Program in the Dallas-Fort Worth Metropolitan Area. The Program will maximize the capacity of the existing arterial system by implementing low cost capital improvements on selected thoroughfares. Engineering services will be required as part of this project and multiple consultant firms may be selected to perform the required tasks. The selected consultant firm(s) will implement a Thoroughfare Assessment Program to audit selected thoroughfares, assess operational characteristics, estimate air quality benefits of proposed improvements, and develop and implement recommended improvements.

Due Date

Proposals must be submitted no later than 5 p.m., Central Daylight Time, on Friday, June 28, 2002, to Natalie Bettger, Senior Transportation Planner, North Central Texas Council of Governments, 616 Six Flags Drive, Arlington, Texas 76011. For more information and to obtain copies of the Request for Proposals, contact Natalie Bettger at (817) 695-9280. Questions concerning the Instructions for Proposals or the Scope of Services should be submitted to Natalie Bettger by e-mail at [nbettger@dfwinfo.com](mailto:nbettger@dfwinfo.com) by Friday, June 7, 2002. A Pre-Proposal Conference will be held on June 12, 2002 at 2 p.m. at the NCTCOG offices to provide an overview and answer questions regarding the RFP. Consultants need to be willing and able to interview, if necessary, on July 9, 2002.

Contract Award Procedures

The firm selected to perform this study will be recommended by a Consultant Selection Committee (CSC). The CSC will use evaluation criteria and methodology consistent with the scope of services contained in the Request for Proposals. The NCTCOG Executive Board will review the CSC's recommendations and, if found acceptable, will issue a contract award.

Regulations

NCTCOG, in accordance with Title VI of the Civil Rights Act of 1964, 78 Statute 252, 42 United States Code 2000(d) to 2000(d)(1); and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 1, Nondiscrimination in Federally Assisted Programs of the Department of Transportation issued pursuant to such act, hereby notifies all proposers that it will affirmatively assure that in regard to any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit proposals in response to this invitation and will not be discriminated against on the grounds of race, color, sex, age, national origin, or disability in consideration of an award.

TRD-200203029

R. Michael Eastland

Executive Director

North Central Texas Council of Governments

Filed: May 15, 2002

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**Texas Department of Protective and Regulatory Services**

Correction of Error--RFP Concerning Texas Families: Together and Safe Services

The Texas Department of Protective and Regulatory Services published a Request for Proposal (RFP) to provide Texas Families: Together and Safe services in the May 10, 2002, issue of the *Texas Register* (27 TexReg 4219).

Due to an agency error, the State Internet Site address was published incorrectly. The correct address is <http://esbd.tbpc.state.tx.us>

TRD-200203095

C. Ed Davis

Deputy Director, Legal Services

Texas Department of Protective and Regulatory Services

Filed: May 20, 2002

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**Public Utility Commission of Texas**

Notice of Application for a Certificate to Provide Retail Electric Service

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) of an application on May 15, 2002, for retail electric provider (REP) certification, pursuant to §§39.101 - 39.109 of the Public Utility Regulatory Act (PURA). A summary of the application follows.

Docket Title and Number: Application of PG&E Energy Trading - Power, L.P. for Retail Electric Provider (REP) certification, Docket Number 25908.

Applicant's requested service area by geography or service area by customers includes the geographic area of the Electric Reliability Council of Texas (ERCOT).

Persons who wish to 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 Customer Protection Division at (512) 936-7120 no later than June 7, 2002. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136.

TRD-200203067

Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: May 17, 2002



### 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 (commission) of an application on May 13, 2002, for a service provider certificate of operating authority (SPCOA), pursuant to §§54.151 - 54.156 of the Public Utility Regulatory Act (PURA). A summary of the application follows.

Docket Title and Number: Application of Charles Lynn Morrison Sr., doing business as C&C Communications for a Service Provider Certificate of Operating Authority, Docket Number 25893.

Applicant intends to provide plain old telephone service.

Applicant's requested SPCOA geographic area includes the exchanges of Greenville, Cash, Wolfe City, Quinlan, Tawakoni, Cumby, and Emory throughout the State of Texas.

Persons who wish to 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 Customer Protection Division at (512) 936-7120 no later than June 5, 2002. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136.

TRD-200203030  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: May 15, 2002



### 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 (commission) of an application on May 13, 2002, for a service provider certificate of operating authority (SPCOA), pursuant to §§54.151 - 54.156 of the Public Utility Regulatory Act (PURA). A summary of the application follows.

Docket Title and Number: Application of Western Communications, Inc. for a Service Provider Certificate of Operating Authority, Docket Number 25894.

Applicant intends to provide plain old telephone service, ADSL, ISDN, HDSL, SDSL, RADSL, VDSL, Optical Services, T1-Private Line, Switch 56 KBPS, Frame Relay, Fractional T1, long distance, and wireless services.

Applicant's requested SPCOA geographic area includes the area of Texas currently served by Southwestern Bell Telephone Company, Verizon Southwest, Inc., Sugar Land Telephone Company, and United Telephone Company of Texas, Inc., doing business as Sprint.

Persons who wish to 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 Customer Protection Division at (512) 936-7120 no later than June 5, 2002. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136.

TRD-200203031  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: May 15, 2002



### Notice of Application to Discontinue Tariffed Service

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) of an application to discontinue Switchlink Plus and Digital Switched 56 Service pursuant to P.U.C. Substantive Rule §26.208.

Docket Style and Number: Application of Central Telephone Company of Texas, Inc. doing business as Sprint to Discontinue Switchlink Plus and Digital Switched 56 Service Pursuant to P.U.C. Substantive Rule §26.208; P.U.C. Docket Number 25836.

The Application: Central Telephone Company of Texas, Inc. (Sprint) states these are non-chargeable features for which there has been no customer demand for the past three years and there is no anticipated future customer demand. Sprint stated that this proposed revision has previously become effective in Sprint's Local Telephone Company's Tariff FCC Number 3.

The commission has jurisdiction over this matter pursuant to P.U.C. Substantive Rule §26.208.

Persons who wish to 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 Customer Protection Division at (512) 936-7120 or (888) 782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or use Relay Texas (toll-free) 1-800-735-2989.

TRD-200203048  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: May 16, 2002



### Public Notice of Amendment to Interconnection Agreement

On May 14, 2002, Southwestern Bell Telephone, LP doing business as Southwestern Bell Telephone Company and SBC Advanced Solutions, Inc., collectively referred to as applicants, filed a joint application for approval of amendment to an existing interconnection agreement under Section 252(i) of the federal Telecommunications Act of 1996, Public Law Number 104- 104, 110 Statute 56, (codified as amended in scattered sections of 15 and 47 United States Code) (FTA) and the Public Utility Regulatory Act, Texas Utilities Code Annotated, Chapters 52 and 60 (Vernon 1998 & Supplement 2002) (PURA). The joint application has been designated Docket Number 25904. The joint application and the underlying interconnection agreement are available for public inspection at the commission's offices in Austin, Texas.

The commission must act to approve the interconnection agreement within 35 days after it is submitted by the parties.

The commission finds that additional public comment should be allowed before the commission issues a final decision approving or rejecting the amendment to the interconnection agreement. Any interested person may file written comments on the joint application by filing ten copies of the comments with the commission's filing clerk. Additionally, a copy of the comments should be served on each of the applicants. The comments should specifically refer to Docket Number

25904. As a part of the comments, an interested person may request that a public hearing be conducted. The comments, including any request for public hearing, shall be filed by June 14, 2002, and shall include:

- 1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;
- 2) specific allegations that the agreement, or some portion thereof:
  - a) discriminates against a telecommunications carrier that is not a party to the agreement; or
  - b) is not consistent with the public interest, convenience, and necessity; or
  - c) is not consistent with other requirements of state law; and
- 3) the specific facts upon which the allegations are based.

After reviewing any comments, the commission will issue a notice of approval, denial, or determine whether to conduct further proceedings concerning the joint application. The commission shall have the authority given to a presiding officer pursuant to P.U.C. Procedural Rule §22.202. The commission may identify issues raised by the joint application and comments and establish a schedule for addressing those issues, including the submission of evidence by the applicants, if necessary, and briefing and oral argument. The commission may conduct a public hearing. Interested persons who file comments are not entitled to participate as intervenors in the public hearing.

