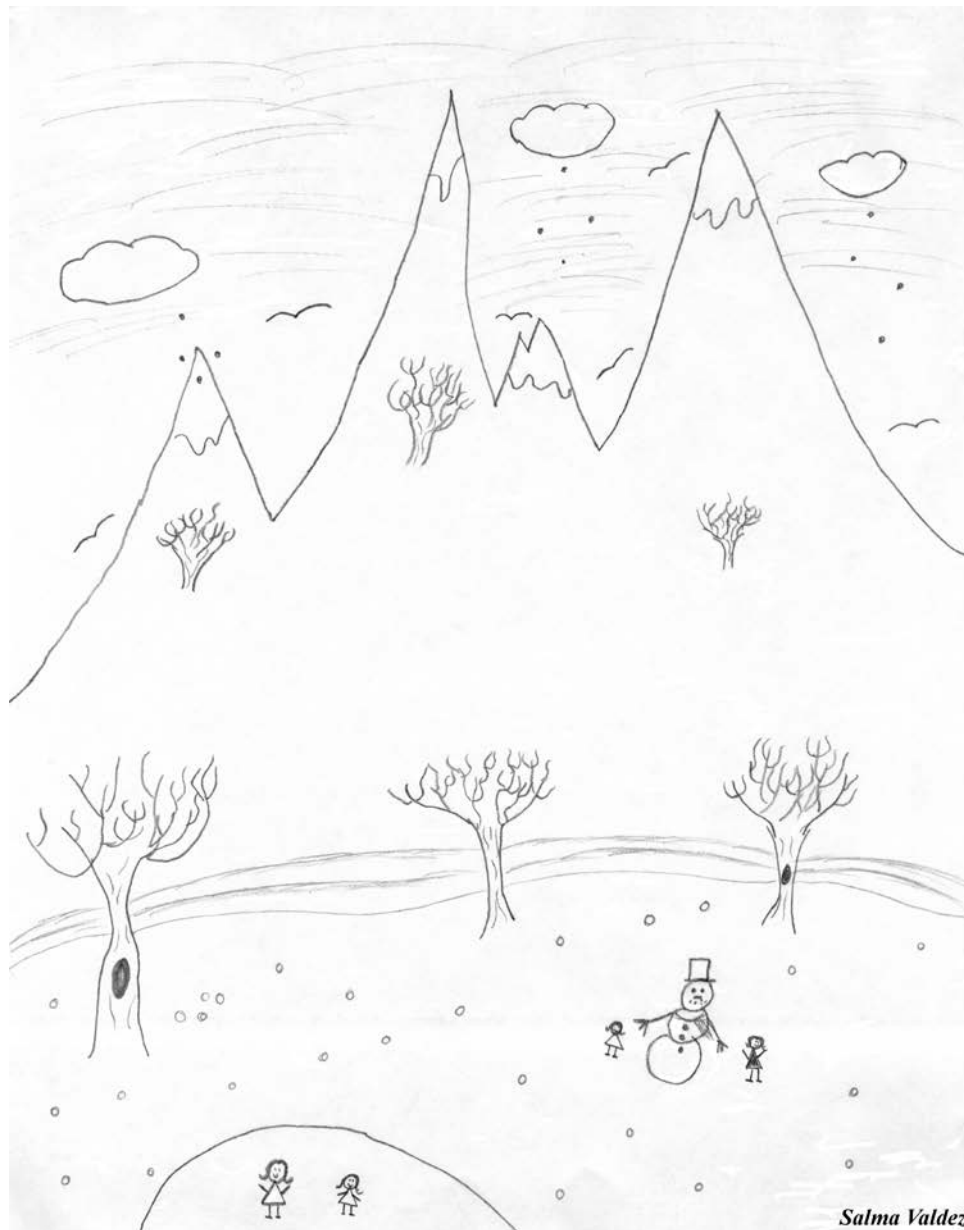

TEXAS REGISTER

Volume 38 Number 3

January 18, 2013

Pages 273 - 330



Salma Valdez

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

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

Texas Register, (ISSN 0362-4781, USPS 120-090), is published weekly (52 times per year) for \$211.00 (\$311.00 for first class mail delivery) by LexisNexis Matthew Bender & Co., Inc., 1275 Broadway, Albany, N.Y. 12204-2694.

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

POSTMASTER: Send address changes to the ***Texas Register***, 136 Carlin Rd., Conklin, N.Y. 13748-1531.

TEXAS REGISTER

a section of the
Office of the Secretary of State
P.O. Box 13824
Austin, TX 78711-3824
(512) 463-5561
FAX (512) 463-5569

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THE GOVERNOR

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

Appointments

Appointments for December 21, 2012

Appointed to the Texas Board of Nursing for a term to expire January 31, 2013, Nina Almasy of Austin (replacing Kristin K. Benton of Austin who resigned).

Designating V. Kathleen Shipp as presiding officer of the Texas Board of Nursing for a term at the pleasure of the Governor. Ms. Shipp is replacing Kristin Benton of Austin as presiding officer.

Appointed to the Trinity River Authority Board of Directors for a term to expire March 15, 2013, Henry Borbolla, III of Fort Worth (replacing Patricia Lynn Carlson of Fort Worth who resigned).

Appointed to the Texas Skill Standards Board for a term at the pleasure of the Governor, Terri Flow of Austin (replacing Gary Blagg of Grapevine who resigned).

Appointed to the State Board of Dental Examiners for a term to expire February 1, 2013, Lewis M. White of Humble (replacing Arthur C. Troilo, III of Lakeway who resigned).

Appointed to Humanities Texas, effective December 31, 2012, for a term to expire December 31, 2014, Maceo C. Dailey, Jr. of El Paso (reappointed).

Appointed to Humanities Texas, effective December 31, 2012, for a term to expire December 31, 2014, Joy Ann Havran of Fort Worth (reappointed).

Appointed to Humanities Texas, effective December 31, 2012, for a term to expire December 31, 2014, Venus F. Strawn of Austin (reappointed).

Appointments for December 27, 2012

Appointed to the Public Safety Commission for a term to expire January 1, 2018, John "Randy" Watson of Burleson (replacing John T. Steen, Jr. of San Antonio who resigned).

Appointed to the Trinity River Authority Board of Directors for a term to expire March 15, 2013, Tommy G. Fordyce of Huntsville (replacing Andrew Martinez of Huntsville who resigned).

Designating William M. McCrae as presiding officer of the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments for a term at the pleasure of the Governor. Mr. McCrae is replacing James Leffingwell of Arlington as presiding officer.

Appointments for January 4, 2013

Appointed to the Texas Bioenergy Policy Council for a term to expire January 1, 2015, Bruce E. Bagelman of Dallas (reappointed).

Appointed to the Texas Bioenergy Policy Council for a term to expire January 1, 2015, Michael Doguet of Nome (reappointed).

Appointed to the Texas Bioenergy Policy Council for a term to expire January 1, 2015, Michael C. Kerby, Jr. of Houston (reappointed).

Appointed to the Texas Bioenergy Policy Council for a term to expire January 1, 2015, Jeffrey M. Trucksess of Houston (reappointed).

Appointed to the Texas State Board of Social Worker Examiners for a term to expire February 1, 2017, Carol M. "Missy" Rainey of Keller (replacing Nancy Ann Pearson of Burton who resigned).

Appointed to the Guadalupe-Blanco River Authority Board of Directors for a term to expire February 1, 2017, Kenneth Motl of Port Lavaca (replacing Arlene Marshall of Port Lavaca who is deceased).

Appointed to the Veterans Land Board for a term to expire December 29, 2016, Alan L. Johnson of Harlingen (Mr. Johnson is being reappointed).

Appointed to the State Employee Charitable Campaign Policy Committee for a term to expire January 1, 2014, Diane B. Smith of Cedar Park (replacing Cecile Young of Austin who resigned).

Appointed to the Rio Grande Regional Water Authority for a term to expire February 1, 2013, Troy Allen of Edcouch (replacing Joe Barrera, III of Brownsville who resigned).

Appointed to the Rio Grande Regional Water Authority for a term to expire February 1, 2013, Lance Neuhaus of Mercedes (replacing Jimmie Steidinger of Dripping Springs who resigned).

Appointed to the University of North Texas System Board of Regents for a term to expire May 22, 2017, Ernest W. Kuehne, Jr. of Dallas (replacing Michael R. Williams of Fredericksburg who resigned).

Rick Perry, Governor

TRD-201300010



Proclamation 41-3313

TO ALL TO WHOM THESE PRESENTS SHALL COME:

I, RICK PERRY, Governor of the State of Texas, issued an Emergency Disaster Proclamation on July 5, 2011, certifying that exceptional drought conditions posed a threat of imminent disaster in specified counties in Texas.

WHEREAS, record high temperatures, preceded by significantly low rainfall, have resulted in declining reservoir and aquifer levels, threatening water supplies and delivery systems in many parts of the state; and

WHEREAS, prolonged dry conditions continue to increase the threat of wildfire across many portions of the state; and

WHEREAS, these drought conditions have reached historic levels and continue to pose an imminent threat to public health, property and the economy; and

WHEREAS, this state of disaster includes the counties of Andrews, Archer, Armstrong, Austin, Bailey, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Borden, Bosque, Bowie, Brazos, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Callahan, Cameron, Carson,

Castro, Childress, Clay, Cochran, Coleman, Collin, Collingsworth, Colorado, Comal, Comanche, Concho, Cooke, Coryell, Cottle, Crockett, Crosby, Culberson, Dallam, Dallas, Dawson, Deaf Smith, Delta, Denton, Dewitt, Dickens, Donley, Duval, Eastland, Edwards, Ellis, El Paso, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Foard, Freestone, Gaines, Garza, Gillespie, Goliad, Gonzales, Gray, Grayson, Grimes, Guadalupe, Hale, Hall, Hamilton, Hansford, Hardeman, Hartley, Haskell, Hays, Hemphill, Henderson, Hidalgo, Hill, Hockley, Hood, Hopkins, Hudspeth, Hunt, Hutchinson, Irion, Jack, Jackson, Jeff Davis, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kendall, Kenedy, Kent, Kerr, Kimble, King, Kinney, Kleberg, Knox, Lamar, Lamb, Lampasas, Lavaca, Lee, Leon, Limestone, Lipscomb, Live Oak, Llano, Lubbock, Lynn, Mason, Maverick, McCulloch, McLennan, McMullen, Medina, Menard, Milam, Mills, Mitchell, Montague, Moore, Motley, Navarro, Nolan, Nueces, Ochiltree, Oldham, Palo Pinto, Parker, Parmer, Potter, Presidio, Rains, Randall, Real, Red River, Refugio, Roberts, Robertson, Rockwall, San Patricio, San Saba, Schleicher, Scurry, Shackelford, Sherman, Somervell, Starr, Stephens, Stonewall, Sutton, Swisher, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Travis, Tyler, Uvalde, Val Verde, Van Zandt, Washington, Webb, Wharton, Wheeler, Wichita, Wilbarger, Willacy, Williamson, Wilson, Wise, Yoakum, Young and Zapata.

THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby renew the disaster proclamation and direct that all necessary measures, both public and private as authorized under Section 418.017 of the code, be implemented to meet that threat.

As provided in Section 418.016 of the code, all rules and regulations that may inhibit or prevent prompt response to this threat are suspended for the duration of the state of disaster.

In accordance with the statutory requirements, copies of this proclamation shall be filed with the applicable authorities.

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 28th day of December, 2012.

Rick Perry, Governor

TRD-201300011



THE ATTORNEY GENERAL

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

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

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

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

Requests for Opinions

RQ-1103-GA

Requestor:

The Honorable Daynah Fallwell

Wilson County Attorney

1103 Fourth Street

Floresville, Texas 78114

Re: Whether a county may regulate, as a subdivision, the partition of a tract of land in the unincorporated portion of the county under Local Government Code chapter 232 or Health and Safety Code chapter 121 (RQ-1103-GA)

Briefs requested by February 7, 2013

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

TRD-201300044

Katherine Cary

General Counsel

Office of the Attorney General

Filed: January 8, 2013



PROPOSED RULES

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

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

TITLE 4. AGRICULTURE

PART 1. TEXAS DEPARTMENT OF AGRICULTURE

CHAPTER 1. GENERAL PROCEDURES SUBCHAPTER Q. PROTEST OF CONTRACT AWARDS OR AGENCY PROCUREMENT PROCEDURES

4 TAC §§1.1100 - 1.1105

The Texas Department of Agriculture (department) proposes new Chapter 1, Subchapter Q, §§1.1100 - 1.1105, concerning protest of the department's contract awards and procurement procedures. The new sections are proposed to implement the requirements of §2155.076 of the Texas Government Code, relating to protest procedures.

Heather Griffith Peterson, chief financial officer, has determined that for the first five years the new sections are in effect, there will be no fiscal impact on state government or local government as a result of enforcing or administering the proposed new sections.

Ms. Peterson has also determined that for each year of the first five years the proposed new sections are in effect, the public benefit anticipated as a result of administering the new sections will be to provide formal procedures for actual or prospective bidders, offerors, or contractors who assert or complain of improper process or a procedural defect in connection with the department's solicitation, evaluation, or award of a contract. There will be no additional cost to individuals, micro-businesses or small businesses as a result of the proposed new sections.

Comments on the proposal may be submitted to Heather Griffith Peterson, Chief Financial Officer, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

Chapter 1, Subchapter Q, §§1.1100 - 1.1105 are proposed under the Texas Government Code, §2155.076, which requires state agencies to adopt, by rule, protest procedures for resolving vendor protests relating to purchasing issues.

The code affected by the proposal is the Texas Government Code, Chapter 2155.

§1.1100. Definitions.

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

- (1) Agency--The Texas Department of Agriculture.

(2) Commissioner--The Commissioner of the Texas Department of Agriculture.

(3) Deputy Commissioner--The Deputy Commissioner of the Texas Department of Agriculture.

(4) Interested Parties--All vendors who have submitted bids or proposals for the provision of goods or services to the Texas Department of Agriculture.

(5) Office of General Counsel--The Office of the General Counsel for the Texas Department of Agriculture.

(6) Responsible Individual--The Chief Administrator or equivalent person for the agency division responsible for the procurement, or, only in the event of an absence of the Chief Administrator or equivalent person from work as a result of death, disability, incapacity or illness, the person designated by the Chief Administrator or the Deputy Commissioner, to review and make a determination on the protest, as applicable.

§1.1101. Filing a Protest; Effect.

(a) Any actual or prospective bidder, offeror, or contractor who asserts or complains of improper process or a procedural defect in connection with the agency's solicitation, evaluation, or award of a contract may file a formal protest with the Responsible Individual for the division, subdivision or office that is responsible for the procurement.

(b) A protest must be made in writing and received by the Responsible Individual within 10 working days after the protesting party knows, or should have known, of the occurrence of the action that is protested.

(c) Formal protests must conform to the requirements of this subchapter, and will be resolved through use of the procedures that are described in this subchapter. The protesting party must mail or deliver copies of the protest to the agency and other interested parties.

(d) In the event of a timely protest under this section, the agency will suspend further process with the solicitation or award of the contract unless the Commissioner or Deputy Commissioner makes a written determination that the contract must be awarded without delay, to protect the best interests of the agency.

(e) A formal protest must be sworn and contain:

(1) a specific identification of the statutory or regulatory provision that the protesting party alleges has been violated;

(2) a specific description of each action by the agency that the protesting party alleges to be a violation of the statutory or regulatory provision that the protesting party has identified pursuant to paragraph (1) of this subsection;

(3) a precise statement of the relevant facts;

(4) a statement of any issues of law or fact that the protesting party contends must be resolved;

(5) a statement of the argument and authorities that the protesting party offers in support of the protest; and

(6) a statement that copies of the protest have been mailed or delivered to the agency and all other identifiable interested parties.

(f) Unless the Commissioner or Deputy Commissioner makes a written determination that the contract must be awarded without delay as authorized by this section, the Agency may not proceed with the award and contract until the protest is denied or resolved favorably to the Agency.

§1.1102. Disposition of Protests by the Responsible Individual.

(a) Upon receipt of a timely protest that conforms with this subchapter, the Responsible Individual of the division or office that is responsible for the procurement will review the protest. The Responsible Individual may request written responses to the protest from any staff of the agency and may request from the agency staff any and all documents related to the protest. The Responsible Individual may solicit written responses to the protest from other interest parties.

(b) The Responsible Individual has the authority, prior to appeal to the Commissioner or Deputy Commissioner, to settle and resolve the dispute over the solicitation or award of a contract.

(c) If the protest is not resolved by mutual written agreement, the Responsible Individual shall within 30 calendar days of receipt of a timely protest that conforms with this subchapter, issue a written determination regarding the protest. The Responsible Individual shall consult with the Office of General Counsel and the agency's Financial Services Division prior to issuing a written determination on the protest.

(d) The Responsible Individual shall inform the protesting party, the agency, and other interested parties of the written determination, denying or sustaining the protest, in whole or in part, setting forth the reasons for the determination. The written determination may set forth any appropriate remedial action, including a decision that:

(1) all or any portion of the award be rebid or repurchased;

(2) limits or shortens the term of any existing contract and requires rebid or repurchase of the procurement; or

(3) cancels or declares the contract void, and requires rebid or repurchase of the procurement.

(e) A protest or appeal that is not timely filed with the Responsible Individual will not be considered unless good cause for delay is shown and the Commissioner or Deputy Commissioner determines that the protest raises issues that are significant to agency procurement practices or procedures in general.

(f) Unless a protesting party or interested party timely files an appeal pursuant to §1.1103 of this subchapter (relating to Appeal), the final written determination of the Responsible Individual is the final administrative action of the agency.

§1.1103. Appeal.

(a) A protesting party who is not satisfied with the determination of the Responsible Individual may appeal the determination to the Commissioner or, upon the Commissioner's delegation, to the Deputy Commissioner. The appeal request must be submitted in writing and received by the Commissioner's office no later than ten working days after the date of the Responsible Individual's determination. If a request is not timely submitted as provided under this subsection, there shall be no further action taken by the Commissioner or Deputy Commissioner on the protest.

(b) Upon receipt of a timely appeal that conforms with the requirements of this subchapter, the Commissioner or Deputy Commissioner may designate an employee of the agency to review the protest, the determination made by the Responsible Individual, and the appeal of the Responsible Individual's determination. The designee will prepare and submit to the Commissioner or Deputy Commissioner a written recommendation regarding the appeal within five working days of the designation.

(c) In making a final determination, the Commissioner or Deputy Commissioner will consider only the final written determination of the Responsible Individual, those materials or pleadings submitted to the Responsible Individual, and, if applicable, the written recommendation made by a designated employee. No further arguments, authorities, documents, or pleadings shall be filed with the Commissioner or Deputy Commissioner.

(d) The Commissioner or Deputy Commissioner will issue a final written determination of the appeal, denying or sustaining the protest, in whole or in part, which shall be the final administrative action of the agency.

§1.1104. Recordkeeping.

The agency will maintain all documentation on the purchasing process that is the subject of a protest in accordance with the agency's document retention schedule.

§1.1105. Applicability of Subchapter.

This subchapter does not apply to grant awards made by the agency, or any grant programs administered by the agency.

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 January 4, 2013.

TRD-201300016

Dolores Alvarado Hibbs

General Counsel

Texas Department of Agriculture

Earliest possible date of adoption: February 17, 2013

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



CHAPTER 18. ORGANIC STANDARDS AND CERTIFICATION

SUBCHAPTER F. ADMINISTRATIVE

DIVISION 5. MISCELLANEOUS PROVISIONS

4 TAC §18.702

The Texas Department of Agriculture (the department or TDA) proposes amendments to §18.702, concerning organic standards and certification fees. The proposed amendments to §18.702(b) revise the scheduled date of annual update for certified operations by allowing for annual certification updates to be submitted to TDA throughout the year. The proposed amendments provide flexibility for a certified operation to submit the annual update at a time more suitable for the operation. This practice will also allow for greater resource allocation by the department's Organic Certification Program.