Persons with questions about this project or who wish to comment on the joint application should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, P. O. Box 13326, Austin, Texas 78711-3326. You may call the commission's Customer Protection Division at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 25904.

TRD-200203044  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: May 16, 2002



#### Public Notice of Amendment to Interconnection Agreement

On May 14, 2002, Southwestern Bell Telephone, LP doing business as Southwestern Bell Telephone Company and IP Communications Corporation, collectively referred to as applicants, filed a joint application for approval of amendment to an existing interconnection agreement under Section 252(i) of the federal Telecommunications Act of 1996, Public Law Number 104- 104, 110 Statute 56, (codified as amended in scattered sections of 15 and 47 United States Code) (FTA) and the Public Utility Regulatory Act, Texas Utilities Code Annotated, Chapters 52 and 60 (Vernon 1998 & Supplement 2002) (PURA). The joint application has been designated Docket Number 25905. The joint application and the underlying interconnection agreement are available for public inspection at the commission's offices in Austin, Texas.

The commission must act to approve the interconnection agreement within 35 days after it is submitted by the parties.

The commission finds that additional public comment should be allowed before the commission issues a final decision approving or rejecting the amendment to the interconnection agreement. Any interested person may file written comments on the joint application by

filing ten copies of the comments with the commission's filing clerk. Additionally, a copy of the comments should be served on each of the applicants. The comments should specifically refer to Docket Number 25905. As a part of the comments, an interested person may request that a public hearing be conducted. The comments, including any request for public hearing, shall be filed by June 14, 2002, and shall include:

- 1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;
- 2) specific allegations that the agreement, or some portion thereof:
  - a) discriminates against a telecommunications carrier that is not a party to the agreement; or
  - b) is not consistent with the public interest, convenience, and necessity; or
  - c) is not consistent with other requirements of state law; and
- 3) the specific facts upon which the allegations are based.

After reviewing any comments, the commission will issue a notice of approval, denial, or determine whether to conduct further proceedings concerning the joint application. The commission shall have the authority given to a presiding officer pursuant to P.U.C. Procedural Rule §22.202. The commission may identify issues raised by the joint application and comments and establish a schedule for addressing those issues, including the submission of evidence by the applicants, if necessary, and briefing and oral argument. The commission may conduct a public hearing. Interested persons who file comments are not entitled to participate as intervenors in the public hearing.

Persons with questions about this project or who wish to comment on the joint application should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, P. O. Box 13326, Austin, Texas 78711-3326. You may call the commission's Customer Protection Division at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 25905.

TRD-200203045  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: May 16, 2002



#### Public Notice of Amendment to Interconnection Agreement

On May 15, 2002, ICG Telecom Group, Inc. and Verizon Southwest, collectively referred to as applicants, filed a joint application for approval of amendment to an existing interconnection agreement under Section 252(i) of the federal Telecommunications Act of 1996, Public Law Number 104-104, 110 Statute 56, (codified as amended in scattered sections of 15 and 47 United States Code) (FTA) and the Public Utility Regulatory Act, Texas Utilities Code Annotated, Chapters 52 and 60 (Vernon 1998 & Supplement 2002) (PURA). The joint application has been designated Docket Number 25911. The joint application and the underlying interconnection agreement are available for public inspection at the commission's offices in Austin, Texas.

The commission must act to approve the interconnection agreement within 35 days after it is submitted by the parties.

The commission finds that additional public comment should be allowed before the commission issues a final decision approving or rejecting the amendment to the interconnection agreement. Any interested person may file written comments on the joint application by filing ten copies of the comments with the commission's filing clerk. Additionally, a copy of the comments should be served on each of the applicants. The comments should specifically refer to Docket Number 25911. As a part of the comments, an interested person may request that a public hearing be conducted. The comments, including any request for public hearing, shall be filed by June 17, 2002, and shall include:

- 1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;
- 2) specific allegations that the agreement, or some portion thereof:
  - a) discriminates against a telecommunications carrier that is not a party to the agreement; or
  - b) is not consistent with the public interest, convenience, and necessity; or
  - c) is not consistent with other requirements of state law; and
- 3) the specific facts upon which the allegations are based.

After reviewing any comments, the commission will issue a notice of approval, denial, or determine whether to conduct further proceedings concerning the joint application. The commission shall have the authority given to a presiding officer pursuant to P.U.C. Procedural Rule §22.202. The commission may identify issues raised by the joint application and comments and establish a schedule for addressing those issues, including the submission of evidence by the applicants, if necessary, and briefing and oral argument. The commission may conduct a public hearing. Interested persons who file comments are not entitled to participate as intervenors in the public hearing.

Persons with questions about this project or who wish to comment on the joint application should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, P. O. Box 13326, Austin, Texas 78711-3326. You may call the commission's Customer Protection Division at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 25911.

TRD-200203051  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: May 16, 2002



#### Public Notice of Amendment to Interconnection Agreement

On May 15, 2002, Southwestern Bell Telephone, LP doing business as Southwestern Bell Telephone Company and Vartec Telecom, Inc., collectively referred to as applicants, filed a joint application for approval of amendment to an existing interconnection agreement under Section 252(i) of the federal Telecommunications Act of 1996, Public Law Number 104-104, 110 Statute 56, (codified as amended in scattered sections of 15 and 47 United States Code) (FTA) and the Public Utility Regulatory Act, Texas Utilities Code Annotated, Chapters 52 and 60 (Vernon 1998 & Supplement 2002) (PURA). The joint application has been designated Docket Number 25912. The joint application and the underlying interconnection agreement are available for public inspection at the commission's offices in Austin, Texas.

The commission must act to approve the interconnection agreement within 35 days after it is submitted by the parties.

The commission finds that additional public comment should be allowed before the commission issues a final decision approving or rejecting the amendment to the interconnection agreement. Any interested person may file written comments on the joint application by filing ten copies of the comments with the commission's filing clerk. Additionally, a copy of the comments should be served on each of the applicants. The comments should specifically refer to Docket Number 25912. As a part of the comments, an interested person may request that a public hearing be conducted. The comments, including any request for public hearing, shall be filed by June 17, 2002, and shall include:

- 1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;
- 2) specific allegations that the agreement, or some portion thereof:
  - a) discriminates against a telecommunications carrier that is not a party to the agreement; or
  - b) is not consistent with the public interest, convenience, and necessity; or
  - c) is not consistent with other requirements of state law; and
- 3) the specific facts upon which the allegations are based.

After reviewing any comments, the commission will issue a notice of approval, denial, or determine whether to conduct further proceedings concerning the joint application. The commission shall have the authority given to a presiding officer pursuant to P.U.C. Procedural Rule §22.202. The commission may identify issues raised by the joint application and comments and establish a schedule for addressing those issues, including the submission of evidence by the applicants, if necessary, and briefing and oral argument. The commission may conduct a public hearing. Interested persons who file comments are not entitled to participate as intervenors in the public hearing.

Persons with questions about this project or who wish to comment on the joint application should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, P. O. Box 13326, Austin, Texas 78711-3326. You may call the commission's Customer Protection Division at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 25912.

TRD-200203052  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: May 16, 2002



#### Public Notice of Amendment to Interconnection Agreement

On May 15, 2002, Southwestern Bell Telephone, LP doing business as Southwestern Bell Telephone Company and Xtel Enterprises, Inc., collectively referred to as applicants, filed a joint application for approval of amendment to an existing interconnection agreement under Section 252(i) of the federal Telecommunications Act of 1996, Public Law Number 104-104, 110 Statute 56, (codified as amended in scattered sections of 15 and 47 United States Code) (FTA) and the Public Utility Regulatory Act, Texas Utilities Code Annotated, Chapters 52



and 60 (Vernon 1998 & Supplement 2002) (PURA). The joint application has been designated Docket Number 25913. The joint application and the underlying interconnection agreement are available for public inspection at the commission's offices in Austin, Texas.

The commission must act to approve the interconnection agreement within 35 days after it is submitted by the parties.

The commission finds that additional public comment should be allowed before the commission issues a final decision approving or rejecting the amendment to the interconnection agreement. Any interested person may file written comments on the joint application by filing ten copies of the comments with the commission's filing clerk. Additionally, a copy of the comments should be served on each of the applicants. The comments should specifically refer to Docket Number 25913. As a part of the comments, an interested person may request that a public hearing be conducted. The comments, including any request for public hearing, shall be filed by June 17, 2002, and shall include:

- 1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;
- 2) specific allegations that the agreement, or some portion thereof:
  - a) discriminates against a telecommunications carrier that is not a party to the agreement; or
  - b) is not consistent with the public interest, convenience, and necessity; or
  - c) is not consistent with other requirements of state law; and
- 3) the specific facts upon which the allegations are based.

After reviewing any comments, the commission will issue a notice of approval, denial, or determine whether to conduct further proceedings concerning the joint application. The commission shall have the authority given to a presiding officer pursuant to P.U.C. Procedural Rule §22.202. The commission may identify issues raised by the joint application and comments and establish a schedule for addressing those issues, including the submission of evidence by the applicants, if necessary, and briefing and oral argument. The commission may conduct a public hearing. Interested persons who file comments are not entitled to participate as intervenors in the public hearing.

Persons with questions about this project or who wish to comment on the joint application should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, P. O. Box 13326, Austin, Texas 78711-3326. You may call the commission's Customer Protection Division at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 25913.

TRD-200203053  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: May 16, 2002



#### Public Notice of Amendment to Interconnection Agreement

On May 16, 2002, Southwestern Bell Telephone, LP doing business as Southwestern Bell Telephone Company and 1stTel, Inc., collectively referred to as applicants, filed a joint application for approval of amendment to an existing interconnection agreement under Section 252(i) of the federal Telecommunications Act of 1996, Public Law Number

104-104, 110 Statute 56, (codified as amended in scattered sections of 15 and 47 United States Code) (FTA) and the Public Utility Regulatory Act, Texas Utilities Code Annotated, Chapters 52 and 60 (Vernon 1998 & Supplement 2002) (PURA). The joint application has been designated Docket Number 25915. The joint application and the underlying interconnection agreement are available for public inspection at the commission's offices in Austin, Texas.

The commission must act to approve the interconnection agreement within 35 days after it is submitted by the parties.

The commission finds that additional public comment should be allowed before the commission issues a final decision approving or rejecting the amendment to the interconnection agreement. Any interested person may file written comments on the joint application by filing ten copies of the comments with the commission's filing clerk. Additionally, a copy of the comments should be served on each of the applicants. The comments should specifically refer to Docket Number 25915. As a part of the comments, an interested person may request that a public hearing be conducted. The comments, including any request for public hearing, shall be filed by June 18, 2002, and shall include:

- 1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;
- 2) specific allegations that the agreement, or some portion thereof:
  - a) discriminates against a telecommunications carrier that is not a party to the agreement; or
  - b) is not consistent with the public interest, convenience, and necessity; or
  - c) is not consistent with other requirements of state law; and
- 3) the specific facts upon which the allegations are based.

After reviewing any comments, the commission will issue a notice of approval, denial, or determine whether to conduct further proceedings concerning the joint application. The commission shall have the authority given to a presiding officer pursuant to P.U.C. Procedural Rule §22.202. The commission may identify issues raised by the joint application and comments and establish a schedule for addressing those issues, including the submission of evidence by the applicants, if necessary, and briefing and oral argument. The commission may conduct a public hearing. Interested persons who file comments are not entitled to participate as intervenors in the public hearing.

Persons with questions about this project or who wish to comment on the joint application should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, P. O. Box 13326, Austin, Texas 78711-3326. You may call the commission's Customer Protection Division at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 25915.

TRD-200203068  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: May 17, 2002



#### Public Notice of Intent to File Pursuant to P.U.C. Substantive Rule §26.214

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) of a long run incremental cost (LRIC) study pursuant to P.U.C. Substantive Rule §26.214

Docket Title and Number. Texas Alltel, Inc. Application for Approval of LRIC Study for new Customized Number Service Pursuant to P.U.C. Substantive Rule §26.214 on May 29, 2002, Docket Number 25916.

Any party that demonstrates a justiciable interest may file with the administrative law judge, written comments or recommendations concerning the LRIC study referencing Docket Number 25916. Written comments or recommendations should be filed no later than 45 days after the date of a sufficient study and should be filed at the Public Utility Commission of Texas, 1701 North Congress Avenue, P. O. Box 13326, Austin, Texas 78711-3326. You may call the commission's Customer Protection Division at (512) 936-7120. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136.

TRD-200203109  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: May 21, 2002



#### Public Notice of Intent to File Pursuant to P.U.C. Substantive Rule §26.214

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) of a long run incremental cost (LRIC) study pursuant to P.U.C. Substantive Rule §26.214.

Docket Title and Number. Sugar Land Telephone Company Application for Approval of LRIC Study for new Customized Number Service Pursuant to P.U.C. Substantive Rule §26.214 on May 29, 2002, Docket Number 25917.

Any party that demonstrates a justiciable interest may file with the administrative law judge, written comments or recommendations concerning the LRIC study referencing Docket Number 25917. Written comments or recommendations should be filed no later than 45 days after the date of a sufficient study and should be filed at the Public Utility Commission of Texas, 1701 North Congress Avenue, P. O. Box 13326, Austin, Texas 78711-3326. You may call the commission's Customer Protection Division at (512) 936-7120. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136.

TRD-200203110  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: May 21, 2002



#### Public Notice of Intent to File Pursuant to P.U.C. Substantive Rule §26.214

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) of a long run incremental cost (LRIC) study pursuant to P.U.C. Substantive Rule §26.214

Docket Title and Number. Sugar Land Telephone Company Application for Approval of LRIC Study for new T-1 Bundle Service Pursuant to P.U.C. Substantive Rule §26.214 on May 31, 2002, Docket Number 25922.

Any party that demonstrates a justiciable interest may file with the administrative law judge, written comments or recommendations concerning the LRIC study referencing Docket Number 25922. Written comments or recommendations should be filed no later than 45 days after the date of a sufficient study and should be filed at the Public Utility Commission of Texas, 1701 North Congress Avenue, P. O. Box 13326, Austin, Texas 78711-3326. You may call the commission's Customer Protection Division at (512) 936-7120. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136.

TRD-200203111  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: May 21, 2002



#### Public Notice of Interconnection Agreement

On May 13, 2002, AT&T Wireless Services, Inc. and Peoples Telephone Cooperative, Inc., collectively referred to as applicants, filed a joint application for approval of interconnection agreement under Section 252(i) of the federal Telecommunications Act of 1996, Public Law Number 104-104, 110 Statute 56, (codified as amended in scattered sections of 15 and 47 United States Code) (FTA) and the Public Utility Regulatory Act, Texas Utilities Code Annotated, Chapters 52 and 60 (Vernon 1998 & Supplement 2002) (PURA). The joint application has been designated Docket Number 25895. The joint application and the underlying interconnection agreement are available for public inspection at the commission's offices in Austin, Texas.

The commission must act to approve the interconnection agreement within 35 days after it is submitted by the parties.

The commission finds that additional public comment should be allowed before the commission issues a final decision approving or rejecting the interconnection agreement. Any interested person may file written comments on the joint application by filing ten copies of the comments with the commission's filing clerk. Additionally, a copy of the comments should be served on each of the applicants. The comments should specifically refer to Docket Number 25895. As a part of the comments, an interested person may request that a public hearing be conducted. The comments, including any request for public hearing, shall be filed by June 14, 2002, and shall include:

- 1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;
- 2) specific allegations that the agreement, or some portion thereof:
  - a) discriminates against a telecommunications carrier that is not a party to the agreement; or
  - b) is not consistent with the public interest, convenience, and necessity; or
  - c) is not consistent with other requirements of state law; and
- 3) the specific facts upon which the allegations are based.

After reviewing any comments, the commission will issue a notice of approval, denial, or determine whether to conduct further proceedings concerning the joint application. The commission shall have the authority given to a presiding officer pursuant to P.U.C. Procedural Rule §22.202. The commission may identify issues raised by the joint application and comments and establish a schedule for addressing those

issues, including the submission of evidence by the applicants, if necessary, and briefing and oral argument. The commission may conduct a public hearing. Interested persons who file comments are not entitled to participate as intervenors in the public hearing.