Mary Ellen Holliman, Coordinator for the Organic Certification Program, has determined that there may be fiscal implications for state government if a currently certified operation elects to

move the annual certification update due date. It is unknown what the estimated annual increase in state revenue will be as this figure will be directly correlated to the number of operations that choose to revise their annual certification update due date. The charging of a prorated fee and a re-inspection fee is necessary to recover the cost of conducting certification activities for operations who elect to move their annual certification update due date. There is no impact on the department's ability to enforce statutory requirements; however, if the fee is not assessed, the department will not be able to revise an operation's annual certification due date. There is no anticipated fiscal impact for local governments as a result of administering or enforcing the rule amendments, as proposed.

Ms. Holliman has further determined that the public benefit as a result of administering the amended section is increased convenience and flexibility for submitting annual certification updates for clients that participate in the TDA Organic Certification Program. The impact on micro-businesses, small businesses or individuals that choose to move their annual certification update due date will be a \$250 inspection fee and the cost of a re-inspection and a prorated certification fee. For example, if an organic land producer with a certification fee of \$1,327 chooses to revise his or her due date of annual certification to five calendar months past the existing due date, the producer will incur a prorated fee of \$802.92 [$(\$1,327/12) \times 5 + \250]. Likewise, if a handling operation with a certification fee of \$1,355 chooses to revise the due date of annual certification to three calendar months past the existing due date, the operation will incur a prorated fee of \$588.75 [$(\$1,355/12) \times 3 + \250]. If a small business or individual does not revise the annual certification update due date, there is no fiscal impact.

Comments on the proposal may be submitted to Mary Ellen Holliman, Coordinator for Organic Certification Program, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711 or by electronic mail to Organic@TexasAgriculture.gov. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The amendments to §18.702 are proposed under Texas Agriculture Code, §18.002, which provides the department with the authority to adopt rules for the certification of organic products; and §12.016, which provides the department with the authority to adopt rules as necessary for the administration of its powers and duties under the Texas Agriculture Code.

The code affected by the proposal is the Texas Agriculture Code, Chapters 12 and 18.

§18.702. *Fees.*

- (a) (No change.)
- (b) Scheduled date of annual update.

(1) The due date for annual certification update shall be the anniversary of initial certification or the anniversary date of the previous date for annual certification update.

(2) A certified operation may submit a written request to revise its due date for annual certification; provided that:

(A) The operation has not already submitted a written request to revise its existing due date for annual certification during the current certification year;

(B) The requested due date must not be more than five calendar months past the existing due date of certification;

(C) The requested due date is on the last date of the month; and

(D) Normal organic operations are available for inspection for a period of six calendar months following the requested due date.

(3) The written request must be received by the department prior to 30 days before the requested due date if the requested due date for annual certification will occur prior to the existing due date. The operation's annual update documents and fee payment will be due on the revised due date for annual certification update.

(4) The written request must be received by the department prior to 30 days before the existing due date if the requested due date for annual certification will occur after the existing due date and be accompanied by payment of all applicable fees.

(A) An operation that submits a written request to revise its due date for annual certification to occur after the existing due date will incur a prorated fee for each calendar month the current certification is extended. The prorated fee is cumulative. Payment of the prorated fee does not alter the fee amount incurred on the revised annual certification due date. If a request is made to revise the due date prior to the existing due date of certification, no additional fees are due and any fees previously paid are nonrefundable and may not be applied for future updates.

(B) An operation that submits a written request to revise its due date for annual certification to a date occurring after the existing date will also incur a re-inspection fee.

~~{(1) For producers (land and livestock) the due date for the annual certification update shall be March 1 of each year.}~~

~~{(2) For handlers (processors, distributors and retailers) the due date for the annual certification update shall be August 31 of each year.}~~

~~{(3) If the prescribed due date creates an undue hardship on a business due to the seasonal nature of the business operation, the alternate update due date may be requested in writing, provided that normal organic operations are available for inspection during the six months following the requested due date.}~~

(c) - (j) (No change.)

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

Filed with the Office of the Secretary of State on January 7, 2013.

TRD-201300031

Dolores Alvarado Hibbs

General Counsel

Texas Department of Agriculture

Earliest possible date of adoption: February 17, 2013

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

◆ ◆ ◆
TITLE 28. INSURANCE

PART 1. TEXAS DEPARTMENT OF INSURANCE

CHAPTER 3. LIFE, ACCIDENT AND HEALTH INSURANCE AND ANNUITIES

SUBCHAPTER FF. CREDIT LIFE AND CREDIT ACCIDENT AND HEALTH INSURANCE
DIVISION 10. RESPONSIBILITIES AND OBLIGATIONS OF INSURANCE COMPANIES AND THEIR AGENTS AND REPRESENTATIVES

28 TAC §3.6011

The Texas Department of Insurance proposes amending Title 28 Texas Administrative Code §3.6011, concerning the adoption of the Consumer Bill of Rights for Credit Life, Credit Disability, and Involuntary Unemployment Insurance (Consumer Bill of Rights) that is required to be provided by insurers to the insured with each new policy or renewal notice.

The department regulates credit life, credit disability, and credit involuntary unemployment insurance under Insurance Code Chapter 1153. Insurance Code §501.156 requires the Office of Public Insurance Counsel (OPIC) to submit to the department for adoption a consumer bill of rights appropriate to each personal line of insurance regulated by the department. On May 3, 2012, the department received a petition from OPIC, requesting the adoption of a revised Consumer Bill of Rights. On July 6, 2012, proposed amendments to §3.6011 that included adoption of a revised Consumer Bill of Rights were published in the July 6, 2012, issue of the *Texas Register* (37 TexReg 5080). The proposed rules and a revised Consumer Bill of Rights were adopted on November 16, 2012 (37 TexReg 9093).

An apparent conflict between the Insurance Code and the Finance Code affects the Consumer Bill of Rights. The department proposes to amend one right contained in the Consumer Bill of Rights in order to resolve the conflict. Specifically, Insurance Code §1153.201 provides, in pertinent part, that "[a] creditor may not charge a debtor for credit life or credit accident and health insurance . . . an amount that exceeds the amount of the premium that the insurer charges the creditor for that insurance. . . ." Finance Code §342.308, however, provides that credit insurance premiums may be included in the principal of a loan. Section 342.308, and other Finance Code provisions indicate an intention to permit credit insurance premiums to be included in the principal and thus subject to the interest rate applied to the financed transaction. The department believes that this conflict may be resolved by modifying the Consumer Bill of Rights to track Insurance Code language stating that the charge for credit insurance may not be more than the premium charged by the insurer and by deleting the reference to fees and interest, since these are addressed by the Finance Code. The amended Consumer Bill of Rights is adopted in §3.6011(a) and the Spanish language version is adopted in §3.6011(c) of the proposed rule.

The Consumer Bill of Rights adopted by the commissioner in November was required to be utilized by carriers for policies issued after February 11, 2013. Pursuant to this proposal, the department intends adoption of the revised Consumer Bill of Rights prior to that date. Nevertheless, the department advises carriers that until the revised Consumer Bill of Rights is adopted and becomes effective, they may utilize either the form adopted November 16, 2012, or the prior Consumer Bill of Rights, at their option.

Jan Graeber, director/chief actuary, Rate and Form Review Office, has determined that, for each year of the first five years the proposed section is in effect, there will be no fiscal impact on state or local government as a result of the enforcement or ad-

ministration of the proposal. There will be no measurable effect on local employment or the local economy as a result of the proposal.

ANTICIPATED COSTS TO COMPLY WITH THE PROPOSAL.

Ms. Graeber also has determined that for each year of the first five years the proposed section is in effect, the public benefits anticipated as a result of the proposal include consumer education of policyholders of credit life, credit disability, and credit involuntary unemployment insurance.

Insurers must provide policyholders with copies of the updated Consumer Bill of Rights with each new policy and renewal notice. The requirement to provide this document is not an additional duty on insurers, and the only costs to comply will be in generating the revised Customer Bill of Rights. Based on the length of the Consumer Bill of Rights, the department estimates that the cost per new policy and certificate, renewal, or request for the Spanish language version will be between 24 cents and 32 cents plus any marginal increase in postage. The department recognizes that some methods insurers might choose to comply with this requirement may exceed the department's estimated costs. This amendment should have no impact on affected insurers because they have had ample advance notice of the upcoming revised Consumer Bill of Rights to take appropriate action to mitigate their costs. If an insurer has already transitioned to the revised Consumer Bill of Rights, the department advises that carriers may utilize either previously adopted version until the new Consumer Bill of Rights becomes effective pursuant to this rulemaking.

Government Code §2006.002(c) provides that if a proposed rule may have an economic impact on small businesses, state agencies must prepare as part of the rulemaking process an economic impact statement that assesses the potential impact of the proposed rule on small businesses and a regulatory flexibility analysis that considers alternative methods of achieving the purpose of the rule. Government Code §2006.001(2) defines "small business" as a legal entity, including a corporation, partnership, or sole proprietorship, that is formed for the purpose of making a profit; is independently owned and operated; and has fewer than 100 employees or less than \$6 million in annual gross receipts. Government Code §2006.001(1) defines a "micro business" as a legal entity, including a corporation, partnership, or sole proprietorship, that is formed for the purpose of making a profit; is independently owned and operated; and has not more than 20 employees. Government Code §2006.002(f) requires a state agency to adopt provisions concerning micro businesses that are uniform with those provisions outlined in Government Code §2006.002(b) - (d) for small businesses.

In accord with Government Code §2006.002(c), the department has determined that the proposal may have an adverse economic impact on small and micro businesses that sell credit life, credit disability, and credit involuntary unemployment insurance coverage. The department has determined that approximately 56 carriers have filed credit insurance policy forms with the department in the past ten years. The department believes that one or more of the 56 carriers is a small or micro business pursuant to Government Code §2006.002(c). The adverse economic impact results from the costs associated with the requirement to print and distribute the Consumer Bill of Rights. These costs are stated in the Public Benefit/Cost Note part of this proposal.

The department, in accord with Government Code §2006.002(c-1), has considered the following alternative methods of achiev-

ing the purpose of the proposed rule: (i) reduce the length of the Consumer Bill of Rights for small and micro business insurers writing personal lines credit life, credit disability, and credit involuntary unemployment insurance coverage; or (ii) exempt small and micro business insurers from providing copies of the revised Consumer Bill of Rights to existing policyholders upon renewal.

The department has determined that these alternatives for small and micro businesses are neither legal nor feasible because the purpose of the Consumer Bill of Rights is to ensure that current and future policyholders of credit life, credit disability, and credit involuntary unemployment insurance receive accurate information and are properly informed of their rights. Providing a different version of the Consumer Bill of Rights or not providing a Consumer Bill of Rights at all would leave out important consumer information and impede consumer access to current rights regarding credit insurance. Either alternative would frustrate the purpose of Insurance Code §501.156 and would be inconsistent with the health, safety, environmental, and economic welfare of the state.

The department has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

If you wish to comment on this proposal, or to request a hearing, you must do so in writing no later than 5:00 p.m. on February 19, 2013. A hearing request must be on a separate page from any written comments. The department requires two copies of your comments or hearing request. Send your comments or request for hearing to the Chief Clerk by email at: chief-clerk@tdi.texas.gov or by mail at: Mail Code 113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. Send a copy simultaneously to Jan Graeber by email at: LHLcomments@tdi.texas.gov or by mail at: Rate and Form Review Office, Mail Code 106-1A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. If a hearing is held, written and oral comments presented at the hearing will be considered.

The amendment is proposed pursuant to Insurance Code §501.156 and §36.001. Section 501.156 requires OPIC to submit to the department for adoption a consumer bill of rights appropriate to each personal line of insurance regulated by the department to be distributed on issuance of a policy by an insurer to each policyholder. Section 36.001 provides that the commissioner of insurance may adopt any rules necessary and appropriate to implement the powers and duties of the department under the Insurance Code and other laws of this state.

The proposed amendments implement the following statute: Insurance Code §501.156.

§3.6011. Responsibility and Obligation of Insurers to Provide Copies of Consumer Bill of Rights for Credit Life, Credit Disability, and Credit Involuntary Unemployment Insurance to Each Insured.

(a) The commissioner adopts [by reference] the Consumer Bill of Rights for Credit Life, Credit Disability, and Credit Involuntary Unemployment Insurance [form]. All insurers writing credit life, credit disability, and credit involuntary unemployment insurance policies must provide with each new policy and certificate of credit life, credit disability, and credit involuntary unemployment insurance a copy of the Texas Department of Insurance Consumer Bill

of Rights for Credit Life, Credit Disability, and Credit Involuntary Unemployment Insurance. [This form is filed with the Office of the Secretary of State, Texas Register Section. The form can be obtained from the Texas Department of Insurance, Rate and Form Review Office, MC 106-1A, P.O. Box 149104, Austin, Texas 78714-9104. The form can also be obtained from the department's internet web site at <http://www.tdi.texas.gov>.] The Consumer Bill of Rights for Credit Life, Credit Disability, and Credit Involuntary Unemployment Insurance must [shall] accompany each renewal notice for credit life, credit disability, and credit involuntary unemployment insurance unless the current version of the form has been previously provided to the insured by the insurer.

Figure: 28 TAC §3.6011(a)

(b) (No change.)

(c) The commissioner adopts [by reference] the Spanish language version of the Consumer Bill of Rights for Credit Life, Credit Disability, and Credit Involuntary Unemployment Insurance [form]. [The department has promulgated a Spanish language version of this form that has been filed with the Secretary of State's Office.] The Spanish language version of the Consumer Bill of Rights for Credit Life, Credit Disability, and Credit Involuntary Unemployment Insurance must be provided to any consumer who requests it from the company. [The form can be obtained from the Texas Department of Insurance, Rate and Form Review Office, MC 106-1A, P.O. Box 149104, Austin, Texas 78714-9104. The form can also be obtained from the department's internet web site at <http://www.tdi.texas.gov>.]

Figure: 28 TAC §3.6011(c)

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

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

Filed with the Office of the Secretary of State on January 7, 2013.

TRD-201300028

Sara Waitt
General Counsel

Texas Department of Insurance

Earliest possible date of adoption: February 17, 2013

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

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TITLE 31. NATURAL RESOURCES AND CONSERVATION

PART 1. GENERAL LAND OFFICE

**CHAPTER 15. COASTAL AREA PLANNING
SUBCHAPTER A. MANAGEMENT OF THE
BEACH/DUNE SYSTEM**

31 TAC §15.30

The General Land Office (GLO) proposes amendments to 31 TAC §15.30, relating to the Certification Status of the Town of South Padre Island Dune Protection and Beach Access Plan (Plan).

The intent of this rulemaking is to fully certify the inclusion of the City of South Padre Island Erosion Response Plan (ERP) as an amendment to the Plan. The ERP was adopted by the City

Council of the City of South Padre Island (City) as Ordinance No. 12-09 on August 1, 2012.

Copies of the Plan and ERP are available from the City of South Padre Island, Coastal Resources Department, 4601 Padre Boulevard, South Padre Island, Texas 78597; telephone number (956) 761-3035; and from the GLO's Archives Division, General Land Office, P.O. Box 12873, Austin, Texas 78711-2873; telephone number (512) 463-5277.

BACKGROUND AND ANALYSIS OF PROPOSED AMENDMENTS

The amendments to §15.30 add a new subsection (d) certifying as consistent with state law the inclusion of the ERP as an appendix to the Plan. In accordance with Texas Natural Resources Code §33.607 and associated regulations, the elements of the City of South Padre Island ERP are designed to reduce public expenditures due to erosion and storm damage to public and private property. The ERP, among other provisions, (1) recognizes the previously established Historic Building Line (HBL) as the building setback line that will help prevent erosion and storm damage; (2) identifies goals and methods for dune enhancement and restoration; (3) addresses improvements that will enhance public beach access and minimize storm damage to access ways; (4) describes procedures for inspecting beach access points before and after storms; and (5) discusses potential funding sources to support ERP implementation.

The amended title of §15.30 and other amendments clarify that the "Town" of South Padre Island is now called the "City" of South Padre Island, in light of the home rule charter adopted by the City of South Padre Island in 2009. These are minor, non-substantive revisions that do not affect the certification of the Plan or previous amendments adopted by the Town of South Padre Island or the Board of Aldermen. For the purposes of any rules or amendments affecting the Plan, the terms "Town" and "City" are interchangeable and both refer to the City of South Padre Island.

FISCAL AND EMPLOYMENT IMPACTS

Helen Young, Deputy Commissioner for the GLO's Coastal Resources Program Area, has determined that for each year of the first five years the amended section as proposed is in effect there will be no additional cost to state government as a result of enforcing or administering the amended section.

Ms. Young has determined that there may be fiscal implications to local governments or additional costs of compliance for large and small businesses or individuals resulting from proposed amendments for implementation of the ERP. These fiscal impacts cannot be estimated with certainty at this time. However, it is the opinion of the GLO that the costs of implementation of the provisions for construction in the ERP will be offset by a reduction in public expenditures for erosion and storm damage losses to private and public property.

In addition, costs of compliance for businesses or individuals will be offset by reduction in losses due to storm damage. New structures that are built landward of the building setback line will have reduced losses because of a reduction in the intensity of storm surge and a delayed exposure to erosion. Enhancement and restoration of sand dunes will further reduce losses to private and public properties and infrastructure due to storm damage and erosion.

The GLO has determined that the proposed rulemaking will have no adverse local employment impact that requires an impact statement pursuant to Texas Government Code §2001.022.

PUBLIC BENEFIT

Ms. Young has determined that the public will benefit from the amendments because the GLO will be able to administer the coastal public land program more efficiently, providing the public more certainty and clarity in the process. The public will also benefit because the City of South Padre Island ERP will reduce public expenditures associated with loss of structures and public infrastructure due to storm damage and erosion, disaster response costs, and loss of life.

The building setback line adopted in the ERP will minimize storm damage to structures by preserving the area seaward of the setback line and by limiting the number of structures in the area. By encouraging the placement of structures further landward, the additional hazards created by buildings when subjected to storm surge will reduce their vulnerability to storm tide and erosion.

The ERP also identifies goals and methods for dune enhancement and restoration that will allow natural dune processes to continue with minimal disturbance. A healthy dune system serves as a natural buffer against normal storm tides. This natural buffer helps reduce the risk to life and property from storm damage and helps reduce the public expenses of disaster relief. By addressing dune enhancement and restoration, the ERP will assist the City of South Padre Island in focusing on areas that are vulnerable to storm surge and flooding that may cause damage to public infrastructure and private properties.

Private and public properties and infrastructure will also be protected by local government implementation of plans to improve foredune ridges and beach access points to protect against storm surge. Scientific and engineering studies considered by the GLO noted that during Hurricane Alicia in 1983, vegetation line retreat and landward extent of storm washover deposits were greater for developed areas than for natural areas (Bureau of Economic Geology Circular 85-5). This difference is attributed in part to the fact that naturally occurring vegetated dunes are stronger than reconstructed dunes due to greater root depths of dune vegetation (Circular 85-5).

ENVIRONMENTAL REGULATORY ANALYSIS

The GLO has evaluated the proposed rulemaking action in light of the regulatory analysis requirements of Texas Government Code §2001.0225 and determined that the action is not subject to Texas Government Code §2001.0225 because it does not meet the definition of a "major environmental rule" as defined in the statute. "Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The proposed amendments to §15.30 are not anticipated to adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state because the proposed rulemaking implements legislative requirements in Texas Natural Resources Code §§33.101 - 33.136 relating to the School Land Board's ability to grant rights in coastal public land.