Persons with questions about this project or who wish to comment on the joint application should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, P. O. Box 13326, Austin, Texas 78711-3326. You may call the commission's Customer Protection Division at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 25895.

TRD-200203037  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: May 16, 2002



### Public Notice of Interconnection Agreement

On May 13, 2002, AT&T Wireless Services, Inc. and Guadalupe Valley Telephone Cooperative, Inc., collectively referred to as applicants, filed a joint application for approval of interconnection agreement under Section 252(i) of the federal Telecommunications Act of 1996, Public Law Number 104-104, 110 Statute 56, (codified as amended in scattered sections of 15 and 47 United States Code) (FTA) and the Public Utility Regulatory Act, Texas Utilities Code Annotated, Chapters 52 and 60 (Vernon 1998 & Supplement 2002) (PURA). The joint application has been designated Docket Number 25896. The joint application and the underlying interconnection agreement are available for public inspection at the commission's offices in Austin, Texas.

The commission must act to approve the interconnection agreement within 35 days after it is submitted by the parties.

The commission finds that additional public comment should be allowed before the commission issues a final decision approving or rejecting the interconnection agreement. Any interested person may file written comments on the joint application by filing ten copies of the comments with the commission's filing clerk. Additionally, a copy of the comments should be served on each of the applicants. The comments should specifically refer to Docket Number 25896. As a part of the comments, an interested person may request that a public hearing be conducted. The comments, including any request for public hearing, shall be filed by June 14, 2002, and shall include:

- 1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;
- 2) specific allegations that the agreement, or some portion thereof:
  - a) discriminates against a telecommunications carrier that is not a party to the agreement; or
  - b) is not consistent with the public interest, convenience, and necessity; or
  - c) is not consistent with other requirements of state law; and
- 3) the specific facts upon which the allegations are based.

After reviewing any comments, the commission will issue a notice of approval, denial, or determine whether to conduct further proceedings concerning the joint application. The commission shall have the authority given to a presiding officer pursuant to P.U.C. Procedural Rule

§22.202. The commission may identify issues raised by the joint application and comments and establish a schedule for addressing those issues, including the submission of evidence by the applicants, if necessary, and briefing and oral argument. The commission may conduct a public hearing. Interested persons who file comments are not entitled to participate as intervenors in the public hearing.

Persons with questions about this project or who wish to comment on the joint application should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, P. O. Box 13326, Austin, Texas 78711-3326. You may call the commission's Customer Protection Division at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 25896.

TRD-200203038  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: May 16, 2002



### Public Notice of Interconnection Agreement

On May 13, 2002, AT&T Wireless Services, Inc. and Alenco Communications, Inc., collectively referred to as applicants, filed a joint application for approval of interconnection agreement under Section 252(i) of the federal Telecommunications Act of 1996, Public Law Number 104-104, 110 Statute 56, (codified as amended in scattered sections of 15 and 47 United States Code) (FTA) and the Public Utility Regulatory Act, Texas Utilities Code Annotated, Chapters 52 and 60 (Vernon 1998 & Supplement 2002) (PURA). The joint application has been designated Docket Number 25897. The joint application and the underlying interconnection agreement are available for public inspection at the commission's offices in Austin, Texas.

The commission must act to approve the interconnection agreement within 35 days after it is submitted by the parties.

The commission finds that additional public comment should be allowed before the commission issues a final decision approving or rejecting the interconnection agreement. Any interested person may file written comments on the joint application by filing ten copies of the comments with the commission's filing clerk. Additionally, a copy of the comments should be served on each of the applicants. The comments should specifically refer to Docket Number 25897. As a part of the comments, an interested person may request that a public hearing be conducted. The comments, including any request for public hearing, shall be filed by June 14, 2002, and shall include:

- 1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;
- 2) specific allegations that the agreement, or some portion thereof:
  - a) discriminates against a telecommunications carrier that is not a party to the agreement; or
  - b) is not consistent with the public interest, convenience, and necessity; or
  - c) is not consistent with other requirements of state law; and
- 3) the specific facts upon which the allegations are based.

After reviewing any comments, the commission will issue a notice of approval, denial, or determine whether to conduct further proceedings

concerning the joint application. The commission shall have the authority given to a presiding officer pursuant to P.U.C. Procedural Rule §22.202. The commission may identify issues raised by the joint application and comments and establish a schedule for addressing those issues, including the submission of evidence by the applicants, if necessary, and briefing and oral argument. The commission may conduct a public hearing. Interested persons who file comments are not entitled to participate as intervenors in the public hearing.

Persons with questions about this project or who wish to comment on the joint application should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, P. O. Box 13326, Austin, Texas 78711-3326. You may call the commission's Customer Protection Division at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 25897.

TRD-200203039  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: May 16, 2002



### Public Notice of Interconnection Agreement

On May 13, 2002, AT&T Wireless Services, Inc. and Cumby Telephone Cooperative, collectively referred to as applicants, filed a joint application for approval of interconnection agreement under Section 252(i) of the federal Telecommunications Act of 1996, Public Law Number 104-104, 110 Statute 56, (codified as amended in scattered sections of 15 and 47 United States Code) (FTA) and the Public Utility Regulatory Act, Texas Utilities Code Annotated, Chapters 52 and 60 (Vernon 1998 & Supplement 2002) (PURA). The joint application has been designated Docket Number 25898. The joint application and the underlying interconnection agreement are available for public inspection at the commission's offices in Austin, Texas.

The commission must act to approve the interconnection agreement within 35 days after it is submitted by the parties.

The commission finds that additional public comment should be allowed before the commission issues a final decision approving or rejecting the interconnection agreement. Any interested person may file written comments on the joint application by filing ten copies of the comments with the commission's filing clerk. Additionally, a copy of the comments should be served on each of the applicants. The comments should specifically refer to Docket Number 25898. As a part of the comments, an interested person may request that a public hearing be conducted. The comments, including any request for public hearing, shall be filed by June 14, 2002, and shall include:

- 1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;
- 2) specific allegations that the agreement, or some portion thereof:
  - a) discriminates against a telecommunications carrier that is not a party to the agreement; or
  - b) is not consistent with the public interest, convenience, and necessity; or
  - c) is not consistent with other requirements of state law; and
- 3) the specific facts upon which the allegations are based.

After reviewing any comments, the commission will issue a notice of approval, denial, or determine whether to conduct further proceedings concerning the joint application. The commission shall have the authority given to a presiding officer pursuant to P.U.C. Procedural Rule §22.202. The commission may identify issues raised by the joint application and comments and establish a schedule for addressing those issues, including the submission of evidence by the applicants, if necessary, and briefing and oral argument. The commission may conduct a public hearing. Interested persons who file comments are not entitled to participate as intervenors in the public hearing.

Persons with questions about this project or who wish to comment on the joint application should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, P. O. Box 13326, Austin, Texas 78711-3326. You may call the commission's Customer Protection Division at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 25898.

TRD-200203040  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: May 16, 2002



### Public Notice of Interconnection Agreement

On May 13, 2002, AT&T Wireless Services, Inc. and Blossom Telephone Company, collectively referred to as applicants, filed a joint application for approval of interconnection agreement under Section 252(i) of the federal Telecommunications Act of 1996, Public Law Number 104-104, 110 Statute 56, (codified as amended in scattered sections of 15 and 47 United States Code) (FTA) and the Public Utility Regulatory Act, Texas Utilities Code Annotated, Chapters 52 and 60 (Vernon 1998 & Supplement 2002) (PURA). The joint application has been designated Docket Number 25899. The joint application and the underlying interconnection agreement are available for public inspection at the commission's offices in Austin, Texas.

The commission must act to approve the interconnection agreement within 35 days after it is submitted by the parties.

The commission finds that additional public comment should be allowed before the commission issues a final decision approving or rejecting the interconnection agreement. Any interested person may file written comments on the joint application by filing ten copies of the comments with the commission's filing clerk. Additionally, a copy of the comments should be served on each of the applicants. The comments should specifically refer to Docket Number 25899. As a part of the comments, an interested person may request that a public hearing be conducted. The comments, including any request for public hearing, shall be filed by June 14, 2002, and shall include:

- 1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;
- 2) specific allegations that the agreement, or some portion thereof:
  - a) discriminates against a telecommunications carrier that is not a party to the agreement; or
  - b) is not consistent with the public interest, convenience, and necessity; or
  - c) is not consistent with other requirements of state law; and

3) the specific facts upon which the allegations are based.

After reviewing any comments, the commission will issue a notice of approval, denial, or determine whether to conduct further proceedings concerning the joint application. The commission shall have the authority given to a presiding officer pursuant to P.U.C. Procedural Rule §22.202. The commission may identify issues raised by the joint application and comments and establish a schedule for addressing those issues, including the submission of evidence by the applicants, if necessary, and briefing and oral argument. The commission may conduct a public hearing. Interested persons who file comments are not entitled to participate as intervenors in the public hearing.

Persons with questions about this project or who wish to comment on the joint application should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, P. O. Box 13326, Austin, Texas 78711-3326. You may call the commission's Customer Protection Division at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 25899.

TRD-200203041  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: May 16, 2002



### Public Notice of Interconnection Agreement

On May 13, 2002, AT&T Wireless Services, Inc. and Lipan Telephone Company, Inc., collectively referred to as applicants, filed a joint application for approval of interconnection agreement under Section 252(i) of the federal Telecommunications Act of 1996, Public Law Number 104-104, 110 Statute 56, (codified as amended in scattered sections of 15 and 47 United States Code) (FTA) and the Public Utility Regulatory Act, Texas Utilities Code Annotated, Chapters 52 and 60 (Vernon 1998 & Supplement 2002) (PURA). The joint application has been designated Docket Number 25900. The joint application and the underlying interconnection agreement are available for public inspection at the commission's offices in Austin, Texas.

The commission must act to approve the interconnection agreement within 35 days after it is submitted by the parties.

The commission finds that additional public comment should be allowed before the commission issues a final decision approving or rejecting the interconnection agreement. Any interested person may file written comments on the joint application by filing ten copies of the comments with the commission's filing clerk. Additionally, a copy of the comments should be served on each of the applicants. The comments should specifically refer to Docket Number 25900. As a part of the comments, an interested person may request that a public hearing be conducted. The comments, including any request for public hearing, shall be filed by June 14, 2002, and shall include:

- 1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;
- 2) specific allegations that the agreement, or some portion thereof:
  - a) discriminates against a telecommunications carrier that is not a party to the agreement; or
  - b) is not consistent with the public interest, convenience, and necessity; or

c) is not consistent with other requirements of state law; and

3) the specific facts upon which the allegations are based.

After reviewing any comments, the commission will issue a notice of approval, denial, or determine whether to conduct further proceedings concerning the joint application. The commission shall have the authority given to a presiding officer pursuant to P.U.C. Procedural Rule §22.202. The commission may identify issues raised by the joint application and comments and establish a schedule for addressing those issues, including the submission of evidence by the applicants, if necessary, and briefing and oral argument. The commission may conduct a public hearing. Interested persons who file comments are not entitled to participate as intervenors in the public hearing.

Persons with questions about this project or who wish to comment on the joint application should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, P. O. Box 13326, Austin, Texas 78711-3326. You may call the commission's Customer Protection Division at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 25900.

TRD-200203042  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: May 16, 2002



### Public Notice of Interconnection Agreement

On May 13, 2002, AT&T Wireless Services, Inc. and XIT Rural Telephone Cooperative, Inc., collectively referred to as applicants, filed a joint application for approval of interconnection agreement under Section 252(i) of the federal Telecommunications Act of 1996, Public Law Number 104-104, 110 Statute 56, (codified as amended in scattered sections of 15 and 47 United States Code) (FTA) and the Public Utility Regulatory Act, Texas Utilities Code Annotated, Chapters 52 and 60 (Vernon 1998 & Supplement 2002) (PURA). The joint application has been designated Docket Number 25901. The joint application and the underlying interconnection agreement are available for public inspection at the commission's offices in Austin, Texas.

The commission must act to approve the interconnection agreement within 35 days after it is submitted by the parties.

The commission finds that additional public comment should be allowed before the commission issues a final decision approving or rejecting the interconnection agreement. Any interested person may file written comments on the joint application by filing ten copies of the comments with the commission's filing clerk. Additionally, a copy of the comments should be served on each of the applicants. The comments should specifically refer to Docket Number 25901. As a part of the comments, an interested person may request that a public hearing be conducted. The comments, including any request for public hearing, shall be filed by June 14, 2002, and shall include:

- 1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;
- 2) specific allegations that the agreement, or some portion thereof:
  - a) discriminates against a telecommunications carrier that is not a party to the agreement; or

- b) is not consistent with the public interest, convenience, and necessity; or
- c) is not consistent with other requirements of state law; and
- 3) the specific facts upon which the allegations are based.

After reviewing any comments, the commission will issue a notice of approval, denial, or determine whether to conduct further proceedings concerning the joint application. The commission shall have the authority given to a presiding officer pursuant to P.U.C. Procedural Rule §22.202. The commission may identify issues raised by the joint application and comments and establish a schedule for addressing those issues, including the submission of evidence by the applicants, if necessary, and briefing and oral argument. The commission may conduct a public hearing. Interested persons who file comments are not entitled to participate as intervenors in the public hearing.

Persons with questions about this project or who wish to comment on the joint application should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, P. O. Box 13326, Austin, Texas 78711-3326. You may call the commission's Customer Protection Division at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 25901.

TRD-200203043  
 Rhonda Dempsey  
 Rules Coordinator  
 Public Utility Commission of Texas  
 Filed: May 16, 2002



#### Public Notice of Interconnection Agreement

On May 15, 2002, CityNet Telecom, Inc. and Verizon Southwest, collectively referred to as applicants, filed a joint application for approval of interconnection agreement under Section 252(i) of the federal Telecommunications Act of 1996, Public Law Number 104-104, 110 Statute 56, (codified as amended in scattered sections of 15 and 47 United States Code) (FTA) and the Public Utility Regulatory Act, Texas Utilities Code Annotated, Chapters 52 and 60 (Vernon 1998 & Supplement 2002) (PURA). The joint application has been designated Docket Number 25909. The joint application and the underlying interconnection agreement are available for public inspection at the commission's offices in Austin, Texas.

The commission must act to approve the interconnection agreement within 35 days after it is submitted by the parties.

The commission finds that additional public comment should be allowed before the commission issues a final decision approving or rejecting the interconnection agreement. Any interested person may file written comments on the joint application by filing ten copies of the comments with the commission's filing clerk. Additionally, a copy of the comments should be served on each of the applicants. The comments should specifically refer to Docket Number 25909. As a part of the comments, an interested person may request that a public hearing be conducted. The comments, including any request for public hearing, shall be filed by June 17, 2002, and shall include:

- 1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;
- 2) specific allegations that the agreement, or some portion thereof:

- a) discriminates against a telecommunications carrier that is not a party to the agreement; or
- b) is not consistent with the public interest, convenience, and necessity; or
- c) is not consistent with other requirements of state law; and
- 3) the specific facts upon which the allegations are based.

After reviewing any comments, the commission will issue a notice of approval, denial, or determine whether to conduct further proceedings concerning the joint application. The commission shall have the authority given to a presiding officer pursuant to P.U.C. Procedural Rule §22.202. The commission may identify issues raised by the joint application and comments and establish a schedule for addressing those issues, including the submission of evidence by the applicants, if necessary, and briefing and oral argument. The commission may conduct a public hearing. Interested persons who file comments are not entitled to participate as intervenors in the public hearing.

Persons with questions about this project or who wish to comment on the joint application should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, P. O. Box 13326, Austin, Texas 78711-3326. You may call the commission's Customer Protection Division at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 25909.

TRD-200203049  
 Rhonda Dempsey  
 Rules Coordinator  
 Public Utility Commission of Texas  
 Filed: May 16, 2002



#### Public Notice of Interconnection Agreement

On May 15, 2002, Excel Telecommunications, Inc. and Verizon Southwest, collectively referred to as applicants, filed a joint application for approval of interconnection agreement under Section 252(i) of the federal Telecommunications Act of 1996, Public Law Number 104- 104, 110 Statute 56, (codified as amended in scattered sections of 15 and 47 United States Code) (FTA) and the Public Utility Regulatory Act, Texas Utilities Code Annotated, Chapters 52 and 60 (Vernon 1998 & Supplement 2002) (PURA). The joint application has been designated Docket Number 25910. The joint application and the underlying interconnection agreement are available for public inspection at the commission's offices in Austin, Texas.