TAKINGS IMPACT ASSESSMENT

The GLO has evaluated the proposed rulemaking in accordance with Texas Government Code §2007.043(b) and §2.18 of the Attorney General's Private Real Property Rights Preservation Act

Guidelines to determine whether a detailed takings impact assessment is required. The GLO has determined that the proposed rulemaking does not affect private real property in a manner that requires real property owners to be compensated as provided by the Fifth and Fourteenth Amendments to the United States Constitution or Article I, §17 and §19 of the Texas Constitution. In addition, setback lines adopted by local governments would not constitute a statutory taking under the Private Real Property Rights Preservation Act inasmuch as Texas Natural Resources Code §33.607(h) provides that Chapter 2007 of the Texas Government Code does not apply to a rule or local government order or ordinance authorized by Texas Natural Resources Code §33.607.

CONSISTENCY WITH COASTAL MANAGEMENT PROGRAM

The proposed rulemaking is subject to the Coastal Management Program (CMP), 31 TAC §505.11(a)(1)(E) - (I) and (c) (relating to the Actions and Rules Subject to the CMP). The GLO has reviewed the proposed action for consistency with the CMP's goals and policies. The applicable goals and policies are found at 31 TAC §501.12 (relating to Goals) and §501.26 (relating to Policies for Construction in the Beach/Dune System). Because all requests for the use of coastal public land must continue to meet the same criteria for GLO approval, the GLO has determined that the proposed action is consistent with applicable CMP goals and policies. The proposed amendments will be distributed to the Commissioner in order to provide him an opportunity to comment on the consistency of the proposed amendments during the comment period.

The amended rule provides certification that the ERP is consistent with the CMP goals outlined in 31 TAC §501.12(1), (2), (3), and (6). These goals seek protection of coastal natural resource areas (CNRAs), compatible economic development and multiple uses of the coastal zone, minimization of the loss of human life and property due to the impairment and loss of CNRA functions, and coordination of GLO and local government decision-making through the enforcement of clear, effective policies for the management of CNRAs. The ERP is tailored to the unique natural features, degree of development, storm, and erosion exposure potential for the City. The ERP is also consistent with the CMP policies outlined in 31 TAC §501.26(a)(1) and (2) that prohibit construction within a critical dune area that results in the material weakening of dunes and dune vegetation or adverse effects on the sediment budget. The ERP will reduce impacts to critical dunes and dune vegetation from construction, reduce dune area habitat and biodiversity loss, and reduce structure encroachment on the beach which leads to interruption of the natural sediment cycle.

PUBLIC COMMENT REQUEST

To comment on the proposed amendments or their consistency with the CMP goals and policies, please send a written comment to Walter Talley, Texas Register Liaison, General Land Office, P.O. Box 12873, Austin, Texas 78711, facsimile number (512) 463-6311, or email walter.talley@glo.texas.gov. Written comments must be received no later than 5:00 p.m. 30 days from the date of publication of this proposal.

STATUTORY AUTHORITY

The amendments are proposed under the Texas Natural Resources Code §33.607, relating to the GLO's authority to adopt rules for the preparation and implementation by a local government of a plan for reducing public expenditures for erosion and storm damage losses to public and private property.

Texas Natural Resources Code §§33.601 - 33.613 are affected by the proposed amendments.

§15.30. Certification Status of City [Town] of South Padre Island Dune Protection and Beach Access Plan.

(a) The City [Town] of South Padre Island has submitted to the General Land Office a dune protection and beach access plan (plan) which is certified as consistent with state law. The [town's] plan was adopted on October 5, 1994.

(b) The General Land Office certifies that the amendment to the [town's] plan adopted by the Board of Aldermen on May 7, 2003, is consistent with state law.

(c) The General Land Office further certifies that the amendment to the [town's] plan adopted by the Board of Aldermen as Ordinance No. 05-07 on May 4, 2005, is consistent with state law.

(d) The General Land Office certifies that the amendment to the plan adopted by the City Council as Ordinance No. 12-09 on August 1, 2012, is consistent with state law. The Ordinance amended the plan by adding the City of South Padre Island Erosion Response Plan as an appendix to the plan.

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 January 7, 2013.

TRD-201300023

Larry Laine

Chief Clerk, Deputy Land Commissioner

General Land Office

Earliest possible date of adoption: February 17, 2013

For further information, please call: (512) 475-1859

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 5. TEXAS BOARD OF PARDONS AND PAROLES

CHAPTER 148. SEX OFFENDER CONDITIONS OF PAROLE OR MANDATORY SUPERVISION

37 TAC §148.50

The Texas Board of Pardons and Paroles proposes amendments to 37 TAC §148.50, concerning procedure after waiver of hearing. The amendments are proposed to replace "offender" with "releasee" and "release" with "releasee."

Rissie Owens, Chair of the Board, has determined that for each year of the first five-year period the proposed amendments are in effect, no fiscal implications exist for state or local government as a result of enforcing or administering this section.

Ms. Owens has also determined that for each year of the first five years the proposed amendments are in effect, the public benefit anticipated as a result of enforcing the amendments to this section will be to bring the rule into compliance with current board practice. There will be no effect on small businesses. There is no anticipated economic cost to persons required to comply with the amended rule as proposed.

An Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed amendments will not have an economic effect on small businesses as defined in Texas Government Code §2006.001(2).

Comments should be directed to Bettie Wells, General Counsel, Texas Board of Pardons and Paroles, 209 W. 14th Street, Suite 500, Austin, Texas 78701, or by e-mail to bettie.wells@tdcj.state.tx.us. Written comments from the general public should be received within 30 days of the publication of this proposal.

The amendments are proposed under §§508.036, 508.0441, 508.045, 508.141 and 508.147, Government Code. Section 508.036 authorizes the board to adopt rules relating to the decision-making processes used by the board and parole panels. Section 508.0441 and §508.045 authorize the Board to adopt reasonable rules as proper or necessary relating to the eligibility of an offender for release to mandatory supervision and to act on matters of release to mandatory supervision. Section 508.0441 provides the board with the authority to adopt reasonable rules as proper or necessary relating to the eligibility of an inmate for release on parole or release to mandatory supervision. Section 508.147 authorizes parole panels to determine the conditions of release to mandatory supervision.

No other statutes, articles, or codes are affected by these amendments.

§148.50. *Procedure after Waiver of Hearing.*

(a) (No change.)

(b) After reviewing the waiver of the right to a sex offender condition hearing and receipt of supporting documentation of evidence of the releasee's [~~offender's~~] sexual deviant behavior in the offense for which the releasee [~~offender~~] is currently on supervision, the parole panel must determine that, by a preponderance of the evidence, the releasee [~~release~~] constitutes a threat to society by reason of his/her lack of sexual control. The panel shall make final disposition of the case by taking one of the following actions:

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

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

Filed with the Office of the Secretary of State on January 3, 2013.

TRD-201300012

Bettie Wells

General Counsel

Texas Board of Pardons and Paroles

Earliest possible date of adoption: February 17, 2013

For further information, please call: (512) 406-5388



WITHDRAWN RULES

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

TITLE 7. BANKING AND SECURITIES

PART 5. OFFICE OF CONSUMER CREDIT COMMISSIONER

CHAPTER 84. MOTOR VEHICLE INSTALLMENT SALES

SUBCHAPTER H. RETAIL INSTALLMENT SALES CONTRACT PROVISIONS

7 TAC §§84.804, 84.808, 84.809

Proposed amended §§84.804, 84.808, and 84.809, published in the June 29, 2012, issue of the *Texas Register* (37 TexReg 4760), are withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Filed with the Office of the Secretary of State on January 2, 2013.

TRD-201300005



ADOPTED RULES

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

TITLE 1. ADMINISTRATION

PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 357. HEARINGS

SUBCHAPTER A. UNIFORM FAIR HEARING RULES

1 TAC §357.17

The Texas Health and Human Services Commission (HHSC) adopts the amendment to §357.17, concerning types of hearings, without changes to the proposed text as published in the November 9, 2012, issue of the *Texas Register* (37 TexReg 8905) and will not be republished.

Background and Justification

On December 12, 2011, the Centers for Medicare and Medicaid Services (CMS) approved HHSC's application for a waiver under Section 1115 of the federal Social Security Act (42 U.S.C. §1315). The Texas Healthcare Transformation and Quality Improvement Program waiver relates to the Medicaid State of Texas Access Reform (STAR) and STAR+PLUS programs and children's Medicaid dental services (collectively "waiver programs") and includes special terms and conditions under which these managed care programs should operate. The special terms and conditions include a requirement that Medicaid clients receiving services through a managed care organization (MCO) must exhaust their MCO's expedited appeals process before making a request for an expedited fair hearing from HHSC.

A fair hearing is an informal proceeding held before an impartial HHSC hearings officer in which a client appeals an agency or MCO action. Medicaid clients are entitled to a fair hearing to appeal certain agency or MCO actions, such as denials or limited authorizations of services. An individual who believes and can demonstrate that a delay in receiving a Medicaid fair hearing could seriously jeopardize his or her life or health may request an expedited fair hearing. The amendment to §357.17 clearly states in rule that a client receiving Medicaid services through an MCO must exhaust the MCO's expedited appeals process before requesting an expedited fair hearing from HHSC unless the MCO has not sent a timely response to the request or the MCO has denied the request.

Comments

The 30-day comment period ended December 9, 2012. HHSC received no comments regarding adoption of the amendment, including at a public hearing held in Austin on November 28, 2012.

Legal Authority

The amendment is adopted under Texas Government Code, §531.0055, which provides the Executive Commissioner of HHSC with broad rulemaking authority; and the Human Resources Code, §32.021, and Texas Government Code, §531.021(a), which authorize HHSC to administer the federal medical assistance (Medicaid) program in Texas.

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 January 7, 2013.

TRD-201300017

Steve Aragon

Chief Counsel

Texas Health and Human Services Commission

Effective date: January 27, 2013

Proposal publication date: November 9, 2012

For further information, please call: (512) 424-6900



CHAPTER 390. INFORMATION PRACTICES SUBCHAPTER A. STANDARDS RELATING TO THE ELECTRONIC EXCHANGE OF HEALTH INFORMATION

1 TAC §390.1, §390.2

The Texas Health and Human Services Commission (HHSC) adopts new §390.1, concerning definitions, and §390.2, concerning standards relating to the electronic exchange of health information, in new Chapter 390, Subchapter A, Standards Relating to the Electronic Exchange of Health Information. The new sections are adopted with changes to the proposed text as published in the October 12, 2012, issue of the *Texas Register* (37 TexReg 8119) and will be republished.

Background and Justification

House Bill (HB) 300, 82nd Legislature, Regular Session, 2011, in part, amended Chapter 182, Subchapter C of the Health and Safety Code, which directs HHSC to review privacy and security standards relating to the electronic exchange of health information developed by the Texas Health Services Authority (THSA) and to ratify the standards as rules as appropriate. The THSA developed the standards and submitted them to HHSC for consideration, as required by §182.108 of the Health and Safety Code.

The new rules are adopted to identify statutory and regulatory requirements that covered entities must follow to be in compliance with the law.

Comments

HHSC received written comments from the Texas Association for Home Care and Hospice and from UnitedHealth Group. A summary of the comments and the responses follow.

Comment: A commenter asked that the language "or other applicable law" in §390.1, Definitions, be clarified.

Response: HHSC would like to use the definitions in the Health Insurance Portability and Accountability Act (HIPAA) for any terms not defined in the proposed section. For this reason, and to avoid undue confusion, the phrase "or other applicable law" has been removed from §390.1 in response to the comment.

Comment: A commenter expressed concern that a word was omitted from §390.2(a)(2) which references "the Texas Medical Records Act, Chapter 181 of the Texas Health and Safety Code."

Response: HHSC is referring to the Texas Medical Records Privacy Act and the word "Privacy" has been added in §390.2(a)(2).

Comment: A commenter believes that it was the intent of the legislature that the THSA create privacy and security standards that apply only to health information exchanges in Texas and not all covered entities.

Response: H.B. 300 directed HHSC to review and adopt privacy and security standards relating to the electronic exchange of health information. The standards, as developed, are applicable to "a covered entity that electronically exchanges, uses, or discloses protected health information (PHI)" unless the data is de-identified. To the extent that the legislative intent can be interpreted, HHSC believes that the rule is meant to apply to all covered entities and not strictly health information exchanges (HIEs) in the state. No change to the proposed rule language was made in response to this comment.

Comment: A commenter believes that the legislature intended that the rule regulate PHI and personally identifiable health information, but that confidential information should not be included in the rule since it may be interpreted to include information that is not health related.

Response: The Texas Administrative Code also specifies several types of confidential information, and the proposed rule includes these sections in its definitions. For this reason, HHSC believes that references to confidential information in addition to PHI are well understood under existing law and the rule does not expand regulation. No change to the proposed rule language was made in response to this comment.

Legal Authority

The new sections are adopted under Texas Government Code, §531.0055, which provides the Executive Commissioner of HHSC with rulemaking authority, and §182.108 of the Texas Health and Safety Code, which directs HHSC to review privacy and security standards relating to the electronic exchange of health information developed by the Texas Health Services Authority and to adopt acceptable standards by rule.

§390.1. Definitions.

Unless otherwise defined in this section, each term used in these rules has the meaning assigned by the Health Insurance Portability and Accountability Act (HIPAA).

(1) Access--The physical or logical capability to interact with or otherwise make use of information.

(2) Authorized purpose--A purpose expressly authorized by applicable law, regulation, or agreement.

(3) Authorized user--A person:

(A) who is authorized to process, view, handle, examine, interpret, or analyze confidential information;

(B) who has a demonstrable need to know and have access to the confidential information; and

(C) who has agreed in writing to be bound by the use and disclosure requirements pertaining to confidential information.

(4) CFR--The Code of Federal Regulations.

(5) Confidential information--Any communication or record (whether oral, written, electronically stored or transmitted, or in any other form) that consists of or includes any or all of the following information that must be protected from unauthorized use or disclosure as required by applicable state or federal law (e.g. constitutional, statutory, judicial, and legal agreement requirements):

(A) information designated as confidential under the laws of the State of Texas and of the United States;

(B) personally identifiable information (PII), meaning information that can be used to uniquely identify, contact, or locate a single individual or can be used with other sources to uniquely identify a single individual;

(C) PII about or concerning an individual who receives government benefits under one or more public assistance programs administered or overseen by HHSC (also referred to as "client information");

(D) protected health information (PHI), including without limitation electronic PHI (ePHI) or unsecured PHI, as defined by HIPAA;

(E) sensitive personal information (SPI), with the meaning assigned by the Texas Identity Theft Act, Chapter 521 of the Texas Business and Commerce Code;

(F) federal tax information, with the meaning assigned in the Internal Revenue Code, Title 26 of the United States Code (U.S.C.) and regulations adopted under that code;

(G) Social Security Administration data, meaning information or data made by the Social Security Administration and disclosed to a state agency for its administration of federally funded benefit programs under various provisions of the Social Security Act, such as §1137 (42 U.S.C. §1320b-7), including the state-funded state supplementary payment programs under Title XVI of the Act, in accordance with the requirements of the Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act of 1988, 5 U.S.C. §552a;

(H) to the extent permitted under the laws and constitution of the State of Texas, all information designated by HHSC or any other state agency as confidential, including all information designated as confidential under the Texas Public Information Act, Texas Government Code, Chapter 552; and

(I) information that is used, developed, received, or maintained by HHSC or any other state agency, its contractor, or other participating state agencies for the purpose of fulfilling a duty or obligation under an agreement that has not been publicly disclosed.

(6) Covered entity--Has the meaning assigned by the Medical Records Privacy Act, Health and Safety Code §181.001(b)(2).

(7) De-identified information--Information excluded from the definition of PHI, for which there is no reasonable basis to believe that the information can be used to identify an individual when individual identifiers have been removed from the information in accordance with HIPAA, 45 CFR §164.514(b)(2).

(8) Disclose--Has the meaning assigned by the Medical Records Privacy Act, Health and Safety Code §181.001(b)(2-a). See also the definition of "exchange" in this section.

(9) Exchange--To disclose.

(10) HHSC--The Health and Human Services Commission.

(11) HIPAA--Collectively, the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. §§1320d et seq., and regulations adopted under that act, as modified by the Health Information Technology for Economic and Clinical Health Act (HITECH) (P.L. 111-105), and regulations adopted under that act at 45 CFR Parts 160 and 164.

(12) Individual--The subject of confidential information, and includes the subject's legally authorized representative who qualifies under HIPAA as a legally authorized representative of the individual, as defined by Texas law, for example, without limitation as provided in Texas Occupations Code §151.002(6); Texas Health and Safety Code §166.164; or Texas Probate Code §3.

(13) State agency--A department, commission, board, office, council, authority, or other agency, other than an institution of higher education, in the executive or judicial branch of state government that is created by the Constitution or a statute of this state.

(14) Use--Has the meaning assigned by HIPAA.

§390.2. Standards.