The commission must act to approve the interconnection agreement within 35 days after it is submitted by the parties.

The commission finds that additional public comment should be allowed before the commission issues a final decision approving or rejecting the interconnection agreement. Any interested person may file written comments on the joint application by filing ten copies of the comments with the commission's filing clerk. Additionally, a copy of the comments should be served on each of the applicants. The comments should specifically refer to Docket Number 25910. As a part of the comments, an interested person may request that a public hearing be conducted. The comments, including any request for public hearing, shall be filed by June 17, 2002, and shall include:

- 1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;

- 2) specific allegations that the agreement, or some portion thereof:
- a) discriminates against a telecommunications carrier that is not a party to the agreement; or
  - b) is not consistent with the public interest, convenience, and necessity; or
  - c) is not consistent with other requirements of state law; and
- 3) the specific facts upon which the allegations are based.

After reviewing any comments, the commission will issue a notice of approval, denial, or determine whether to conduct further proceedings concerning the joint application. The commission shall have the authority given to a presiding officer pursuant to P.U.C. Procedural Rule §22.202. The commission may identify issues raised by the joint application and comments and establish a schedule for addressing those issues, including the submission of evidence by the applicants, if necessary, and briefing and oral argument. The commission may conduct a public hearing. Interested persons who file comments are not entitled to participate as intervenors in the public hearing.

Persons with questions about this project or who wish to comment on the joint application should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, P. O. Box 13326, Austin, Texas 78711-3326. You may call the commission's Customer Protection Division at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 25910.

TRD-200203050  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: May 16, 2002



#### Public Notice of PUC Proceeding to Develop Forms Pertaining to Aggregators and Request for Comments

Under Project Number 25317, *PUC Proceeding to Develop Forms Pertaining to Retail Electric Providers and Aggregators*, the Public Utility Commission of Texas (commission) is developing forms for retail electric providers (REPs) and aggregators to use in filing the annual reports required by P.U.C. Substantive Rules §25.107(i)(4) and §25.111(i)(6), respectively. In addition, this proceeding will address any other forms determined prudent for processing amendments to, relinquishment of, or other processes pertaining to REP certification or aggregator registration.

The commission approved a REP Annual Report Form in this proceeding. It is posted on the commission's website at [www.puc.state.tx.us/electric/forms](http://www.puc.state.tx.us/electric/forms). Commission staff is now developing an annual report form for aggregators.

The commission will make available for comment copies of a Draft Aggregator Annual Report Form in Central Records and on the commission's website for Project Number 25317 on May 31, 2002 ([www.puc.state.tx.us/electric/projects](http://www.puc.state.tx.us/electric/projects)). Parties are requested to provide comment on the draft forms by Friday, June 14, 2002. Reply comments are due Friday, June 21, 2002.

Sixteen copies of comments may be filed with the commission's Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711- 3326. All comments should reference Project Number 25317.

Questions concerning Project Number 25317 may be referred to Jan Barga, Policy Development Division, (512) 936-7243. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136.

TRD-200203108  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: May 21, 2002



#### Request for Comments Regarding Rulemaking to Address Municipal Authorized Review of Access Line Reporting

The Public Utility Commission of Texas (commission) request comments regarding Project Number 25433, *Rulemaking to Address Municipal Authorized Review of Access Line Reporting*. This rulemaking is pursuant to Texas Local Government Code §283.056(c)(3), which references a municipality's right "... to conduct an authorized review of the provider to ensure compliance with the access line reporting requirements of this chapter if commenced within 90 days after the filing of a certificated telecommunications provider's report of access lines."

By June 14, 2002, the commission requests comments from all interested municipalities including:

1. A general description of their proposed municipal authorized review process;
2. A description of the audit objective in applying certain procedures in the above review process;
3. Any internal control policies and procedures the CTPs should establish to provide assurance that these objectives are met in lieu of an authorized review;
4. Under what circumstances a municipality would rely on a compliance report assessing the error rate in the quarterly access line data issued by an independent third-party auditor;
5. A list and general description of the necessary information and documentation to which municipalities desire access as a part of the process;
6. A brief statement justifying the necessity for access to the documentation listed above;
7. A list of scenarios that might trigger the municipal authorized review process;
8. Proposed rule language that would address this process.

By June 28, 2002, the commission requests reply comments from all interested certificated telecommunications providers addressing the municipal comments of June 14, 2002 and further including:

1. What constitutes CTP compliance with the "adequate proof" provision as discussed in P.U.C. Substantive Rule §26.465(g)(2)(B)(iv);
2. Whether a notarized statement from an independent third-party auditor assessing the error rate in the quarterly access line data would preclude a municipal authorized review;
3. A brief statement of the methodology used in determining "uncollectibles."
4. The minimal generic terms of a nondisclosure agreement necessary for a municipal authorized review; and
5. Proposed rule language that would address the municipal authorized review process.

Responses may be filed by submitting 16 copies to the commission's Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, PO Box 13326, Austin, Texas 78711-3326. Electronic copies should also be submitted. All responses should reference Project Number 25433.

Questions concerning this notice should be referred to Hayden Childs, Telecommunications Policy Analyst, Telecommunications Division, (512) 936-7390 or hayden.childs@puc.state.tx.us. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136.

TRD-200203120  
Rhonda Dempsey  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: May 21, 2002

## Railroad Commission of Texas

### Correction of Errors

The Railroad Commission of Texas proposed new 16 TAC §4.103, concerning Definitions. As published in the May 17, 2002, *Texas Register* (27 TexReg 4284), two commas were omitted from paragraph (29), "Gas plant evaporation/retention pit". Commas should follow the phrase "at a gasoline plant," and "natural gas liquids processing plant,". The text of paragraph (29) on page 4285 should read as follows.

(29) Gas plant evaporation/retention pit--A pit used for storage or disposal of cooling tower blowdown, water condensed from natural gas, or other waste water generated at a gasoline plant, natural gas or natural gas liquids processing plant, or a pressure maintenance or repressurizing plant."

The Railroad Commission of Texas proposed new 16 TAC §4.139. On page 4293, paragraph (b)(5), a word was omitted. As published, the text reads, "(5) for a permit for only, a topographic map..." The word "disposal" was inadvertently omitted. The correct wording should be: "(5) for a permit for disposal only, a topographic map..."

TRD-200203219  
Filed: May 23, 2002

## Texas Department of Transportation

### Request for Proposal - Public Transportation Division

The Texas Department of Transportation (TxDOT) announces a Request for Proposal (RFP) for private consultant services from project initiation to thirty-six months later, with an option to renew for an additional twenty-four months. The project will be funded with 80% Federal Transit Administration §5313 program funding; state funds will provide the remaining 20%. The Public Transportation Division of TxDOT will administer the contract. The RFP will be released on May 31, 2002.

**Purpose:** The purpose of the funding is to conduct a transit system management performance review and develop a transportation development plan for selected rural transit systems and their subcontractors. The project will involve a detailed examination of the environment in which the transit system operates. The review will assess the performance of each operational unit, as well as the effectiveness and efficiency of the system as a whole. The review will also assess the decision-making process used by local officials to oversee performance and the organizational structure of the system. The transportation development plan will include a profile of existing service and users, and

a needs assessment and demand estimation. Various service alternatives will be considered before developing a final service plan with an accompanying implementation program and funding plan. A minimum of three on-site visits to the transit agency are required.

**Eligible Applicants:** Eligible applicants include, but are not limited to, organizations that provide private consulting services to the rural public transit industry.

**Availability of Funds:** A maximum of \$950,000 will be available over a five-year period. Initially, \$175,000 will be available for approximately a fifteen month period to fund management reviews and transportation development plans for five rural transit systems identified in the RFP.

**Program Goal:** Title 43, Texas Administrative Code, §31.36 requires FTA §5311 grant recipients to develop performance goals for each fiscal year. The intent is to ensure that Texas' Rural Transit Districts (RTDs) are being operated in the most efficient and cost-effective manner possible. This project uses private consulting services to conduct management performance reviews and transportation development plans to aid specific RTDs. It is intended to provide technical assistance to the target agencies.

**Review and Award Criteria:** Each application will first be screened for completeness and timeliness. Proposals that are deemed incomplete or arrive after the deadline will not be reviewed. A team of reviewers from the Public Transportation Division and the transit industry will evaluate the proposals as to the private consultant's competence, knowledge, and qualifications and as to the reasonableness of the proposed fee for the services. The criteria and review process are further described in the RFP.

**Deadlines:** TxDOT must receive proposals prepared according to instructions in the RFP package at or before 1:00 p.m. Central Daylight Time, July 3, 2002.

**To Obtain a Copy of the RFP:** Requests for a copy of the RFP should be submitted to Karen Dunlap, Texas Department of Transportation, Public Transportation Division, 125 East 11th Street, Austin, Texas 78701-2483. Telephone (512) 416-2817. Fax (512) 416-2830. Email:

**kdunlap@dot.state.tx.us**

Copies will also be available on TxDOT's Public Transportation web page at:

<http://www.dot.state.tx.us/insdot/orgchart/ptn/ptninfo/pubtrans.htm>

or

<http://www.dot.state.tx.us> Select **Public Transportation**.

TRD-200203123  
Bob Jackson  
Deputy General Counsel  
Texas Department of Transportation  
Filed: May 22, 2002

### Request for Qualifications for Engineering Services - Aviation Division

The Airport Sponsors listed through their agent, the Texas Department of Transportation (TxDOT), intend to engage aviation professional engineering firms for services pursuant to Government Code, Chapter 2254, Subchapter A. TxDOT, Aviation Division will solicit and receive qualifications for professional engineering design services as described in the project scope for each project listed.



**Airport Sponsor:** Town of Addison, Addison Municipal Airport. TxDOT CSJ No.: 0218ADDON. Project Scope: Provide engineering/design services to reconstruct parking and taxilane pavement and reconstruct apron. Project Manager: Tony Krauss.

**Airport Sponsor:** City of Bonham, Jones Field. TxDOT CSJ No.: 0201BNHAM. Project Scope: Provide engineering/design services to extend Runway 17-35 17 end; rehabilitate, construct turnarounds and mark Runway 17-35; extend and replace Medium Intensity Runway Lights Runway 17-35; overlay stub taxiway; reconstruct hanger access taxiways; rehabilitate apron; upgrade signage; rehabilitate rotating beacon and tower; install fencing for Runway 17 extension; closure of FM 898 and install erosion/sedimentation controls. Project Manager: Tony Krauss.

**Airport Sponsor:** County of Crockett, Houston County Airport. TxDOT CSJ No.: 0211CROCK. Project Scope: Provide engineering/design services to extend Runway 2; overlay and mark Runway 2-20; extend Medium Intensity Runway Lights Runway 2; construct turn-around Runway 2; construct partial parallel taxiway; rehabilitate cross taxiways; reconstruct taxiway from Runway 20 to apron and reconstruct apron. Project Manager: Tony Krauss.

**Airport Sponsor:** County of Montgomery, Montgomery County Airport. TxDOT CSJ No.: 0212CONRE. Project Scope: Provide engineering/design services to improve drainage on south side of airport. Project Manager: Bijan Jamalabad.

Interested firms shall utilize the Form 439, titled "Aviation Engineering Services Questionnaire", (August 2000 version). The forms may be requested from TxDOT, Aviation Division, 125 E. 11th Street, Austin, Texas 78701-2483, Phone number, 1-800-68-PILOT (74568). The form may be emailed by request or downloaded from the TxDOT web site, URL address:

<http://www.dot.state.tx.us/insdtdot/orgchart/avn/avninfo/avninfo.htm>

Download the file from the selection "**Engineer Services Questionnaire Packet**". The form may not be altered in any way, and all printing must be in black. **QUALIFICATIONS WILL NOT BE ACCEPTED IN ANY OTHER FORMAT.** (Note: The form is an MS Word, Version 7, document).

Two completed, unfolded copies of Form 439 (August 2000 version), for each project of interest to the engineer must be postmarked by U. S. Mail by midnight June 13, 2002 (CDST). Mailing address: TxDOT, Aviation Division, 125 E. 11th Street, Austin, Texas 78701-2483. Overnight delivery must be received by 4:00 p.m. (CDST) on June 14, 2002; overnight address: TxDOT, Aviation Division, 200 E. Riverside Drive, Austin, Texas, 78704. Hand delivery must be received by 4:00 p.m. June 14, 2002 (CDST); hand delivery address: 150 E. Riverside Drive, 5th Floor, South Tower, Austin, Texas 78704. The two pages of instructions should not be forwarded with the completed questionnaires. Electronic facsimiles will not be accepted.

**E-MAIL DELIVERY OPTION** Your form 439 may be emailed to TxDOT, at email address

[AVNRFQ@dot.state.tx.us](mailto:AVNRFQ@dot.state.tx.us)

**Emails must be received by 4:00 p.m. June 13, 2002 (CDST).** Received times will be determined by the marked time and date as the email is received into the TxDOT network system. Please allow sufficient time to ensure delivery into the TxDOT system by the deadline. After receipt, you will be electronically notified of receipt by return email. Return notification may be delayed by a day or two, as the forms will be opened and printed at the TxDOT offices. Before emailing the

form, please confirm your completion of the form. **TxDOT will directly print the transmittal and not change the formatting or information contained on the form following receipt.** Signatures will not be required on electronically submitted forms. You may type in the responsible party's name on the signature line.

Each airport sponsor's duly appointed committee will review all professional qualifications and may select three to five firms to submit proposals. Those firms selected will be required to provide more detailed, project-specific proposals which address the project team, technical approach, Disadvantage Business Enterprise (DBE) participation or Historically Underutilized Business (HUB) participation, design schedule, and other project matters, prior to the final selection process. The final engineer selection by the sponsor's committee will generally be made following the completion of review of Request for Qualification statements/proposals and/or engineer interviews. Each airport sponsor reserves the right to reject any or all statements of qualifications, and to conduct new professional services selection procedures.

If there are any procedural questions, please contact Karon Wiedemann, Director, Grant Management, or the designated Project Manager for technical questions at 1-800-68-PILOT (74568).

TRD-200203124

Bob Jackson

Deputy General Counsel

Texas Department of Transportation

Filed: May 22, 2002



#### Request for Qualifications for Professional Engineering Services - Aviation Division

The Airport Sponsors listed, through their agent, the Texas Department of Transportation (TxDOT), intend to engage aviation professional services pursuant to Government Code, Chapter 2254, Subchapter A. TxDOT will solicit and receive qualifications for professional services to update the airport layout plans for the two groups of projects listed to the current standards listed in FAA AC 150/5300 -13:

**Group O - Airport Sponsors:** City of Memphis (Memphis Municipal Airport); City of Quanah, (Quanah Municipal Airport); County of Wilbarger (Wilbarger County Airport). TxDOT Project No. ALP GROUP O. Number of copies to submit: 4

**Group P - Airport Sponsors:** County of Angelina (Angelina County Airport); County of Hardin (Hawthorne Field); City of Pineland, (Pineland Municipal Airport). TxDOT Project No.: ALP Group P. Number of copies to submit: 4

Interested firms shall utilize **Form 439-PLN** titled "Aviation Planning Services Questionnaire" (**August 2000 version**). The forms may be requested from TxDOT, Aviation Division, 125 E. 11th Street, Austin, Texas 78701-2483, Phone number, 1-800-68-PILOT (74568). The form may be emailed by request or downloaded from the TxDOT web site, URL address

<http://www.dot.state.tx.us/insdtdot/orgchart/avn/avninfo/avninfo.htm>

Download the file from the selection "Consultant Services Questionnaire Packet". The form may not be altered in any way, and all printing must be in black. **QUALIFICATIONS WILL NOT BE ACCEPTED IN ANY OTHER FORMAT.**

Those interested consultants should submit the specified number of unfolded copies of Form 439-PLN (August 2000 version), for each group of interest to the consultant and must be postmarked by U. S. Mail by midnight June 20, 2002. Mailing address: TxDOT, Aviation Division, 125 E. 11th Street, Austin, Texas 78701-2483. Overnight delivery must

be received by 4:00 p.m. on June 21, 2002; overnight address: TxDOT, Aviation Division, 200 E. Riverside Drive, Austin, Texas, 78704. Hand delivery must be received by 4:00 p.m. June 21, 2002; hand delivery address: 150 E. Riverside Drive, 5th Floor, South Tower, Austin, Texas 78704. The two pages of instructions should not be forwarded with the completed questionnaires. Electronic facsimiles will not be accepted.