(a) A covered entity that electronically exchanges, uses, or discloses PHI, at a minimum, must comply with the following standards for confidential information in any form, to the extent applicable:

(1) HIPAA Privacy, Security and Breach Notification Regulations;

(2) the Texas Medical Records Privacy Act, Chapter 181 of the Texas Health and Safety Code;

(3) the Texas Identity Theft Act, Chapter 521 of the Texas Business and Commerce Code; and

(4) any other applicable state or federal law or regulation that requires that confidential information be safeguarded, used, or disclosed only for authorized purposes by authorized users, including without limitation:

(A) requirements applicable to the following specific types of data:

(i) Cancer: Texas Health and Safety Code §82.008 and §82.009; Title 25 Texas Administrative Code (TAC) §91.9 (relating to Confidentiality and Disclosure);

(ii) HIV/AIDS: Texas Health and Safety Code §81.103, HIV/AIDS Test Results, and 40 TAC §8.288 (relating to Confidentiality of Test Results);

(iii) Genetic: Genetic Information Nondiscrimination Act of 2008 (GINA) Pub. L. No. 110-233 and applicable regulations promulgated under that act; Texas Insurance Code, Chapter 546, Subchapter C; Texas Labor Code §21.403 and §21.404; Texas Occupations Code, Chapter 58;

(iv) Sexual assault: Texas Health and Safety Code, Chapter, 44, Subchapter C;

(v) Communicable diseases: Texas Health and Safety Code §81.046; 25 TAC §97.10 (relating to Confidential Nature of Case Reporting and Records);

(vi) Mental health: Texas Health and Safety Code, Chapter 611, Mental Health Records/Substance Abuse Records;

(vii) Substance abuse or substance use disorder: 42 CFR Part 2, Confidentiality of Alcohol and Drug Abuse Patient Records; Texas Health and Safety Code, Chapter 611, Mental Health Records/Substance Abuse Records;

(viii) Immunizations: Texas Health and Safety Code §161.0073 and §161.009; 25 TAC §100.2 (relating to Confidentiality);

(ix) Bureau of Vital Statistics: Texas Government Code §552.115; Texas Health and Safety Code Chapters 192 and 193, §195.005; 25 TAC Chapter 181 (relating to Vital Statistics);

(x) Reports of abuse or neglect: Texas Human Resources Code, Chapter 48, Report of Abuse or Neglect of Elderly or Disabled Persons; Texas Health and Safety Code §161.132; Family Code Chapter 261, Reports of Child Abuse;

(xi) Federal tax information: Internal Revenue Code, Title 26, 26 U.S.C. §6103; IRS Publication 1075;

(xii) Social Security Administration data: 42 U.S.C. §1306, 20 CFR Part 401;

(xiii) Occupational diseases: Texas Health and Safety Code §84.006; 25 TAC §99.1 (relating to General Provisions);

(xiv) Family planning: 25 TAC §56.11 (relating to Confidentiality); and

(xv) Recipients of government benefits: requirements for use of disclosure of client information about or concerning recipients of government benefits such as Medicaid, the Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), or the Children's Health Insurance Program (CHIP), by HHSC or its designee(s), third party, or business associate: 7 CFR §272 (SNAP); 45 CFR §205.50 (TANF); 42 CFR §§431.300 et seq. (Medicaid); 42 CFR §457.1110 (CHIP);

(B) requirements applicable to data held by the following specific types of providers, facilities, and services:

(i) Hospitals: Texas Health and Safety Code, Chapter 241, Subchapter G, Hospital Disclosures of Health Care Information; 25 TAC §133.42 (relating to Patient Rights);

(ii) Nursing facilities: Texas Health and Safety Code, Chapter 242, §242.134 and §242.501(8), Nursing Home Resident Rights; 40 TAC §19.407 (relating to Privacy and Confidentiality);

(iii) Intermediate care facilities for persons with an intellectual disability or related conditions (ICF/IID): Texas Health and Safety Code, Chapter 252, §252.126 and §252.134;

(iv) Freestanding emergency medical care facilities: Texas Health and Safety Code Chapter 254; 25 TAC §131.53 (relating to Medical Records);

(v) Ambulatory surgical centers: Texas Health and Safety Code, Chapter 243, 25 TAC §135.5 (relating to Patient Rights);

(vi) Emergency medical services: Texas Health and Safety Code, Chapter 773, §§773.079 - 773.096; 25 TAC §157.11 (relating to Requirements for an EMS Provider License);

(vii) Physicians: Texas Occupations Code, Chapter 159, Physician-Patient Communication;

(viii) Chiropractors: Texas Occupations Code §§201.402 - 201.405, Chiropractor-Patient Confidentiality;

(ix) Dentists: Texas Occupations Code §§258.051 et seq., Dental-Patient Confidentiality;

(x) Labs: Clinical Laboratory Improvement Amendments (CLIA) (1988); 42 CFR §493.1291;

(xi) Pharmacists: Texas Occupations Code, Chapter 562, §562.052, Confidential Records of Pharmacists;

(xii) Podiatrists: Texas Occupations Code, Chapter 202, Subchapter I, §§202.401 et seq., Podiatrist Privilege and Confidentiality;

(xiii) Personal health record vendors: Health Breach Notification Rule for Vendors of Personal Health Records, 16 CFR Part 318;

(xiv) End stage renal disease facilities: Texas Health and Safety Code §251.011; 25 TAC §117.42 (relating to Patient Rights);

(xv) Special care facilities (AIDS): 25 TAC §125.33 (relating to Resident Rights);

(xvi) Private psychiatric hospitals and crisis stabilization units: Texas Health and Safety Code §577.013: 25 TAC Chapter 134 (relating to Private Psychiatric Hospitals and Crisis Stabilization Units);

(xvii) Birthing centers: 25 TAC §137.53 (relating to Clinical Records);

(xviii) Applicable health professions regulated by 25 TAC Chapter 140 (relating to Health Professions Regulation) confidentiality requirements under 25 TAC Chapter 140 or other applicable law for, such as:

(I) licensed chemical dependency counselors and treatment facilities, Texas Occupations Code §504.251; 25 TAC §140.424 (relating to Standards for Private Practice); Texas Health and Safety Code, Chapter 464; 25 TAC Chapter 448 (relating to Standard of Care);

(II) medical radiologic technologists, 25 TAC §140.514 (relating to Disciplinary Actions);

(III) dyslexia therapists and dyslexia practitioners, 25 TAC §140.586 (relating to Code of Ethics; Duties and Responsibilities of License Holders); and

(IV) promotores or community health workers: 25 TAC §146.11 (relating to Professional and Ethical Standards); and

(C) requirements applicable to data about the following specific types of individuals:

(i) Minors: Texas Family Code §§32.003, 32.004, 151.003, 153.073, 153.074, and 153.132; Texas Occupations Code §159.005; Texas Civil Practice and Remedies Code §129.001;

(ii) Children with Special Health Care Needs Services Program: 25 TAC §38.5 (relating to Rights and Responsibilities of a Client's Parents, Foster Parents, Guardian, or Managing Conservator, or an Adult Client); and

(iii) Early and Periodic Screening, Diagnosis, and Treatment: 25 TAC §33.30 (relating to Confidentiality of Records).

(b) These standards do not apply to de-identified information.

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 January 7, 2013.

TRD-201300018

Steve Aragon

Chief Counsel

Texas Health and Human Services Commission

Effective date: January 27, 2013

Proposal publication date: October 12, 2012

For further information, please call: (512) 424-6900



TITLE 22. EXAMINING BOARDS

PART 9. TEXAS MEDICAL BOARD

CHAPTER 177. BUSINESS ORGANIZATIONS

SUBCHAPTER D. EMPLOYMENT OF PHYSICIANS

22 TAC §177.17

The Texas Medical Board (Board) adopts amendments to §177.17, concerning Exceptions to Corporate Practice of Medicine Doctrine, without changes to the proposed text as published in the July 27, 2012, issue of the *Texas Register* (37 TexReg 5539) and will not be republished.

The amendments to §177.17 provide exception to doctrine for rural health clinics that meet the requirements of 42 CFR 491.8.

The Board sought stakeholder input through Stakeholder Groups which made comments on the suggested changes to the rules at a meeting held on July 20, 2012. The comments were incorporated into the proposed rules.

The Board received comments regarding §177.17 from the Texas Medical Association (TMA).

COMMENT NO.1

TMA commented that the proposed rule exceeds the Texas Medical Board's statutory authority that prohibits the corporate practice of medicine under the Medical Practice Act, including §164.052(a)(17) that prohibits physicians from aiding and abetting of the practice of medicine by unlicensed persons.

The Board disagrees with this comment. Under federal law, specifically, 42 CFR 491.8, it provides that in relation to federally qualified health center and rural health clinics, "*The physician assistant, nurse practitioner, nurse-midwife, clinical social worker, or clinical psychologist member of the staff may be the owner or an employee of the clinic or center, or may furnish services under contract to the center.*" The Board has made the determination that as federal law has granted physician assistants the authority to own rural health clinics, that Board rules may recognize that authority and not penalize physician assistants for exercising their rights. Further, the Board supports the intent of the federal law which is to improve access to primary health care in rural, underserved communities; and promote a collaborative model of health care delivery.

For these reasons, the Board does not believe that any changes should be made to the proposed rule as published. The Board has adopted the amendments to this section as published, without changes.

The amendments are adopted under the authority of the Texas Occupations Code Annotated, §153.001 and §154.006, which provide authority for the Board to adopt rules and bylaws as necessary to govern its own proceedings, perform its duties, regulate the practice of medicine in this state, enforce this subtitle, and establish rules related to licensure.

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 January 7, 2013.

TRD-201300019

Mari Robinson, J.D.

Executive Director

Texas Medical Board

Effective date: January 27, 2013

Proposal publication date: July 27, 2012

For further information, please call: (512) 305-7016



TITLE 31. NATURAL RESOURCES AND CONSERVATION

PART 1. GENERAL LAND OFFICE

CHAPTER 19. OIL SPILL PREVENTION AND RESPONSE

SUBCHAPTER A. GENERAL PROVISIONS

31 TAC §§19.1, 19.2, 19.4

The General Land Office (GLO) adopts amendments to §§19.1, 19.2, and 19.4, concerning Oil Spill Prevention and Response, General Provisions. The adopted amendments are designed to enhance and clarify GLO procedures under the rules. Sections 19.1, 19.2, and 19.4 are also amended to reflect editorial changes. These amendments are adopted without changes to the proposed text as published in the October 19, 2012, issue of the *Texas Register* (37 TexReg 8278) and will not be republished.

INTRODUCTION AND BACKGROUND

The adopted amendments to §§19.1, 19.2, and 19.4 will clarify provisions, update references, and add definitions to the chapter. The adopted amendment to §19.1 and §19.2 delete superfluous text as being duplicative. The adopted amendment to §19.4 clarifies which individuals are subject to the waiver provision. The effect of these adopted amendments will be to make the subchapter more clear and concise for public understanding.

COMMENTS BY THE PUBLIC

The GLO did not receive any comments on the amendments.

STATUTORY AUTHORITY

The amendments are adopted under the Oil Spill Prevention and Response Act of 1991 (OSPRA), Texas Natural Resources Code, Title 2, Chapter 40, Subchapter A, §40.007(a), which

gives the commissioner of the GLO the authority to promulgate rules necessary and convenient to the administration of OSPRA.

STATUTORY SECTIONS AFFECTED

OSPRA, Texas Natural Resources Code, Title 2, Chapter 40, Subchapter C, §§40.109 - 40.113 are affected by the adopted amendments.

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

Filed with the Office of the Secretary of State on January 7, 2013.

TRD-201300024

Larry Laine

Chief Clerk, Deputy Land Commissioner

General Land Office

Effective date: January 27, 2013

Proposal publication date: October 19, 2012

For further information, please call: (512) 475-1859



SUBCHAPTER B. SPILL PREVENTION AND PREPAREDNESS

31 TAC §19.14

The General Land Office (GLO) adopts an amendment to §19.14, concerning Oil Spill Prevention and Response, Spill Prevention and Preparedness. The adopted amendment is designed to enhance and clarify GLO procedures under the rules. Section 19.14 is amended to reflect editorial changes. This amendment is adopted without changes to the proposed text as published in the October 19, 2012, issue of the *Texas Register* (37 TexReg 8279) and will not be republished.

INTRODUCTION AND BACKGROUND

The adopted amendment to §19.14 updates the text by correcting an outdated website address. The effect of this change will be to enhance the ability of the public to communicate with the GLO regarding annual updating of information.

COMMENTS BY THE PUBLIC

The GLO did not receive any comments on the amendment.

STATUTORY AUTHORITY

The amendment is adopted under OSPRA, Texas Natural Resources Code, Title 2, Chapter 40, Subchapter A, §40.007(a), which gives the commissioner of the GLO the authority to promulgate rules necessary and convenient to the administration of OSPRA.

STATUTORY SECTIONS AFFECTED

OSPRA, Texas Natural Resources Code, Title 2, Chapter 40, Subchapter C, §§40.109 - 40.113 are affected by the amendment.

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

Filed with the Office of the Secretary of State on January 7, 2013.

TRD-201300025

Larry Laine
Chief Clerk, Deputy Land Commissioner
General Land Office
Effective date: January 27, 2013
Proposal publication date: October 19, 2012
For further information, please call: (512) 475-1859



SUBCHAPTER C. SPILL RESPONSE

31 TAC §§19.31 - 19.34, 19.37

The General Land Office (GLO) adopts amendments to §§19.31 - 19.34 and 19.37, concerning Oil Spill Prevention and Response, Spill Response. The adopted amendments are designed to enhance and clarify GLO procedures under the rules and reflect editorial changes. These amendments are adopted without changes to the proposed text as published in the October 19, 2012, issue of the *Texas Register* (37 TexReg 8281) and will not be republished.

INTRODUCTION AND BACKGROUND

The adopted amendments to the text of §§19.31 - 19.34 and 19.37 clarify provisions, update references, and add definitions to the chapter. The adopted amendment to §19.31 clarifies the jurisdictional provision by specifying the type of discharge. The adopted amendment to §19.32 clarifies the jurisdictional provision by specifying the type of discharge. The adopted amendments to §19.33 and §19.34 clarify the location of discharges. The adopted amendment to §19.37 clarifies wording and adds a time requirement. The effect of these amendments is to clarify the exact type and location of discharge subject to the rules. The changes will aid the public understanding of OSPRA and administrative rules.

COMMENTS BY THE PUBLIC

The GLO did not receive any comments on the amendments.

STATUTORY AUTHORITY

The amendments are adopted under OSPRA, Texas Natural Resources Code, Title 2, Chapter 40, Subchapter A, §40.007(a), which gives the commissioner of the GLO the authority to promulgate rules necessary and convenient to the administration of OSPRA.

STATUTORY SECTIONS AFFECTED

OSPRA, Texas Natural Resources Code, Title 2, Chapter 40, Subchapter C, §§40.109 - 40.113 are affected by the adopted amendments.

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

Filed with the Office of the Secretary of State on January 7, 2013.

TRD-201300026

Larry Laine
Chief Clerk, Deputy Land Commissioner
General Land Office
Effective date: January 27, 2013
Proposal publication date: October 19, 2012
For further information, please call: (512) 475-1859



SUBCHAPTER D. COMPENSATION AND LIABILITY

31 TAC §19.55

The General Land Office (GLO) adopts amendments to §19.55, concerning Oil Spill Prevention and Response, Compensation and Liability. The adopted amendments are designed to enhance and clarify GLO procedures under the rules and reflect editorial changes. These amendments are adopted without changes to the proposed text as published in the October 19, 2012, issue of the *Texas Register* (37 TexReg 8282) and will not be republished.

INTRODUCTION AND BACKGROUND

The adopted amendments to the text of §19.55 clarify provisions, update references, and add definitions to the chapter. The adopted amendments to §19.55 delete superfluous text, update agency names, and clarify the requirements of the minimum response cost. The effect of this change is that the Response Cost Section is current and more understandable to the general public.

COMMENTS BY THE PUBLIC

The GLO did not receive any comments on the amendments.

STATUTORY AUTHORITY

The amendments are adopted under adopted under OSPRA, Texas Natural Resources Code, Title 2, Chapter 40, Subchapter A, §40.007(a), which gives the commissioner of the GLO the authority to promulgate rules necessary and convenient to the administration of OSPRA.

STATUTORY SECTIONS AFFECTED

OSPRA, Texas Natural Resources Code, Title 2, Chapter 40, Subchapter C, §§40.109 - 40.113 are affected by the adopted amendments.

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

Filed with the Office of the Secretary of State on January 7, 2013.

TRD-201300027

Larry Laine
Chief Clerk, Deputy Land Commissioner
General Land Office
Effective date: January 27, 2013
Proposal publication date: October 19, 2012
For further information, please call: (512) 475-1859



SUBCHAPTER E. VESSELS

31 TAC §19.60, §19.61

The General Land Office (GLO) adopts amendments to §19.60 and §19.61, concerning Oil Spill Prevention and Response, Vessels. The amendments are designed to enhance and clarify GLO procedures under the rules and reflect editorial changes. The amendments are adopted without changes to the proposed text as published in the October 19, 2012, issue of the *Texas Register* (37 TexReg 8284) and will not be republished.

INTRODUCTION AND BACKGROUND

The adopted amendments to §19.60 and §19.61 clarify provisions and update references. The amendments to §19.60 delete superfluous text, update language and add a new email contact. The amendments to §19.61 delete superfluous text, clarify vessel type, clarify text and update the notification procedure. The effect of these amendments will be a clearer and more current version of the rules for public consumption.

COMMENTS BY THE PUBLIC

The GLO did not receive any comments on the amendments.

STATUTORY AUTHORITY

The amended sections are adopted under OSPRA, Texas Natural Resources Code, Title 2, Chapter 40, Subchapter A, §40.007(a), which gives the commissioner of the GLO the authority to promulgate rules necessary and convenient to the administration of OSPRA.

STATUTORY SECTIONS AFFECTED

OSPRA, Texas Natural Resources Code, Title 2, Chapter 40, Subchapter C, §§40.109 - 40.113 are affected by the adopted amendments.

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

Filed with the Office of the Secretary of State on January 7, 2013.

TRD-201300029

Larry Laine

Chief Clerk, Deputy Land Commissioner

General Land Office

Effective date: January 27, 2013

Proposal publication date: October 19, 2012

For further information, please call: (512) 475-1859



SUBCHAPTER F. DERELICT VESSELS AND STRUCTURES

31 TAC §19.71, §19.73

The General Land Office (GLO) adopts amendments to §19.71 and §19.73, concerning Oil Spill Prevention and Response, Derelict Vessels and Structures. The amendments are designed

to enhance and clarify GLO procedures under the rules and reflect editorial changes. The amendments are adopted without changes to the proposed text as published in the October 19, 2012, issue of the *Texas Register* (37 TexReg 8286) and will not be republished.

INTRODUCTION AND BACKGROUND

The adopted amendments to §19.71 and §19.73 clarify provisions, update references and add definitions to the chapter. The adopted amendment to §19.71 adds a new definition for "un-numbered vessel." The adopted amendment to §19.73 adds a new subsection (d) relating to unnumbered vessels. The effect of these amendments is to allow for immediate removal of vessels which are missing registration numbers and that pose either navigational hazards or threats to public health.

COMMENTS BY THE PUBLIC

The GLO did not receive any comments on the amendments.

STATUTORY AUTHORITY

The amended sections are adopted under adopted under OSPRA, Texas Natural Resources Code, Title 2, Chapter 40, Subchapter A, §40.007(a), which gives the commissioner of the GLO the authority to promulgate rules necessary and convenient to the administration of OSPRA.

STATUTORY SECTIONS AFFECTED

OSPRA, Texas Natural Resources Code, Title 2, Chapter 40, Subchapter C, §§40.109 - 40.113 are affected by the adopted amendments.

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

Filed with the Office of the Secretary of State on January 7, 2013.

TRD-201300030

Larry Laine

Chief Clerk, Deputy Land Commissioner

General Land Office

Effective date: January 27, 2013

Proposal publication date: October 19, 2012

For further information, please call: (512) 475-1859



TABLES & GRAPHICS

Graphic images included in rules are published separately in this tables and graphics section. Graphic images are arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic images are indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word "Figure" followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph, and so on.

**Consumer Bill of Rights for Credit Life, Credit Disability,
and Credit Involuntary Unemployment Insurance**

AVISO: Este documento es un resumen de sus derechos como asegurado. Usted tiene el derecho a llamar a su compañía y pedir una copia de estos derechos en español.

What is the Bill of Rights?

This Bill of Rights is a summary of your rights and does not become a part of your policy. The Texas Department of Insurance (TDI) adopted this Bill of Rights and requires insurance companies to provide you a copy when they issue your policy. In this document the term “policy” includes a certificate of insurance.

Texas law gives you certain rights regarding your credit life, credit disability (also called credit accident and health), and credit involuntary unemployment insurance. This Bill of Rights identifies your rights specified by rule or state statute but does not include all of your rights. Some exceptions to the rights are not listed here, and legislative or regulatory changes enacted since the adoption of this notice are not reflected. Contact TDI if your agent, company, or adjuster tells you that one of these rights does not apply to you.

This Bill of Rights does not address your responsibilities. Your responsibilities concerning your insurance can be found in your policy. Failure to meet your obligations may affect your rights. Many people do not file credit insurance claims because they forget they have coverage. Keep this notice and your policy with your other important documents.

The Bill of Rights

Purchasing Credit Insurance

1. A creditor must provide a written statement describing any insurance you must provide in order to receive credit.
2. If credit insurance is required, a creditor cannot require that you buy it from a particular company or agent and must advise you of your right to obtain credit insurance from other sources before you complete the loan process. You may purchase a policy yourself, or you may be able to use an existing credit insurance policy.
3. Your application and policy must include your total cost for credit insurance over the term of the loan and the amount, term, and a brief description of the coverage. The total cost must be separate from any other charges. When you buy credit insurance, your creditor must give you a copy of your policy, your application for insurance, or a notice of proposed insurance.
4. An insurance company may not refuse to insure you, limit your coverage, or charge a different rate for the same coverage because of your race, color, religion, or national origin.
5. Unless it is based on sound underwriting or actuarial principles or permitted by applicable law or rule, an insurance company cannot refuse to insure you, limit your coverage, or charge a different rate for the same coverage because of your age, gender, marital status, geographic location, disability, or partial disability. Under some circumstances, an insurer may be able to refuse coverage or charge a different rate based on age or limit coverage based on a disability.

For example, an insurer may refuse to issue you a credit health policy if you are age 65 or older or charge you a higher premium based on your age for a credit life policy.