**EMAIL DELIVERY OPTION** Your Form 439-PLN may be emailed to TxDOT, at email address

**AVNRFQ@dot.state.tx.us**

**Emails must be received by 4:00 p.m. June 20, 2002 (CDST).** Received times will be determined by the marked time and date as the email is received into the TxDOT network system. Please allow sufficient time to ensure delivery into the TxDOT system by the deadline. After receipt, you will be electronically notified of the receipt. Return notification may be delayed by a day or two, as the forms will be opened and printed at the TxDOT offices. Before emailing the form, please confirm your completion of the form. **TxDOT will directly print the transmittal and not change the formatting or information contained on the form following receipt.** Signatures will not be required on electronically submitted forms. You may type in the responsible party's name on the signature line.

Consultant selection will be made by a committee composed of one representative of each airport within the appropriate group. The committee will review all professional qualifications and may either select from the qualifications or select three to five firms to submit proposals. Those firms selected will be required to provide more detailed, project-specific proposals which address the project team, technical approach, Historically Underutilized Business (HUB) participation, design schedule, and other project matters, prior to the final selection process. Each selection committee for each group reserves the right to reject any or all statements of qualifications, and to conduct new professional services selection procedures.

If there are any procedural questions, please contact Karon Wiedemann, Director, Grant Management, or the designated Project Manager, Bruce Ehly for technical questions at 1-800-68-PILOT (74568).

TRD-200203125

Bob Jackson

Deputy General Counsel

Texas Department of Transportation

Filed: May 22, 2002

## Texas Workers' Compensation Commission

### Correction of Errors

The Texas Workers' Compensation Commission adopted 28 TAC §120.4, §122.5, §128.2, and §134.202 for publication in the May 10, 2002, *Texas Register*. Due to errors in the agency's submission, the following corrections are noted.

§120.4 (27 TexReg 4027)

Subsection (a)(2) *page 4032 left column* is published as:

"(2) A subsequent wage statement shall be filed with the carrier, claimant, and the claimant's representative (if any) within seven days of a change in any wage information provided on the previous wage statement. such as because the employer has discontinued providing a nonpecuniary wage that was originally continued after the injury)."

The period after the words "the previous wage statement" should be deleted so that the subsection reads as follows:

"(2) A subsequent wage statement shall be filed with the carrier, claimant, and the claimant's representative (if any) within seven days of a change in any wage information provided on the previous wage statement such as because the employer has discontinued providing a nonpecuniary wage that was originally continued after the injury)."

§122.5 (27 TexReg 4027)

Subsection (e)(1)(C) should be with a lower case letter so that it reads as follows:

"(C) on other than a monthly, semi-monthly or biweekly basis, ....."

§128.2 (27 TexReg 4046)

Subsection (a) *page 4046 right column* contains a spacing error. The subsection should read as follows:

An insurance carrier (carrier) shall promptly initiate the payment of income benefits as required by the Workers' Compensation Act ...."

§134.202 (27 TexReg 4048)

Subsection (c)(2)(B) *page 4109 right column*, is published as:

"(B) if the code has no published Medicare rate, 125% of the published Texas Medical Fee Schedule Durable medical Equipment/Medical Supplies Report J, for HCPCS; or"

The word "medical" following "Durable" should be capitalized.

Subsection (c)(5) *page 4109 right column*, is published as:

"(5) for commission specific codes, services and programs (e.g. Functional Capacity Evaluation, ...)"

A comma should follow "e.g."

Subsection (e) *page 4110 left column* published as:

"(e) Payment Policies Relating to Coding, Billing, and Reporting ..."

The words "Policies, Relating to Coding, Billing, and Reporting" should read "policies, relating to coding, billing and reporting".

Subsection (e)(3)(A), (B), (C) and (D) *page 4110 left column*, should begin with lower case letters as follows:

(A) the development or revision of a treatment plan;

(B) to alter or clarify previous instructions;

(C) to coordinate the care of employees with catastrophic or multiple injuries requiring multiple specialties; or,

(D) to coordinate with the employer, employee, and/or an assigned medical or vocational case manager to determine return to work options.

Subsection (e)(4) *page 4110 left column*

The word "Commission" in the first sentence should be changed to "commission".

Subsection (e)(6)(A)(v) *page 4112 left column*

A comma should follow the word "Rules" so that it reads: "as stated in the commission Act and Rules, Chapter 130"

Subsection (e)(7) *page 4112 right column, first sentence*

A comma should follow "e.g." in the parenthetical phrase so that it reads: "(e.g., a medical necessity issue)".

Subsection (e)(8) *page 4112 right column*

A comma should follow the word "Rules" so that it reads: "the commission Act and Rules, Chapter 129".

Subsection (e)(9)(C) *page 4112 right column*

"...evaluation is performed." should be changed to "...evaluation was performed."

Subsection (e)(9)(G) *page 4112 right column*

"...examination is performed." should be changed to "...examination was performed."

Subsection (e)(9)(R) *page 4113 left column*

"...components of a procedure are performed" should be changed to "...components of a procedure were performed"

TRD-200203221

Filed: May 24, 2002



## How to Use the Texas Register

**Information Available:** The 13 sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

**Governor** - Appointments, executive orders, and proclamations.

**Attorney General** - summaries of requests for opinions, opinions, and open records decisions.

**Secretary of State** - opinions based on the election laws.

**Texas Ethics Commission** - summaries of requests for opinions and opinions.

**Emergency Rules**- sections adopted by state agencies on an emergency basis.

**Proposed Rules** - sections proposed for adoption.

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

**Adopted Rules** - sections adopted following a 30-day public comment period.

**Texas Department of Insurance Exempt Filings** - notices of actions taken by the Texas Department of Insurance pursuant to Chapter 5, Subchapter L of the Insurance Code.

**Texas Department of Banking** - opinions and exempt rules filed by the Texas Department of Banking.

**Tables and Graphics** - graphic material from the proposed, emergency and adopted sections.

**Open Meetings** - notices of open meetings.

**In Addition** - miscellaneous information required to be published by statute or provided as a public service.

**Review of Agency Rules** - notices of state agency rules review.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative quarterly and annual indexes to aid in researching material published.

**How to Cite:** Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words "TexReg" and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 26 (2001) is cited as follows: 26 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written "26 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 26 TexReg 3."

**How to Research:** The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, Room 245, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code*, section numbers, or TRD number.

Both the *Texas Register* and the *Texas Administrative Code* are available online through the Internet. The address is: <http://www.sos.state.tx.us>. The *Register* is available in an .html version as well as a .pdf (portable document format) version through the Internet. For subscription information, see the back

cover or call the Texas Register at (800) 226-7199.

## Texas Administrative Code

The *Texas Administrative Code (TAC)* is the compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the *TAC*.

The *TAC* volumes are arranged into Titles (using Arabic numerals) and Parts (using Roman numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency.

The complete *TAC* is available through the Secretary of State's website at <http://www.sos.state.tx.us/tac>. The following companies also provide complete copies of the *TAC*: Lexis-Nexis (1-800-356-6548), and West Publishing Company (1-800-328-9352).

The Titles of the *TAC*, and their respective Title numbers are:

1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

**How to Cite:** Under the *TAC* scheme, each section is designated by a *TAC* number. For example in the citation 1 TAC §27.15:

1 indicates the title under which the agency appears in the *Texas Administrative Code*; *TAC* stands for the *Texas Administrative Code*; §27.15 is the section number of the rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

*Part I. Texas Department of Human Services*

40 TAC §3.704.....950, 1820

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