Restrictions on Premiums and Coverage

6. A creditor cannot charge you more for credit insurance than what the creditor paid for that insurance when they purchase it from the insurance company.
7. A creditor cannot require you to obtain credit insurance in an amount larger than the total amount of your debt.
8. If your rate changes, a creditor must notify you at least 30 days before any unscheduled premium increases are direct drafted from your bank account. Your company must send you notice by U.S. mail and it must include a toll-free number and mailing address to accept your objection. You must object to the increased draft at least five days before it goes into effect to stop the direct draft.
9. A credit card company must give you at least 30 days written notice before changing credit insurance providers. The notice must tell you about any rate increase, your right to cancel your insurance, and explain any major decrease, if any, in coverage resulting from the change.

Cancellation and Refunds

10. You can cancel your credit insurance policy at any time. Before canceling your policy, you should contact your creditor or attorney to make sure you are not breaking the terms of your loan.
11. If your loan is paid off early, you are entitled to a refund or accounting of the unearned premiums, unless the amount is less than \$3.
12. Your creditor has 60 days to tell your insurance company that you have paid off your loan. They must give the insurance company your name, address, and the date your debt was paid off so that you may be sent a refund of unearned premiums.

Protecting Your Privacy

13. You may prevent an insurance company from disclosing your private personal financial information to unaffiliated companies. Some examples of private personal information are income, social security number, credit history, and premium payment history. You may not prevent the release of information that is publicly available, information the company must share in order to conduct ordinary business activities, or when the disclosure is required by law.
14. Before sharing your private personal financial information with an unaffiliated business, an insurance company must provide you with a privacy notice explaining that it intends to share your private personal financial information.
15. An insurance company must give you at least 30 days from the date you receive the privacy notice to object, or "opt out," of the disclosure of your personal financial information. You have the right to opt out at any time, and your decision remains in effect until you revoke it.

Filing a Claim on your Credit Insurance

16. When you, or your beneficiary, file a claim, your insurance company must acknowledge receipt of the claim, request any additional information relevant to the claim, and commence any investigation within 15 days.

17. When the insurance company receives all the information necessary to process the claim, it has 15 business days (30 days if the company believes the loss occurred due to arson) to send a written explanation denying the claim or a written notice approving the claim. The company can extend this deadline for an additional 45 days if it sends a written explanation of why it needs more time.
18. Your insurance company must pay a claim within five (5) days of the date you, or your beneficiary, receive written notice that the company approved your claim.
19. Your insurance company must provide a written notice stating the reason for any claim that it denies. An insurance company cannot deny a claim because of a false statement on your application unless there is proof that the misstatement was material, or contributed, to the cause of your claim. If the company discovers a false statement, they must notify you within 90 days in order to use the misrepresentation as a defense at trial.
20. You, or your beneficiary, can reject any settlement amount offered by the insurance company.
21. If there is a claim on your policy and the benefits paid exceed the debt pay-off, the settlement must include a payment to you, or your beneficiary, for the excess amount.
22. You, or your beneficiary, may sue your insurance company for the claim amount plus 18 percent annual interest and attorney's fees if the claim is covered under your policy and the company fails to meet the required claims processing or payment deadlines listed in Rights 16, 17, and 18.

Enforcing Your Rights

23. You can file a complaint with TDI about an insurance company or insurance matter.
24. You have the right to sue your insurance company with or without an attorney.
25. You may request that TDI make or change rules regarding any insurance issue that concerns you.

Where to Find More Information

<p>To file a complaint with TDI about an insurance company or insurance matter or for more information about:</p> <ul style="list-style-type: none"> • your rights as an insurance consumer • the license status of an insurance company or agent • the financial condition of an insurance company • the complaint history of an insurance company or agent • insurance companies' rates, and • other insurance consumer concerns. 	<p>Texas Department of Insurance Consumer Protection Mail Code 111-1A P.O. Box 149091 Austin, Texas 78714-9091 Consumer Helpline - 1-800-252-3439 or 512-463-6515 TDI Publication and Complaint Form Order Line - 1-800-599-7467 or 512-305-7211. The order line is available 24 hours a day, seven days a week. Email - ConsumerProtection@tdi.texas.gov Website - www.tdi.texas.gov</p>
<p>To request an administrative rule or rule change.</p>	<p>Texas Department of Insurance Attn.: Commissioner (Mail Code 113-2A) P.O. Box 149104 Austin, Texas 78714-9104</p>

For questions, comments, or a list of the specific law(s) and rule(s) summarized in this Bill of Rights.	Office of Public Insurance Counsel 333 Guadalupe St., Suite 3-120 Austin, Texas 78701 1-877-611-6742 Website - www.opic.state.tx.us
For information about noninsurance credit issues.	Office of Consumer Credit Commissioner Consumer Helpline - 1-800-538-1579 Email Address - info@occc.state.tx.us Website - www.occc.state.tx.us
For information about your policy or to make a claim or complaint with your insurance company.	Your insurance company must maintain a toll-free number and include that number on each insurance policy.

**DECLARACIÓN DE DERECHOS DEL CONSUMIDOR
SEGUROS DE VIDA DE CRÉDITO, SEGURO DE CRÉDITO POR INCAPACIDAD, Y SEGURO
DE CRÉDITO POR DESEMPLEO INVOLUNTARIO**

¿Qué es la Declaración de Derechos?

Esta Declaración de Derechos es un resumen de sus derechos, y no forma parte de su póliza. El Departamento de Seguros de Texas (Texas Department of Insurance - TDI, por su nombre y siglas en inglés) adoptó esta Declaración de Derechos y exige que las compañías de seguros le proporcionen una copia cuando le expidan su póliza. En este documento, el término "póliza" incluye un certificado de seguro.

La ley de Texas le otorga ciertos derechos respecto a su seguro de vida de crédito, seguro de crédito por incapacidad (también llamado crédito de accidente y salud), y seguro de crédito por desempleo involuntario. Esta Declaración de Derechos identifica sus derechos, los cuales han sido especificados por reglamento o por estatuto estatal, pero no incluye todos sus derechos. Algunas excepciones a los derechos no están incluidas aquí, así como tampoco reflejan los cambios legislativos o reguladores que se adoptaron desde la última vez que se revisó este aviso. Si su agente, compañía o ajustador le dice que alguno de estos derechos no le corresponde a usted, comuníquese con TDI.

Esta Declaración de Derechos no menciona las responsabilidades suyas. Sus responsabilidades referentes a su seguro pueden ser encontradas en su póliza. No cumplir con sus obligaciones podría afectar sus derechos. Muchas personas no presentan reclamaciones de seguro de crédito porque olvidan que tienen esta cobertura. Mantenga este aviso y su póliza junto con sus otros documentos importantes.

La Declaración de Derechos

Cómo Comprar un Seguro de Crédito

1. Un acreedor tiene que proporcionar una declaración por escrito y describir cualquier seguro que usted tiene que proporcionar para poder recibir el crédito.
2. Si un crédito de seguro es requerido, un acreedor no puede requerir que usted lo compre de una compañía o agente en particular y tiene que informarle sobre su derecho a obtener el seguro de crédito de otras fuentes antes de que usted complete el proceso del préstamo. Usted puede comprar una póliza por sí mismo, o es posible que pueda usar una póliza de seguro de crédito existente.
3. Su solicitud y póliza tienen que incluir el costo total del seguro de crédito por el término del préstamo, así como la cantidad, término, y una breve descripción de la cobertura. El total del costo tiene que ser separado de cualquier otro cargo. Cuando usted compra un seguro de crédito, su acreedor tiene que darle una copia de su póliza, su solicitud para obtener el seguro, o un aviso del seguro propuesto.

4. Una compañía de seguros no puede rehusarse a asegurarlo, limitarle su cobertura, o cobrar un precio diferente por la misma cobertura debido a su raza, color, religión u origen nacional.
5. A menos que esté basado en principios aseguradores sólidos de actuario o esté permitido por la ley o un reglamento aplicable, una aseguradora no puede rehusarse a asegurarlo, limitarle su cobertura, o cobrar un precio diferente por la misma cobertura debido a su edad, sexo, estado civil, ubicación geográfica, incapacidad, o incapacidad parcial. Bajo ciertas circunstancias, una aseguradora puede rehusarse a asegurar o cobrar un precio diferente basándose en la edad o limitar la cobertura basándose en una incapacidad. Por ejemplo, una aseguradora puede rehusarse a expedirle una póliza de crédito de salud si usted tiene 65 años de edad o más o cobrarle un precio más alto por su prima, basándose en su edad para una póliza de seguro de vida de crédito.

Restricciones en las Primas y Coberturas

6. Un acreedor no puede cobrarle más por un seguro de crédito de lo que el acreedor pagó cuando se lo compró a la compañía de seguros.
7. Un acreedor no puede requerir que usted obtenga un seguro de crédito en una cantidad mayor que la cantidad total de su deuda.
8. Si su precio cambia, el acreedor tiene que notificarle por lo menos 30 días antes de que cualquier aumento no programado a la prima sea retirado directamente de su cuenta bancaria. Su compañía tiene que enviarle un aviso por medio del correo postal de los Estados Unidos y dicho aviso debe incluir un número de teléfono gratuito y una dirección de correo postal para aceptar su objeción. Usted tiene que oponerse al aumento por lo menos cinco días antes de que entre en vigor para poder evitar que los fondos sean retirados automáticamente de su cuenta bancaria.
9. Una compañía de tarjeta de crédito tiene que darle un aviso por escrito por lo menos 30 días antes de cambiar de proveedor de seguro de crédito. El aviso tiene que informarle sobre cualquier aumento de precio, su derecho para cancelar su seguro, y explicar cualquier reducción importante en la cobertura que resulte del cambio, si es que la hay.

Cancelación y Reembolsos

10. Usted puede cancelar su póliza de seguro de crédito en cualquier momento. Antes de cancelar su póliza, usted debe comunicarse con su acreedor o abogado para asegurarse de no estar quebrantando los términos de su préstamo.
11. Si su préstamo es pagado anticipadamente, usted tiene derecho a que le reembolsen cualquier prima que no ha sido usada, al menos que la cantidad sea menos de \$3.
12. Su acreedor tiene 60 días para informarle a su compañía de seguros que ha pagado su préstamo. Ellos tienen que entregar a la compañía de seguros su nombre, dirección, y la fecha en que la deuda fue pagada para que usted pueda recibir un reembolso por las primas que no fueron usadas.

Protección de su Privacidad

13. Usted puede evitar que una compañía de seguros revele sus datos financieros personales privados a las compañías que no están afiliadas. Algunos ejemplos de los datos personales privados son el ingreso, el número de seguro social, la información de crédito y su historial de pago de primas. Usted no puede prevenir que se revelen los datos que están públicamente disponibles, así como la información que la compañía tiene que compartir para poder llevar a cabo las actividades ordinarias del negocio, o cuando por ley se debe revelar la información.
14. Antes de compartir sus datos financieros personales privados con un negocio que no está afiliado, una compañía de seguros tiene que darle a usted un aviso de privacidad que explica que tiene la intención de compartir sus datos financieros personales privados.
15. Una compañía de seguros tiene que darle un mínimo de 30 días, a partir de la fecha en que usted recibe el aviso de privacidad para que pueda rehusarse a permitir que revelen sus datos financieros personales privados. El rehusarse a que revelen sus datos se conoce como optar por no participar (opting out, por su nombre en inglés). Usted tiene derecho a optar por no participar (opt out) en cualquier momento y su decisión para optar por no participar permanece vigente, a menos que usted la revoque.

Cómo Presentar una Reclamación en su Seguro de Crédito

16. Cuando usted, o su beneficiario, presentan una reclamación, su compañía de seguros tiene que acusar recibo de la reclamación, solicitar cualquier información adicional que sea relevante a la misma y comenzar cualquier investigación dentro de un plazo de 15 días.
17. Cuando la compañía de seguros recibe toda la información que es requerida para procesar la reclamación, la compañía tiene 15 días hábiles (30 días si la compañía cree que la pérdida ocurrió a causa de un incendio premeditado) para enviar una explicación por escrito donde explica el porqué ha denegado la reclamación o un aviso por escrito donde aprueba la reclamación. La compañía puede extender este período de tiempo hasta por 45 días si le envía un aviso por escrito donde le explica el motivo por el cual necesita más tiempo.
18. Su compañía de seguros tiene que pagar dentro de cinco (5) días, a partir de la fecha en que usted, o su beneficiario, reciben un aviso por escrito donde se les informa que la compañía de seguros aprobó su reclamación.
19. Su compañía de seguros tiene que proporcionar un aviso por escrito donde informa las razones por las cuales cualquier reclamación es denegada. Una compañía de seguros no puede denegar una reclamación debido a una declaración falsa hecha en su solicitud al menos que existan pruebas de que la declaración falsa fue material, o contribuida, a la causa de su reclamación. Si la compañía descubre una declaración falsa, deben notificarle

a usted esta información dentro de 90 días para poder utilizar la declaración falsa como material de defensa en un juicio.

20. Usted, o su beneficiario pueden rechazar cualquier cantidad de liquidación que es ofrecida por la compañía de seguros.
21. Si existe una reclamación en su póliza y los beneficios que han sido pagados sobrepasan la cantidad de liquidación de la deuda, el pago de liquidación tiene que incluir un pago a usted, o a su beneficiario, por la cantidad en exceso.
22. Usted, o su beneficiario, pueden demandar a su compañía de seguros por la cantidad de la reclamación, más un 18 por ciento de interés anual y honorarios de abogado, si la reclamación está cubierta bajo su póliza y la compañía no cumple con el proceso que es requerido para las reclamaciones o con los marcos de tiempo para el pago que se muestran en los Derechos 16, 17 y 18.

El Cumplimiento de sus Derechos

23. Usted puede presentar una queja ante TDI sobre cualquier compañía de seguros o asunto de seguros.
24. Usted tiene derecho a demandar a su compañía de seguros con o sin un abogado.
25. Usted puede solicitar que TDI establezca o cambie reglamentos, respecto a cualquier cuestión de seguros que a usted le interese.

Donde Encontrar Más Información

<p>Para presentar una queja ante TDI sobre una compañía o asunto de seguros o para obtener más información sobre:</p> <ul style="list-style-type: none"> • sus derechos como consumidor de seguros • el estado de la licencia de una compañía de seguros o agente • la condición financiera de una compañía de seguros • el historial de quejas de una compañía de seguros o agente • los precios de una compañía de seguros, y • otros asuntos relacionados con el consumidor. 	<p>Texas Department of Insurance Consumer Protection Mail Code 111-1A P.O. Box 149091 Austin, Texas 78714-9091</p> <p>Línea de Ayuda al Consumidor - 1-800-252-3439 o 512-463-6515 Línea para Pedidos de Publicaciones y Formularios de Queja de TDI - 1-800-599-7467 o 512-305-7211.</p> <p>La línea para pedidos está disponible las 24 horas del día, siete días a la semana. Email - ConsumerProtection@tdi.texas.gov Sitio Web - www.tdi.texas.gov</p>
<p>Para solicitar que se establezca un reglamento administrativo o para que se hagan cambios a un reglamento.</p>	<p>Texas Department of Insurance Attn.: Commissioner (Mail Code 113-2A) P.O. Box 149104 Austin, Texas 78714-9104</p>

<p>Para preguntas, comentarios, o para una lista de la ley(es) y reglamento(s) que han sido resumidos en esta Declaración de Derechos.</p>	<p>Office of Public Insurance Counsel 333 Guadalupe St., Suite 3-120 Austin, Texas 78701 1-877-611-6742 Sitio Web - www.opic.state.tx.us</p>
<p>Para obtener información sobre asuntos de crédito, no relacionados con el seguro.</p>	<p>Office of Consumer Credit Commissioner Línea de Ayuda al Consumidor - 1-800-538-1579 Email - info@occc.state.tx.us Sitio Web - www.occc.state.tx.us</p>
<p>Para obtener información sobre su póliza o para presentar una reclamación o queja con su compañía de seguros.</p>	<p>Su compañía de seguros tiene que mantener un número de teléfono gratuito y tiene que incluir el número en cada póliza de seguro.</p>

IN

ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings issued by the Office of Consumer Credit Commissioner, and consultant proposal requests and awards. State agencies also may publish other notices of general interest as space permits.

Texas Department of Agriculture

Request for Proposals: 2013 - Rural Health Facility Capital Improvement Grant

The Texas Department of Agriculture (TDA), State Office of Rural Health (SORH), is accepting proposals for the Rural Health Facility Capital Improvement Grant (Grant). The Grant is designed to support rural public and non-profit hospitals in making capital improvements to existing facilities, in constructing new health facilities and in purchasing capital equipment. Proposals must be received by TDA at the close of business (5:00 p.m. CST) on Friday, February 15, 2013.

Funding Parameters. Contingent upon available funds, each hospital selected may be eligible for reimbursement in an amount not to exceed \$50,000 per hospital. Hospitals must provide 10% of the funds requested as a match. The SORH shall determine whether any costs submitted by a hospital are allowable for reimbursement. Contingent upon available funds, and in accordance with Texas Government Code, §487.301, allowable expenses include the acquisition, construction, or improvement of a facility, equipment, or real property for use in providing health services. This includes designing, engineering, supervising, surveying, and other expenses incidental to the acquisition, construction or improvements, or the purchase of capital equipment, including information systems hardware and software for a health facility.

Selected proposals will receive funding on a **cost reimbursement** basis. Funds will not be advanced to grantees.

Eligibility. Eligible applicants include rural public and non-profit hospitals. Applicants must match 10% of the amount of the funds requested.

Submitting an Application. Applications are currently being accepted, and must be submitted on the form provided by TDA by the submission deadline. Application and guidance documents are available on TDA's website at: <http://www.texasagriculture.gov/GrantsServices/RuralEconomicDevelopment/StateOfficeofRuralHealth/RuralHealthGrants.aspx>, or upon request from TDA by calling (512) 936-6730.

Applications must be complete and have all required documentation to be considered. TDA reserves the right to request additional information or documentation to determine eligibility. Applications must be signed by the authorized representative.

Applications may be submitted by mail or hand-delivered to TDA headquarters in Austin, Texas. If mailing the application, make sure it is properly addressed and has the correct postage.

Deadline for Submission of Responses. A complete, hard copy application with signature must be received by TDA at the close of business (5:00 p.m. CST) on **Thursday, January 31, 2013**. See mailing information below.

Complete applications with signature must be submitted to:

Mailing Address: Texas Department of Agriculture, State Office of Rural Health, P.O. Box 12847, Austin, Texas 78711.

Or (for overnight delivery):

Street Address: Texas Department of Agriculture, State Office of Rural Health, 1700 N. Congress, 11th Floor, Austin, Texas 78701.

TDA will send an acknowledgement receipt by email indicating the response was received.

Assistance and Questions. For questions regarding submission of the proposal and TDA documentation requirements, please contact Dave Darnell, Senior Program Administrator, at (512) 936-6730 or by email at David.Darnell@TexasAgriculture.gov.

Texas Public Information Act. Once submitted, all applications shall be deemed to be the property of the TDA and are subject to the Texas Public Information Act, Texas Government Code, Chapter 552.

TRD-201300022

Dolores Alvarado Hibbs

General Counsel

Texas Department of Agriculture

Filed: January 7, 2013

Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in §§303.003, 303.005, and 303.009, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 01/07/13 - 01/13/13 is 18% for Consumer¹/Agricultural/Commercial² credit through \$250,000.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 01/07/13 - 01/13/13 is 18% for Commercial over \$250,000.

The monthly ceiling as prescribed by §303.005³ for the period of 01/01/13 - 01/31/13 is 18% for Consumer/Agricultural/Commercial/credit through \$250,000.

The monthly ceiling as prescribed by §303.005 for the period of 01/01/13 - 01/31/13 is 18% for Commercial over \$250,000.

¹ Credit for personal, family or household use.

² Credit for business, commercial, investment or other similar purpose.

³ For variable rate commercial transactions only.

TRD-201300006

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: January 2, 2013

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in §§303.003, 303.005, and 303.009, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 01/14/13 - 01/20/13 is 18% for Consumer¹/Agricultural/Commercial² credit through \$250,000.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 01/14/13 - 01/20/13 is 18% for Commercial over \$250,000.

¹ Credit for personal, family or household use.

² Credit for business, commercial, investment or other similar purpose.

TRD-201300032

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: January 7, 2013

Texas Education Agency

Request for Proficiency Tests for the Assessment of Limited English Proficient Students

Description. The Texas Education Agency (TEA) is notifying assessment publishers that proficiency assessments and/or achievement tests may be submitted for review for the *List of State Approved Tests for the Assessment of Limited English Proficient Students*. Texas Education Code (TEC), §29.056(a)(2), authorizes the TEA to compile a list of approved assessments for the purposes of identifying students as limited English proficient for entry into or exit (when appropriate) from bilingual education and/or English as a second language (ESL) programs; annually assessing oral language proficiency in English and Spanish when required; and measuring reading and writing proficiency in English and Spanish for program placement. The state-approved tests placed on the list must be based on scientific research and must measure oral language proficiency in listening and speaking in English and Spanish from Prekindergarten (PK)-Grade 12. Assessments must also measure reading and writing in English and Spanish from PK-Grade 12.

Norm-referenced standardized achievement tests in English will be used for identification and entry into programs and for exit from programs for Grades 1 and 2 and may be used as formative assessments.

Norm-referenced standardized achievement tests in Spanish may be used for placement or language development purposes only. All tests to be included on the *List of State Approved Tests for the Assessment of Limited English Proficient Students* must be re-normed at least every eight years to meet the criteria specified in the TEC, §39.032, which requires that standardization norms not be more than eight years old at the time the test is administered. Only new assessments, newly normed assessments, and/or modified/updated assessments must be submitted for evaluation at this time.

The Assessment Committee, comprised of stakeholders from throughout the state, will review and approve the 2013-2014 *List of State Approved Tests for the Assessment of Limited English Proficient Students*.

Selection Criteria. Assessment publishers will be responsible for submitting tests that they wish to be reviewed for consideration for inclusion on the 2013-2014 *List of State Approved Tests for the Assessment of Limited English Proficient Students*. All tests submitted for review must be based on scientific research and must measure oral language proficiency in listening and speaking in English and Spanish from PK-Grade 12. Assessments must measure reading and writing in English and Spanish from PK-Grade 12 and must meet the state criteria for reliability and validity. Therefore, technical manuals must also be submitted and must be available for the review of assessments to be held on Friday, February 22, 2013. Assessments must also mea-

sure specific proficiency levels in oral language, reading, and writing in English and Spanish. Assessment instruments (English and Spanish) submitted for review will be grouped in the following categories: (1) Oral Language Proficiency Tests in English in Listening and Speaking domains; (2) Oral Language Proficiency Tests in Spanish in Listening and Speaking domains; (3) Reading and Writing Proficiency in English; and (4) Reading and Writing Proficiency in Spanish. Publishers are not required to submit proposals for all categories.

Proposals must be submitted and presented on Friday, February 22, 2013, to be considered for inclusion on the 2013-2014 *List of State Approved Tests for the Assessment of Limited English Proficient Students*. Assessment publishers will be required to attend the review of the assessments on Friday, February 22, 2013, which will be held at the William B. Travis Building, Room G-100, PDC7, 1701 North Congress Avenue, Austin, Texas. Complete official sample test copies in English and Spanish with comprehensive explanations, including (1) scoring information; (2) norming data information, including ethnicity, gender, grade level, and geographic region; and (3) technical manuals with validity and reliability information, must be presented at that time. Only materials presented on Friday, February 22, 2013, will be considered for approval. Publishers must be available all day at the request of the committee and must make arrangements to pick up all materials at the end of the day. Any materials and/or revisions submitted after the deadline cannot be reviewed until the following year.

Further Information. For clarifying information, contact Susie Coultriss, State Director of Bilingual/ESL/Title III/Migrant, Texas Education Agency, (512) 463-9581.

TRD-201300047

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Filed: January 9, 2013

Texas Commission on Environmental Quality

Agreed Orders

The Texas Commission on Environmental Quality (TCEQ, agency or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075 requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075 requires that notice of the proposed orders and the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is February 19, 2013. TWC, §7.075 also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building C, 1st Floor, Austin, Texas 78753, (512) 239-2545 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the enforcement coordinator designated for each AO at the commission's central office at P.O. Box 13087, Austin, Texas

78711-3087 and must be received by 5:00 p.m. on February 19, 2013. Written comments may also be sent by facsimile machine to the enforcement coordinator at (512) 239-2550. The commission enforcement coordinators are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075 provides that comments on the AOs shall be submitted to the commission in **writing**.

(1) COMPANY: Baytown Enterprises, LLC dba Snappy Mart 4; DOCKET NUMBER: 2012-2681-PST-E; IDENTIFIER: RN101731362; LOCATION: Baytown, Chambers County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); PENALTY: \$2,625; ENFORCEMENT COORDINATOR: Rebecca Boyett, (512) 239-2503; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(2) COMPANY: Brownsville Independent School District; DOCKET NUMBER: 2012-1485-PST-E; IDENTIFIER: RN101646370; LOCATION: Brownsville, Cameron County; TYPE OF FACILITY: fleet refueling; RULE VIOLATED: 30 TAC §334.49(a)(1) and TWC, §26.3475(d), by failing to provide proper corrosion protection for the underground storage tank system; PENALTY: \$6,750; ENFORCEMENT COORDINATOR: Rebecca Boyett, (512) 239-2503; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(3) COMPANY: C C DISTRIBUTORS, INCORPORATED; DOCKET NUMBER: 2012-2643-PST-E; IDENTIFIER: RN101757284; LOCATION: Corpus Christi, Nueces County; TYPE OF FACILITY: fleet refueling; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tank for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); PENALTY: \$2,625; ENFORCEMENT COORDINATOR: Margarita Dennis, (512) 239-2578; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5503, (361) 825-3100.

(4) COMPANY: CIC CONSTRUCTION, INCORPORATED; DOCKET NUMBER: 2012-2645-PST-E; IDENTIFIER: RN104092887; LOCATION: Louise, Wharton County; TYPE OF FACILITY: commercial construction; RULE VIOLATED: 30 TAC §334.8(c)(5)(A)(i), by failing to possess a valid TCEQ delivery certificate prior to receiving fuel; PENALTY: \$875; ENFORCEMENT COORDINATOR: Margarita Dennis, (512) 239-2578; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(5) COMPANY: City of Bellville; DOCKET NUMBER: 2012-2644-PST-E; IDENTIFIER: RN102849742; LOCATION: Bellville, Austin County; TYPE OF FACILITY: fleet refueling; RULE VIOLATED: 30 TAC §334.8(c)(5)(A)(i), by failing to possess a valid TCEQ delivery certificate prior to receiving fuel; PENALTY: \$875; ENFORCEMENT COORDINATOR: Margarita Dennis, (512) 239-2578; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(6) COMPANY: City of Olney; DOCKET NUMBER: 2012-0808-MWD-E; IDENTIFIER: RN101610335; LOCATION: Olney, Young County; TYPE OF FACILITY: wastewater treatment plant; RULE VIOLATED: TWC, §26.121(a)(1), 30 TAC §305.125(1), (4) and (5), Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0010050001, Permit Conditions Number 2.d. and Operational Requirements Number 1, by failing to prevent the discharge of sewage

sludge into water in the state and by failing to properly operate and maintain the facility; TWC, §26.121(a)(1), 30 TAC §305.125(1), and TPDES Permit Number WQ0010050001, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; 30 TAC §305.125(1) and (9)(A) and TPDES Permit Number WQ0010050001, Monitoring and Reporting Requirements Number 7.c., by failing to report any effluent violation which deviates from the permitted limitation by more than 40% in writing to the Abilene Regional Office and the Enforcement Division within five working days of becoming aware of the non-compliance events; 30 TAC §305.125(1) and §319.11(d) and TPDES Permit Number WQ0010050001, Monitoring and Reporting Requirements Numbers 3(b) and 5, by failing to calibrate all flow measuring devices/meters on an annual basis; 30 TAC §305.125(11)(c) and §319.7(a) and TPDES Permit Number WQ0010050001, Monitoring and Reporting Requirements Number 3, by failing to maintain accurate monitoring records; 30 TAC §305.125(1) and (17) and TPDES Permit Number WQ0010050001, Sludge Provisions, by failing to submit a complete annual sludge; and 30 TAC §30.331(b) and §30.350(d) and TPDES Permit Number WQ0010050001, Other Requirements Number 1, by failing to utilize a wastewater operator holding a Category C license or higher to operate the facility; PENALTY: \$72,363; ENFORCEMENT COORDINATOR: Jill Russell, (512) 239-4564; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (325) 698-9674.

(7) COMPANY: City of Pearland; DOCKET NUMBER: 2012-1877-MWD-E; IDENTIFIER: RN101920007; LOCATION: Pearland, Brazoria County; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: TWC, §26.121(a)(1), 30 TAC §305.125(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0010134008, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limits; PENALTY: \$24,438; ENFORCEMENT COORDINATOR: Nick Nevid, (512) 239-2612; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(8) COMPANY: E. I. du Pont de Nemours and Company; DOCKET NUMBER: 2012-0624-AIR-E; IDENTIFIER: RN100542711; LOCATION: Orange, Orange County; TYPE OF FACILITY: chemical plant; RULE VIOLATED: 30 TAC §116.115(b)(2)(F) and (c) and §122.143(4), New Source Review Permit Number 20204, Special Conditions Number 1, Federal Operating Permit O2055, General Terms and Conditions and Special Terms and Conditions Number 8, and Texas Health and Safety Code, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$20,251; Supplemental Environmental Project offset amount of \$8,100 applied to Texas Parent Teacher Association (PTA) - Texas PTA Clean School Buses; ENFORCEMENT COORDINATOR: Kimberly Morales, (713) 422-8938; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(9) COMPANY: Eagle Construction and Environmental Services, LLC dba SWS Environmental Services; DOCKET NUMBER: 2012-1751-WQ-E; IDENTIFIER: RN100606516; LOCATION: Angleton, Brazoria County; TYPE OF FACILITY: petroleum and petroleum product distribution; RULE VIOLATED: 30 TAC §305.125(17) and Texas Pollutant Discharge Elimination System General Permit Number TXG830411, Standard Permit Conditions Number 7.f, by failing to timely submit discharge monitoring reports for the monitoring periods ending November 2011 - April 2012; PENALTY: \$1,500; ENFORCEMENT COORDINATOR: Remington Burklund, (512) 239-2611; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(10) COMPANY: EDDY PACKING COMPANY, INCORPORATED; DOCKET NUMBER: 2012-2018-WQ-E; IDENTIFIER: RN102496007; LOCATION: Yoakum, Lavaca County; TYPE OF FACILITY: meat processing; RULE VIOLATED: TWC, §26.121(a)(1) and 30 TAC §321.57, by failing to prevent the unauthorized discharge of industrial waste into or adjacent to water in the state; and 30 TAC §321.54(1)(A), by failing to design and operate a holding facility to retain all wastewater produced by the meat processing operation for a 30-day period, plus all rainwater which would enter the holding facilities as a result of a 25-year, 24-hour rainfall as defined by Hershfield, Rainfall Frequency Atlas of the United States (U.S.), U.S. Weather Bureau, Technical Paper Number 40, 1961, or the latest revision thereof; PENALTY: \$17,387; ENFORCEMENT COORDINATOR: Lanae Foard, (512) 239-2554; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5503, (361) 825-3100.

(11) COMPANY: EXXON MOBIL CORPORATION; DOCKET NUMBER: 2012-1630-IHW-E; IDENTIFIER: RN102579307; LOCATION: Baytown, Harris County; TYPE OF FACILITY: petroleum refinery; RULE VIOLATED: 30 TAC §335.2(b) and Industrial Hazardous Waste (IHW) Permit Number 50111, Provision Number I.I.C.1.d., by failing to prevent the disposal of IHW at an unauthorized facility; and 30 TAC §335.10 and IHW Permit Number 50111, Provision Number I.I.C.1.d., by failing to properly complete all manifests for the shipment of hazardous wastes; PENALTY: \$20,000; Supplemental Environmental Project offset amount of \$8,000 applied to City of Baytown - Hospital Remediation Project at Goose Creek; ENFORCEMENT COORDINATOR: Keith Frank, (512) 239-1203; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(12) COMPANY: HELFMAN ENTERPRISES, INCORPORATED dba River Oaks Chrysler Jeep Dodge Ram; DOCKET NUMBER: 2012-0827-PST-E; IDENTIFIER: RN100570076; LOCATION: Houston, Harris County; TYPE OF FACILITY: fleet refueling; RULE VIOLATED: 30 TAC §334.8(c)(4)(A)(vii) and (5)(B)(ii), by failing to timely renew a previously issued underground storage tank (UST) delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date; 30 TAC §334.8(c)(5)(A)(i) and TWC, §26.3467(a), by failing to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the UST; and 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the UST for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); PENALTY: \$4,355; ENFORCEMENT COORDINATOR: Abigail Lindsey, (512) 239-2576; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(13) COMPANY: J. D. Packaging, Incorporated; DOCKET NUMBER: 2012-1798-AIR-E; IDENTIFIER: RN106302649; LOCATION: Conroe, Montgomery County; TYPE OF FACILITY: sand and petroleum coke packaging plant; RULE VIOLATED: 30 TAC §101.4 and Texas Health and Safety Code, §382.085(a) and (b), by failing to prevent particulate matter emissions from affecting surrounding properties; PENALTY: \$1,312; ENFORCEMENT COORDINATOR: Rebecca Johnson, (361) 825-3423; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(14) COMPANY: KENT LUBRICATION CENTERS, LTD. dba AVIS Lube 105; DOCKET NUMBER: 2012-2650-PST-E; IDENTIFIER: RN101507853; LOCATION: Big Spring, Howard County; TYPE OF FACILITY: oil change and lube; RULE VIOLATED: 30 TAC §334.50(b)(2) and TWC, §26.3475(a), by failing to provide release detection for the pressurized piping associated with the underground storage tank system; PENALTY: \$2,625; ENFORCEMENT COOR-

DINATOR: Margarita Dennis, (512) 239-2578; REGIONAL OFFICE: 9900 West IH-20, Suite 100, Midland, Texas 79706, (432) 570-1359.

(15) COMPANY: MOTIVA ENTERPRISES LLC dba Port Arthur Refinery; DOCKET NUMBER: 2012-1591-PWS-E; IDENTIFIER: RN100209451; LOCATION: Port Arthur, Jefferson County; TYPE OF FACILITY: refinery with a public water supply; RULE VIOLATED: 30 TAC §290.46(e)(3)(A) and Texas Health and Safety Code (THSC), §341.033(a), by failing to operate the facility under the direct supervision of a water works operator who holds a Class D or higher license; 30 TAC §290.39(j) and THSC, §341.0351, by failing to notify the executive director prior to making any significant change to the facility's production, treatment, storage, pressure maintenance, or distribution system; 30 TAC §290.45(f)(1), (4) and (5), by failing to provide a water purchase contract that authorizes a maximum daily purchase rate or a uniform purchase rate to meet a minimum production capacity of 0.6 gallon per minute (gpm) per connection, and that authorizes a maximum hourly purchase rate plus the actual service pump capacity of at least 2.0 gpm per connection or is at least 1,000 gpm and able to meet peak hourly demands, whichever is less; and 30 TAC §290.46(u), by failing to plug abandoned wells or submit test results proving that the wells are in a non-deteriorated condition; PENALTY: \$1,490; ENFORCEMENT COORDINATOR: Katy Schumann, (512) 239-2602; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(16) COMPANY: Noorani Sirajuddin dba The Best Choice Food Mart; DOCKET NUMBER: 2012-1592-PST-E; IDENTIFIER: RN102353620; LOCATION: San Antonio, Bexar County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); PENALTY: \$2,500; ENFORCEMENT COORDINATOR: Sarah Davis, (512) 239-1653; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(17) COMPANY: PARSONS INTERNATIONAL, INCORPORATED dba Deer Park Coastal; DOCKET NUMBER: 2012-2097-PST-E; IDENTIFIER: RN101836229; LOCATION: Deer Park, Harris County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tank for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); PENALTY: \$3,375; ENFORCEMENT COORDINATOR: Margarita Dennis, (512) 239-2578; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(18) COMPANY: Texas Concrete Enterprise, L.L.C.; DOCKET NUMBER: 2012-1762-IWD-E; IDENTIFIER: RN102984374; LOCATION: Houston, Harris County; TYPE OF FACILITY: ready-mix concrete; RULE VIOLATED: 30 TAC §305.125(17) and §319.7(d), and Texas Pollutant Discharge Elimination System General Permit Number TXG111196, Standard Permit Conditions Number 7.f, by failing to timely submit discharge monitoring reports by the 20th day of the following month for the monitoring periods ending March 31, 2012 for Outfall 001, and March 31, 2012 - June 30, 2012 for Outfall 002; PENALTY: \$1,562; ENFORCEMENT COORDINATOR: Remington Burklund, (512) 239-2611; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(19) COMPANY: TGU, LLC dba The Ground Up Houston; DOCKET NUMBER: 2012-1711-MSW-E; IDENTIFIER: RN104386180; LOCATION: Houston, Harris County; TYPE OF FACILITY: mulching/composting; RULE VIOLATED: 30 TAC §328.5(f)(2)(B), by failing to maintain records to demonstrate training of staff in the

inspection of incoming loads to ensure that they contain no more than 10% incidental non-recyclable waste; and 30 TAC §328.5(h), by failing to make available a copy of the Fire Prevention and Suppression Plan to the local fire prevention authority having jurisdiction over the facility for review and coordination; PENALTY: \$2,500; ENFORCEMENT COORDINATOR: Rajesh Acharya, (512) 239-0577; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(20) COMPANY: Total Petrochemicals & Refining USA, Incorporated; DOCKET NUMBER: 2012-1362-AIR-E; IDENTIFIER: RN100212109; LOCATION: La Porte, Harris County; TYPE OF FACILITY: petrochemical manufacturing; RULE VIOLATED: Federal Operating Permit Number O1293, Special Terms and Conditions Number 11, New Source Review Permit Number 21538, Special Conditions Number 1, 30 TAC §122.143(4) and §116.115(c), and Texas Health and Safety Code, §382.085(b), by failing to comply with the allowable annual volatile organic compound emissions rate for the South Flare; PENALTY: \$67,125; ENFORCEMENT COORDINATOR: Rebecca Johnson, (361) 825-3423; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(21) COMPANY: TRI-CON, INCORPORATED dba Exxpress Mart 1; DOCKET NUMBER: 2012-2682-PST-E; IDENTIFIER: RN102222593; LOCATION: Bridge City, Orange County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.50(b)(2) and TWC, §26.3475(a), by failing to provide release detection for the pressurized piping associated with the underground storage tank system; PENALTY: \$2,625; ENFORCEMENT COORDINATOR: Rebecca Boyett, (512) 239-2503; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(22) COMPANY: Wayne Koontz dba Wayne's Beer & Wine Wayne's Texaco; DOCKET NUMBER: 2012-2091-PST-E; IDENTIFIER: RN101852069; LOCATION: Slaton, Lubbock County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); PENALTY: \$2,813; ENFORCEMENT COORDINATOR: Theresa Stephens, (512) 239-2540; REGIONAL OFFICE: 5012 50th Street, Suite 100, Lubbock, Texas 79414-3421, (806) 796-7092.

TRD-201300037

Kathleen C. Decker

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: January 8, 2013



Notice of Opportunity to Comment on Agreed Orders of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075 requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075 requires that notice of the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **February 19, 2013**. TWC, §7.075 also requires that the commission promptly consider any written comments received and that the com-

mission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the attorney designated for the AO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on February 19, 2013**. Comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The designated attorney is available to discuss the AO and/or the comment procedure at the listed phone number; however, TWC, §7.075 provides that comments on an AO shall be submitted to the commission in **writing**.

(1) COMPANY: ALIA ENTERPRISES, INC. d/b/a Monroe Shell; DOCKET NUMBER: 2012-1436-PST-E; TCEQ ID NUMBER: RN102423787; LOCATION: 8525 Gulf Freeway, Houston, Harris County; TYPE OF FACILITY: underground storage tank (UST) system and a convenience store with retail sales of gasoline; RULES VIOLATED: Texas Health and Safety Code, §382.085(b) and 30 TAC §115.245(2), by failing to verify proper operation of the Stage II equipment at least once every 12 months, and vapor space manifold and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first; PENALTY: \$6,158; STAFF ATTORNEY: Phillip Goodwin, Litigation Division, MC 175, (512) 239-0675; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(2) COMPANY: Kelly Harris DBA Kelly Harris Tire Wrecker and Quick Lube; DOCKET NUMBER: 2011-1216-MSW-E; TCEQ ID NUMBER: RN106144421; LOCATION: 930 North Palestine, Athens, Henderson County; TYPE OF FACILITY: retail tire sales; RULES VIOLATED: 30 TAC §328.56(d)(2) and §328.60(a), by failing to obtain a scrap tire storage site registration prior to storing more than 500 used or scrap tires on the ground; 30 TAC §330.15(c), by failing to prevent the unauthorized disposal of municipal solid waste; and 30 TAC §328.56(d)(4), by failing to monitor scrap tires for vectors and utilize vector control measures at least once every two weeks; PENALTY: \$17,500; STAFF ATTORNEY: Tammy Mitchell, Litigation Division, MC 175, (512) 239-0736; REGIONAL OFFICE: Tyler Regional Office, 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(3) COMPANY: Sabitha Nimma d/b/a Kens Minit Market 3; DOCKET NUMBER: 2011-1492-PST-E; TCEQ ID NUMBER: RN102964624; LOCATION: 2500 South Street, Nacogdoches, Nacogdoches County; TYPE OF FACILITY: underground storage tank (UST) system and a convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.7(d)(3), §334.8(c)(4)(A)(vii) and (5)(B)(ii), by failing to update the registration for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition and by failing to timely renew a previously issued UST delivery certificate; TWC, §26.3467(a) and 30 TAC §334.8(c)(5)(A)(i), by failing to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs; 30 TAC §334.10(b), by failing to maintain UST records and make them immediately

available for inspection upon request by agency personnel; 30 TAC §334.45(d)(1)(E)(vi), by failing to equip tank manways and dispenser sumps included in a secondary contained system with liquid sensing probes; TWC, §26.121 and 30 TAC §334.48(a), by failing to prevent an unauthorized discharge of gasoline into or adjacent to any water in the state; and TWC, §26.3475(c)(1) and 30 TAC §334.50(d)(1)(B)(ii), by failing to provide release detection by failing to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons; PENALTY: \$22,100; STAFF ATTORNEY: Mike Fishburn, Litigation Division, MC 175, (512) 239-0635; REGIONAL OFFICE: Beaumont Regional Office, 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(4) COMPANY: Tawakoni Waste Water Corporation; DOCKET NUMBER: 2010-1255-MWD-E; TCEQ ID NUMBER: RN103014973; LOCATION: approximately 1,000 feet southwest of the intersection of Farm-to-Market (FM) Road 429 and FM Road 721, on the northwest side of FM Road 429, between FM Road 429 and Lake Tawakoni, Quinlan, Hunt County; TYPE OF FACILITY: waste water treatment facility; RULES VIOLATED: 30 TAC §305.125(5) and Texas Pollutant Discharge Elimination System Permit (TPDES) Number WQ0014297001, Operational Requirements Number 4, by failing to provide adequate safeguards to prevent the discharge of untreated or inadequately treated waste during electrical power failures; 30 TAC §305.125(17) and TPDES Number WQ0014297001, Sludge Provisions, by failing to timely submit monitoring results at the intervals specified in the permit; 30 TAC §305.125(5) and TPDES Number WQ0014297001, Operational Requirements Number 1, by failing to ensure that the facility and all its systems of collection, treatment, and disposal are properly operated and maintained; TWC, §26.121(a) and TPDES Number WQ0014297001, Permit Conditions Number 2.g., by failing to prevent unauthorized discharges from the wastewater collection system into or adjacent to water in the state; 30 TAC §319.5(b) and TPDES Number WQ0014297001, Interim Effluent Limitations and Monitoring Requirements Numbers 1 and 2, by failing to monitor the effluent characteristics at the frequency specified in the water quality permit; 30 TAC §305.125(1) and TPDES Number WQ0014297001, Operational Requirements Number 1, by failing to maintain process control records at the facility; 30 TAC §305.125(1) and TPDES Number WQ0014297001, Monitoring and Reporting Requirements Number 7.c., by failing to report effluent violations which deviate from the permitted effluent limitations by more than 40% in writing to the Regional Office and the Enforcement Division within five working days of becoming aware of the noncompliance; 30 TAC §319.7(a) and (c), and TPDES Number WQ0014297001, Monitoring and Reporting Requirements Number 3.b., by failing to conduct adequate quality controls for testing equipment; and 30 TAC §319.7(c) and TPDES Number WQ0014297001, Monitoring and Reporting Requirements Numbers 1 and 2, by failing to accurately complete and submit discharge monitoring reports; PENALTY: \$23,095; STAFF ATTORNEY: Jim Sallans, Litigation Division, MC 175, (512) 239-2053; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

TRD-201300039

Kathleen C. Decker

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: January 8, 2013



Notice of Opportunity to Comment on Default Orders of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Default Orders (DOs). The commission staff proposes a DO when the staff has sent an executive director's preliminary report and petition (EDPRP) to an entity outlining the alleged violations; the proposed penalty; the proposed technical requirements necessary to bring the entity back into compliance; and the entity fails to request a hearing on the matter within 20 days of its receipt of the EDPRP or requests a hearing and fails to participate at the hearing. Similar to the procedure followed with respect to Agreed Orders entered into by the executive director of the commission, in accordance with Texas Water Code (TWC), §7.075 this notice of the proposed order and the opportunity to comment is published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **February 19, 2013**. The commission will consider any written comments received and the commission may withdraw or withhold approval of a DO if a comment discloses facts or considerations that indicate that consent to the proposed DO is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction, or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed DO is not required to be published if those changes are made in response to written comments.

A copy of each proposed DO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about the DO should be sent to the attorney designated for the DO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on February 19, 2013**. Comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The commission's attorneys are available to discuss the DOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075 provides that comments on the DOs shall be submitted to the commission in **writing**.

(1) COMPANY: GALVESTON SPEEDY STOP, L.L.C. d/b/a Seawall Exxon; DOCKET NUMBER: 2012-1429-PST-E; TCEQ ID NUMBER: RN102653425; LOCATION: 6026 Seawall Boulevard, Galveston, Galveston County; TYPE OF FACILITY: underground storage tank system and a convenience store with retail sales of gasoline; RULES VIOLATED: Texas Health and Safety Code (THSC), §382.085(b) and 30 TAC §115.246(7)(A), by failing to maintain Stage II records at the station and make them immediately available for review upon request by agency personnel; and THSC, §382.085(b) and 30 TAC §115.245(2), by failing to verify proper operation of the Stage II equipment at least once every 12 months or upon major system replacement or modification, whichever occurs first; PENALTY: \$6,780; STAFF ATTORNEY: David Terry, Litigation Division, MC 175, (512) 239-0619; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(2) COMPANY: S S S ENTERPRISES, INC. d/b/a On the Go Mart; DOCKET NUMBER: 2012-0572-PST-E; TCEQ ID NUMBER: RN101822039; LOCATION: 8901 Howard Drive, Houston, Harris County; TYPE OF FACILITY: underground storage tank (UST) system and convenience store with retail gasoline sales; RULES VIOLATED: TWC, §26.3475(d) and 30 TAC §334.49(a)(1), by failing to provide proper corrosion protection for the UST system; TWC, §26.3475(a) and (c)(1) and 30 TAC §334.50(b)(1)(A) and (2), by failing to monitor the USTs for releases at a frequency of at least once

every month (not to exceed 35 days between each monitoring), and by failing to provide release detection for the piping associated with the UST system; and 30 TAC §334.10(b)(1)(B), by failing to maintain all UST records and make them immediately available for inspection upon request by agency personnel; PENALTY: \$9,057; STAFF ATTORNEY: Rebecca M. Combs, Litigation Division, MC 175, (512) 239-6939; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

TRD-201300040

Kathleen C. Decker

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: January 8, 2013



Notice of Opportunity to Comment on Shutdown/Default Orders of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Shutdown/Default Orders (S/DOs). Texas Water Code (TWC), §26.3475 authorizes the commission to order the shutdown of any underground storage tank (UST) system found to be noncompliant with release detection, spill and overfill prevention, and/or, after December 22, 1998, cathodic protection regulations of the commission, until such time as the owner/operator brings the UST system into compliance with those regulations. The commission proposes a Shutdown Order after the owner or operator of a UST facility fails to perform required corrective actions within 30 days after receiving notice of the release detection, spill and overfill prevention, and/or, after December 22, 1998, cathodic protection violations documented at the facility. The commission proposes a Default Order when the staff has sent an executive director's preliminary report and petition (EDPRP) to an entity outlining the alleged violations; the proposed penalty; and the proposed technical requirements necessary to bring the entity back into compliance; and the entity fails to request a hearing on the matter within 20 days of its receipt of the EDPRP or requests a hearing and fails to participate at the hearing. In accordance with TWC, §7.075, this notice of the proposed order and the opportunity to comment is published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **February 19, 2013**. The commission will consider any written comments received and the commission may withdraw or withhold approval of an S/DO if a comment discloses facts or considerations that indicate that consent to the proposed S/DO is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction, or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed S/DO is not required to be published if those changes are made in response to written comments.

A copy of each proposed S/DO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about the S/DO shall be sent to the attorney designated for the S/DO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on February 19, 2013**. Written comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The commission attorneys are available to discuss the S/DOs and/or the comment procedure at the listed phone numbers; however, comments on the S/DOs shall be submitted to the commission in **writing**.

(1) COMPANY: FAMIS Corporation d/b/a Famis Food Mart; DOCKET NUMBER: 2012-0763-PST-E; TCEQ ID NUMBER: RN102266244; LOCATION: 1205 North Dickinson Drive, Rusk, Cherokee County; TYPE OF FACILITY: UST system with retail gasoline sales; RULES VIOLATED: TWC, §26.3475(a) and (c)(1) and 30 TAC §334.50(b)(1)(A) and (2), by failing to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), and by failing to provide proper release detection for the pressurized piping associated with the UST system; PENALTY: \$2,633; STAFF ATTORNEY: Rebecca M. Combs, Litigation Division, MC 175, (512) 239-6939; REGIONAL OFFICE: Tyler Regional Office, 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(2) COMPANY: Real & Retail Unlimited Inc. d/b/a Argyle Johnny Joes; DOCKET NUMBER: 2012-1205-PST-E; TCEQ ID NUMBER: RN103052502; LOCATION: 401 Highway 377 South, Argyle, Denton County; TYPE OF FACILITY: UST system and a convenience store with retail sales of gasoline; RULES VIOLATED: TWC, §26.3475(d) and 30 TAC §334.49(a)(1), by failing to provide proper corrosion protection for the UST system; TWC, §26.3475(a) and (c)(1) and 30 TAC §334.50(b)(1)(A) and (2), by failing to monitor the UST for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), and by failing to provide release detection for the piping associated with the UST; and 30 TAC §334.10(b), by failing to maintain UST records and make them immediately available for inspection upon request by agency personnel; PENALTY: \$10,806; STAFF ATTORNEY: Jacquelyn Boutwell, Litigation Division, MC 175, (512) 239-5846; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(3) COMPANY: SARDINIA INVESTMENT, INC. d/b/a Bellfort Food Mart; DOCKET NUMBER: 2012-0503-PST-E; TCEQ ID NUMBER: RN103052916; LOCATION: 6920 Bellfort Street, Houston, Harris County; TYPE OF FACILITY: UST system and a convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §37.815(a) and (b), by failing to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum USTs; TWC, §26.3475(d) and 30 TAC §334.49(a), by failing to provide proper corrosion protection for the UST system; TWC, §26.3475(a) and (c)(1) and 30 TAC §334.50(b)(1)(A) and (2), by failing to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), and by failing to provide proper release detection for the piping associated with the UST system; and 30 TAC §334.10(b), by failing to maintain all UST records and make them immediately available for inspection upon request by agency personnel; PENALTY: \$9,679; STAFF ATTORNEY: Rebecca M. Combs, Litigation Division, MC 175, (512) 239-6939; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(4) COMPANY: Yaser Belbisi d/b/a Econo Lube N Tune and Brakes, and Mohamed Hafsi d/b/a Econo Lube N Tune and Brakes; DOCKET NUMBER: 2012-1336-PST-E; TCEQ ID NUMBER: RN102041910; LOCATION: 9003 Huebner Road, San Antonio, Bexar County; TYPE OF FACILITY: used oil UST system and an automotive maintenance and repair facility; RULES VIOLATED: 30 TAC §37.815(a) and (b), by failing to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the UST; TWC, §26.3475(c)(1) and 30 TAC §334.50(b)(1)(A), by failing to monitor the UST for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring);

TWC, §26.3475(a) and 30 TAC §334.50(b)(2), by failing to provide release detection for the piping associated with the UST system; and 30 TAC §334.10(b), by failing to maintain UST records and make them immediately available for inspection upon request by agency personnel; PENALTY: \$7,425; STAFF ATTORNEY: Phillip Goodwin, Litigation Division, MC 175, (512) 239-0675; REGIONAL OFFICE: San Antonio Regional Office, 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

TRD-201300038

Kathleen C. Decker

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: January 8, 2013



Notice of Water Quality Applications

The following notices were issued on December 28, 2012 through January 4, 2013.

The following require the applicants to publish notice in a newspaper. Public comments, requests for public meetings, or requests for a contested case hearing may be submitted to the Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087, WITHIN 30 DAYS OF THE DATE OF NEWSPAPER PUBLICATION OF THE NOTICE.

INFORMATION SECTION

AQUA UTILITIES INC which operates Country View Estates Water Treatment Plant, a potable water production and distribution facility, has applied to the Texas Commission on Environmental Quality (TCEQ) for a major amendment to TCEQ Permit No. WQ0004860000 to authorize the discharge of diluted reverse osmosis reject water at a daily average flow not to exceed 35,000 gallons per day via Outfall 001. The current permit authorizes the land application of reverse osmosis reject water at a daily average flow not to exceed 3,000 gallons per day into a series of evaporation drying beds with a combined surface area of 1.39 acres. The facility is located northeast of Medina Lake on Park Road 37, approximately 2.5 miles west of State Highway 16 and approximately 10.5 miles northwest of the City of Helotes, on Country Scene Road, approximately 0.2 mile north of Park Road 37, Medina County, Texas 78023.

NITSCH AND SON UTILITY COMPANY INC has applied for a renewal of Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0010419001, 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 at 8131 Northline Drive, approximately one mile east of Interstate Highway 45 and one-half mile north of Canino Road in Harris County, Texas 77037.

CITY OF DEER PARK has applied for a renewal of TPDES Permit No. WQ0010519002, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 6,000,000 gallons per day. The facility is located at 526 East 2nd Street, approximately 800 feet south of State Highway 225 and approximately 3,000 feet east of Center Street within the city limits of the City of Deer Park in Harris County, Texas 77536.

WOODLOCH MHP LLC has applied for a renewal of TPDES Permit No. WQ0011673001, 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 at 1421 Erwin Street, approximately 0.75 mile south-southeast of the intersection of Hardy Road and Aldine Mail

Road and approximately one mile north of the intersection of Hardy Road and Hopper Road, Houston, Harris County, Texas 77039.

BRIDGESTONE MUNICIPAL UTILITY DISTRICT has applied for a renewal of TPDES Permit No. WQ0011835001, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 2,500,000 gallons per day. The facility is located at 21106 Slippery Rock, Spring, Texas, on the south bank of Seals Gully, approximately 2,000 feet upstream of the point where Spring-Cypress Road crosses Seals Gully in Harris County, Texas 77388.

AQUA UTILITIES INC has applied for a renewal of TCEQ Permit No. WQ0013989001, which authorizes the disposal of treated domestic wastewater at a daily average flow not to exceed 375,000 gallons per day via surface irrigation of 175 acres of golf course land. This permit will not authorize a discharge of pollutants into waters in the State. The wastewater treatment facility and disposal site are located at 2611 Farm-to-Market Road 2325, approximately 1,200 feet south southeast of the intersection of Farm-to-Market Road 2325 and Jacob's Well Road, approximately four miles north of the community of Wimberley in Hays County, Texas 78676.

MANVEL UTILITIES LIMITED PARTNERSHIP has applied for a major amendment to TPDES Permit No. WQ0014188001 to authorize an increase in the discharge of treated domestic wastewater from a daily average flow not to exceed 75,000 gallons per day to a daily average flow not to exceed 99,000 gallons per day. The draft permit authorizes a reduced Interim phase discharge of treated domestic wastewater at a daily average flow not to exceed 29,000 gallons per day. The facility is located approximately 0.75 mile northwest of the intersection of Del Bello Road and County Road 90 in Manvel in Brazoria County, Texas 77578.

FESTIVAL PROPERTIES INC has applied for a renewal of TPDES Permit No. WQ0014827001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 40,000 gallons per day. The facility is located approximately 600 feet southwest of the intersection of U.S. Highway 290 and Fairbanks-North Houston Road in Harris County, Texas 77040.

NORTHWEST HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO 19 has applied for a renewal of TPDES Permit No. WQ0014908001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 900,000 gallons per day. The facility is located at 8333 West Rayford Road, approximately 3,000 feet east of the intersection of West Rayford Road and Kuykendahl Road in Spring in Harris County, Texas 77389.

If you need more information about these permit applications or the permitting process, please call the TCEQ Public Education Program, Toll Free, at 1-800-687-4040. General information about the TCEQ can be found at our web site at www.TCEQ.texas.gov. Si desea información en español, puede llamar al 1-800-687-4040.

TRD-201300045

Bridget Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: January 9, 2013



Department of State Health Services

Licensing Actions for Radioactive Materials

The Department of State Health Services 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 TX" indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.

NEW LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Groves	Kiglapait Hospital Corporation dba Renaissance Hospital Groves	L06521	Groves	00	12/10/12
San Antonio	BHS Specialty Network, Inc. dba Heart Institute of South Texas	L06520	San Antonio	00	12/05/12
Throughout TX	Incipit Medical Physics, Inc. dba Medical Physics Consultants	L06522	Irving	00	12/11/12
Tomball	Center for Cardiovascular Medicine, P.A. dba Lone Star Heart and Vascular Center	L06523	Tomball	00	12/12/12
Tyler	Tyler Cardiovascular Consultants, P.A.	L06519	Tyler	00	12/04/12

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Austin	Capital Cardiovascular Consultants	L05590	Austin	18	12/03/12
Austin	St. David's Healthcare Partnership, L.P., L.L.P. dba Heart Hospital of Austin	L06372	Austin	03	12/12/12
Carthage	East Texas Medical Center Carthage	L02540	Carthage	41	12/12/12
Dallas	Petnet Solutions, Inc.	L05193	Dallas	41	11/30/12
Galveston	The University of Texas Medical Branch	L01299	Galveston	92	12/14/12
Garland	Baylor Medical Center at Garland	L01565	Garland	50	12/06/12
Houston	Ben Taub General Hospital	L01303	Houston	75	12/07/12
Houston	Westhollow Technology Center	L02116	Houston	52	12/06/12
Houston	SJ Medical Center, L.L.C. dba St. Joseph Medical Center	L02279	Houston	76	12/06/12
Houston	Industrial Nuclear Company	L04508	Houston	08	11/30/12
Houston	Texas Children's Hospital	L04612	Houston	58	12/03/12
Houston	Complete Cardiac Care	L05218	Houston	11	12/05/12
Houston	Digirad Imaging Solutions, Inc.	L05414	Houston	36	11/30/12
Houston	Cardinal Health	L05536	Houston	37	11/30/12
Houston	E+ PET Imaging II, L.P. dba PET Imaging of Houston	L05620	Houston	12	12/07/12
Houston	CHCA West Houston, L.P. dba West Houston Medical Center	L06055	Houston	15	12/05/12
Houston	Sightline West Houston IMRT, L.L.C. dba Sightline West Houston	L06299	Houston	08	12/31/12
Houston	Sightline West Houston IMRT, L.L.C. dba Sightline West Houston	L06299	Houston	09	12/06/12
Lakeway	Lakeway Regional Medical Center, L.L.C.	L06461	Lakeway	02	11/30/12
Lewisville	Cardiovascular Specialists, P.A.	L05507	Lewisville	22	12/11/12
N. Richland Hills	Dallas Cardiology Associates dba Heartplace North Richland Hills	L05548	North Richland Hills	17	12/11/12
Orange	Baptist Hospitals of Southeast Texas dba Memorial Hermann Baptist Orange Hospital	L01597	Orange	33	12/07/12
Oyster Creek	Alltech Inspection, Inc. dba TC Inspection, L.L.C.	L06432	Oyster Creek	04	11/30/12

AMENDMENTS TO EXISTING LICENSES ISSUED (CONTINUED):

Location	Name	License #	City	Amendment #	Date of Action
Paris	Advanced Heart Care, P.A.	L05290	Paris	35	12/07/12
Port Arthur	Motiva Enterprises, L.L.C.	L05211	Port Arthur	16	12/13/12
Richmond	Oakbend Medical Center	L02406	Richmond	57	12/06/12
Rowlett	Rowlett Cardiology Associates, P.A. dba Texas Cardiac Associates	L05450	Rowlett	10	12/07/12
San Antonio	South Texas Radiology Imaging Centers	L00325	San Antonio	208	12/05/12
San Antonio	South Texas Radiology Imaging Centers	L00325	San Antonio	209	12/13/12
San Antonio	VHS San Antonio Partners, L.L.C. dba Baptist Health System	L00455	San Antonio	221	12/12/12
San Antonio	Methodist Healthcare System of San Antonio Ltd., L.L.P.	L00594	San Antonio	310	12/13/12
Seguin	Guadalupe Regional Medical Center	L02292	Seguin	43	11/30/12
Sugar Land	Methodist Sugar Land Hospital	L05788	Sugar Land	35	12/06/12
Temple	Scott and White Memorial Hospital and Scott Sherwood and Brindley Foundation dba Scott and White Memorial Hospital	L00331	Temple	91	12/04/12
Throughout TX	Nondestructive and Visual Inspection, L.L.C.	L06162	Carthage	08	12/11/12
Throughout TX	D & S Engineering Labs, P.L.L.C.	L06353	Denton	07	12/04/12
Throughout TX	Pavetex Engineering and Testing, Inc.	L05533	Dripping Springs	16	12/10/12
Throughout TX	Speesoil, Inc.	L05619	El Paso	05	12/06/12
Throughout TX	AGD Inspection Services	L06368	Houston	05	12/03/12
Throughout TX	Quality Inspection & Testing, Inc.	L06371	Houston	03	12/12/12
Throughout TX	Marco Inspection Services, L.L.C.	L06072	Kilgore	42	12/03/12
Throughout TX	Non-Destructive Inspection Corporation	L02712	Lake Jackson	145	12/13/12
Throughout TX	Southern Services, Inc. dba Southern Technical Services dba Bix Testing Laboratories	L05270	Lake Jackson	57	12/03/12
Throughout TX	RWLS, L.L.C. dba Renegade Services	L06307	Levelland	11	12/03/12
Throughout TX	Weld Spec, Inc.	L05426	Lumberton	94	12/03/12
Throughout TX	Big State X-Ray	L02693	Odessa	85	12/06/12
Throughout TX	Alliance Geotechnical Group of Austin, Inc.	L06147	Taylor	02	12/04/12
Tomball	Tomball Texas Hospital Company, L.L.C. dba Tomball Regional Medical Center	L06472	Tomball	04	11/30/12
Tyler	The University of Texas Health Science Center at Tyler	L04117	Tyler	49	12/13/12

RENEWAL OF LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Throughout TX	Reynolds Asphalt & Construction Company	L05004	Eules	08	12/05/12
Houston	The University of Texas M.D. Anderson Cancer Center	L00466	Houston	140	12/11/12

TERMINATIONS OF LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Groves	S & E Healthcare Groves Operations, L.L.C. dba Renaissance Hospital Groves	L06325	Groves	03	12/10/12
Throughout TX	Air Products Manufacturing Corporation	L04560	Pasadena	15	12/06/12

In issuing new licenses, amending and renewing existing licenses, or approving license exemptions, the Department of State Health Services (department), Radiation Safety Licensing Branch, has determined that the applicant has complied with the applicable provisions of 25 Texas Administrative Code (TAC) Chapter 289 regarding radiation control. In granting termination of licenses, the department has determined that the licensee has complied with the applicable decommissioning requirements of 25 TAC Chapter 289. In denying the application for a license, license renewal or license amendment, the department has determined that the applicant has not met the applicable requirements of 25 TAC Chapter 289.

This notice affords the opportunity for a hearing on written request of a 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 person affected may request a hearing by writing Richard A. Ratliff, Radiation Program Officer, Department of State Health Services, Radiation Material Licensing - Mail Code 2835, P.O. Box 149347, Austin, Texas 78714-9347. For information call (512) 834-6688.

TRD-201300020
Lisa Hernandez
General Counsel
Department of State Health Services
Filed: January 7, 2013

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Licensing Actions for Radioactive Materials

The Department of State Health Services 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 TX" indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.

NEW LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Sweeny	Phillips 66 Company	L06524	Sweeny	00	12/18/12
Texas City	Blanchard Refining Company, L.L.C.	L06526	Texas City	00	12/20/12
Throughout TX	Integrated Testing and Engineering Company of DFW Metro, Inc.	L06525	Euless	00	12/19/12

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Amarillo	Amarillo Cardiovascular Center, P.C.	L05577	Amarillo	08	12/14/12
Arlington	Columbia Medical Center of Arlington Subsidiary, L.P. dba Medical Center of Arlington	L02228	Arlington	77	12/17/12
Arlington	Heartplace, P.A.	L05855	Arlington	10	12/14/12
Austin	Texas Department of Transportation	L00197	Austin	164	12/12/12
Austin	Ramming Paving Company, Ltd.	L04666	Austin	12	12/17/12
Austin	Ranger Excavating, L.P.	L06314	Austin	03	12/13/12
Brenham	Scott and White Hospital Brenham	L03419	Brenham	28	12/21/12
Conroe	CHCA Conroe, L.P. dba Conroe Regional Medical Center	L01769	Conroe	92	12/17/12
Conroe	Drilling Specialties Company	L04825	Conroe	16	12/10/12
Cypress	North Cypress Medical Center Operating Company, L.L.C. dba North Cypress Medical Center	L06020	Cypress	24	12/14/12
Cypress	North Cypress Medical Center Operating Company, L.L.C. dba North Cypress Medical Center	L06020	Cypress	25	12/28/12
Dallas	GME Consulting Services, Inc.	L05128	Dallas	09	12/18/12
Deer Park	Mistras Group, Inc.	L06369	Deer Park	09	12/18/12
Denison	UHS of Texoma, Inc. dba Texoma Medical Center	L01624	Denison	69	12/19/12
Denton	Texas Woman's University	L00304	Denton	62	12/28/12
El Paso	The University of Texas at El Paso	L00159	El Paso	69	12/19/12
El Paso	Cardinal Health	L01999	El Paso	117	12/13/12
El Paso	LEC Engineering, Inc.	L06478	El Paso	01	12/12/12
Fort Worth	Texas Health Harris Methodist Hospital Fort Worth	L01837	Fort Worth	135	12/17/12
Friendswood	ISO Tex Diagnostics, Inc.	L02999	Friendswood	49	12/14/12
Hardin	Great Guns, Inc.	L01990	Hardin	30	12/12/12
Houston	The University of Texas M.D. Anderson Cancer Center	L00466	Houston	141	12/12/12
Houston	University of Houston	L01886	Houston	68	12/11/12
Houston	Mandes Inspection and Testing Services, Inc.	L05220	Houston	71	12/17/12
Houston	E+ PET Imaging II, L.P. dba PET Imaging of Houston	L05620	Houston	13	12/28/12
Houston	Triad Isotopes, Inc.	L06327	Houston	05	12/14/12
Houston	The Methodist Hospital Research Institute	L06383	Houston	04	12/14/12
Houston	Cardiac Intervention Specialists, P.A.	L06466	Houston	01	12/18/12

AMENDMENTS TO EXISTING LICENSES ISSUED (CONTINUED):

Location	Name	License #	City	Amendment #	Date of Action
Laredo	Laredo Regional Medical Center, L.P. dba Doctors Hospital of Laredo	L02192	Laredo	38	12/14/12
Longview	Hi-Tech Testing Service, Inc.	L05021	Longview	98	12/17/12
Longview	Westlake Longview Corporation	L06294	Longview	06	12/18/12
Plano	Texas Heart Hospital of the Southwest, L.L.P. dba The Heart Hospital Baylor/ Plano	L06004	Plano	22	12/11/12
Plano	Texas Heart Hospital of the Southwest, L.L.P. dba The Heart Hospital Baylor/ Plano	L06004	Plano	23	12/18/12
San Antonio	The University of Texas Health Science Center at San Antonio	L01279	San Antonio	142	12/11/12
San Antonio	Raba-Kistner Consultants, Inc. dba Raba-Kistner-Brytest Consultants, Inc.	L01571	San Antonio	74	12/17/12
San Antonio	Christus Santa Rosa Health Care	L02237	San Antonio	140	12/28/12
San Antonio	VHS San Antonio Imaging Partners, L.P. dba Baptist M&S Imaging Centers	L04506	San Antonio	83	12/28/12
San Antonio	Hector L. Nevarez, M.D.	L04698	San Antonio	06	12/21/12
San Antonio	Arias and Associates, Inc.	L04964	San Antonio	40	12/17/12
Sherman	Sherman/Grayson Hospital, L.L.C. dba Texas Health Presbyterian Hospital - WNJ	L06354	Sherman	09	12/07/12
Stafford	Aloki Enterprise, Inc.	L06257	Stafford	25	12/20/12
Texarkana	Advanced Cardiology of Texarkana	L05976	Texarkana	06	12/21/12
Texarkana	Brim Healthcare of Texas, L.L.C. dba Wadley Regional Medical Center	L06242	Texarkana	04	12/17/12
The Woodlands	St. Luke's The Woodlands Hospital	L05763	The Woodlands	24	12/19/12
Throughout TX	J-W Wireline Company	L06132	Addison	19	12/20/12
Throughout TX	Regional Engineering, Inc.	L06471	Austin	01	12/19/12
Throughout TX	Fargo Consultants, Inc.	L05300	Dallas	15	12/20/12
Throughout TX	Gray Wireline Service, Inc.	L03541	Fort Worth	42	12/12/12
Throughout TX	Bonded Inspections, Inc.	L00693	Garland	87	12/18/12
Throughout TX	Platinum Energy Solutions, Inc.	L06410	Houston	09	12/17/12
Throughout TX	Weld Spec, Inc.	L05426	Lumberton	95	12/19/12
Throughout TX	Caribbean Inspection and NDT Services, Inc.	L06420	Port Lavaca	03	12/19/12
Tyler	Mother Frances Hospital	L01670	Tyler	179	12/21/12
Vernon	American Electric Power- Public Service Company of Oklahoma	L03481	Vernon	23	12/20/12
Webster	CHCA Clear Lake, L.P. dba Clear Lake Regional Medical Center	L01680	Webster	85	12/21/12

RENEWAL OF LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Longview	Texas Oncology, P.A. dba East Texas PET Imaging	L05489	Longview	22	12/14/12

TERMINATIONS OF LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Arlington	Janik Enterprises, Inc. dba Medical Physics Consultants	L03319	Arlington	16	12/19/12
Throughout TX	Midwest Inspection Services	L03120	Perryton	125	12/13/12

In issuing new licenses, amending and renewing existing licenses, or approving license exemptions, the Department of State Health Services (department), Radiation Safety Licensing Branch, has determined that the applicant has complied with the applicable provisions of 25 Texas Administrative Code (TAC) Chapter 289 regarding radiation control. In granting termination of licenses, the department has determined that the licensee has complied with the applicable decommissioning requirements of 25 TAC Chapter 289. In denying the application for a license, license renewal or license amendment, the department has determined that the applicant has not met the applicable requirements of 25 TAC Chapter 289.

This notice affords the opportunity for a hearing on written request of a 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 person affected may request a hearing by writing Richard A. Ratliff, Radiation Program Officer, Department of State Health Services, Radiation Material Licensing - Mail Code 2835, P.O. Box 149347, Austin, Texas 78714-9347. For information call (512) 834-6688.

TRD-201300021
Lisa Hernandez
General Counsel
Department of State Health Services
Filed: January 7, 2013

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Heart of Texas Workforce Development Board

Request for Proposals

The Heart of Texas Workforce Development Board, Inc., dba Workforce Solutions for the Heart of Texas, is soliciting proposals for the operation and management of the Heart of Texas Workforce Center System.

Requests for Proposals (RFP) may be obtained from the Board's office located at 801 Washington Avenue, Suite 700, Waco, Texas 76701, beginning Wednesday, January 2, 2013. The RFP will also be available on the Board's website: www.hotworkforce.com/Contractors_Vendors/.

A Pre-Bid Conference will be held on Wednesday, January 9, 2013, at 1:00 p.m. at the McLennan County Workforce Solutions Center, 1416 S. New Road, Waco, Texas 76711. Attendance is not mandatory, but strongly recommended.

All bids must be received at the Board's office by the specified time. Questions and information about this procurement should be addressed to Margie Cintron, Procurement Contractor for the Board, via email at jcintron@grandecom.net or (254) 855-6543.

The Board encourages participation by disadvantaged business enterprises and does not discriminate on the basis of age, race, color, religion, sex, national origin, or disability. HOTWDB, Inc., is an equal opportunity employer/program. Auxiliary aids and services are available upon request to include individuals with disabilities. (TTY/TDD via Texas Relay Service 1-800-735-2989 (TDD), 1-800-735-2988 (Voice).)

TRD-201300015
Anthony Billings
Executive Director
Heart of Texas Workforce Development Board
Filed: January 4, 2013

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Texas Department of Insurance

Company Licensing

Application for admission to the State of Texas by ALLIED INSURANCE COMPANY OF AMERICA, a foreign Fire and/or Casualty company. The home office is in Columbus, Ohio.

Application for admission to the State of Texas by USABLE MUTUAL INSURANCE COMPANY, a foreign Life, Accident and/or Health company. The home office is in Little Rock, Arkansas.

Application to change the name of ALLIED WORLD REINSURANCE COMPANY to ALLIED WORLD INSURANCE COMPANY, a foreign Fire and/or Casualty company. The home office is in Concord, New Hampshire.

Any objections must be filed with the Texas Department of Insurance, within twenty (20) calendar days from the date of the *Texas Register* publication, addressed to the attention of Godwin Ohaechesi, 333 Guadalupe Street, MC 305-2C, Austin, Texas 78701.

TRD-201300008
Sara Waite
General Counsel
Texas Department of Insurance
Filed: January 2, 2013

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Company Licensing

Application to change the name of DALLAS NATIONAL INSURANCE COMPANY, A TEXAS STOCK INSURANCE COMPANY, to FREESTONE INSURANCE COMPANY, a Domestic Fire and/or Casualty company. The home office is in Dallas, Texas.

Any objections must be filed with the Texas Department of Insurance, within twenty (20) calendar days from the date of the *Texas Register* publication, addressed to the attention of Godwin Ohaechesi, 333 Guadalupe Street, MC 305-2C, Austin, Texas 78701.

TRD-201300009
Sara Waite
General Counsel
Texas Department of Insurance
Filed: January 2, 2013

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Texas Department of Insurance, Division of Workers' Compensation

Correction of Error

The Texas Department of Insurance, Division of Workers' Compensation adopted new 28 TAC §126.17, concerning General Provisions Ap-

plicable to All Benefits, in the December 28, 2012, issue of the *Texas Register* (37 TexReg 10215). In the rule preamble, on page 10218, second column, last paragraph, a portion of the language should have been italicized (not underlined, as originally stated). The corrected paragraph reads as follows:

"Although the Division disagrees with the commenter's recommended language because it is not consistent with the statutory provisions under Labor Code §408.0041(a)(3) - (6) which describe the issue(s) the examination may address, the Division revised the text for clarity (see italicized) with no substantive changes. The text of §126.17(a) now reads: (a) An examination by the injured employee's treating doctor or another doctor to whom the injured employee is referred by the treating doctor to determine any issue *other than certification of maximum medical improvement and the evaluation of permanent impairment* may be appropriate after a designated doctor examination if: (1) the designated doctor issued an opinion on the issue; (2) the injured employee is not satisfied with the designated doctor's opinion; and (3) the treating doctor or the referral doctor has not already provided the injured employee with a written report that meets the standard described by subsection (b) of this section on the issue addressed by the designated doctor."

TRD-201300013



Texas Lottery Commission

Instant Game Number 1538 "Loteria® Texas"

1.0 Name and Style of Game.

A. The name of Instant Game No. 1538 is "LOTERIA® TEXAS". The play style is "row/column".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 1538 shall be \$3.00 per Ticket.

1.2 Definitions in Instant Game No. 1538.

A. Display Printing - That area of the instant game Ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Ticket.

C. Play Symbol - The printed data under the latex on the front of the instant Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: THE ARROWS SYMBOL, THE BELL SYMBOL, THE BOOT SYMBOL, THE CACTUS SYMBOL, THE CANOE SYMBOL, THE CROWN SYMBOL, THE DEER SYMBOL, THE DRUM SYMBOL, THE FISH SYMBOL, THE FLOWERPOT SYMBOL, THE FROG SYMBOL, THE HAND SYMBOL, THE LADDER SYMBOL, THE MERMAID SYMBOL, THE MOON SYMBOL, THE MUSICIAN SYMBOL, THE PARROT SYMBOL, THE PEAR SYMBOL, THE PITCHER SYMBOL, THE ROOSTER SYMBOL, THE ROSE SYMBOL, THE STAR SYMBOL, THE SUN SYMBOL, THE TREE SYMBOL, THE UMBRELLA SYMBOL, THE CELLO SYMBOL, THE WATERMELON SYMBOL, THE WORLD SYMBOL and THE BARREL SYMBOL.

D. Play Symbol Caption - the printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 1538 - 1.2D

PLAY SYMBOL	CAPTION
THE ARROWS SYMBOL	THE ARROWS
THE BELL SYMBOL	THE BELL
THE BOOT SYMBOL	THE BOOT
THE CACTUS SYMBOL	THE CACTUS
THE CANOE SYMBOL	THE CANOE
THE CROWN SYMBOL	THE CROWN
THE DEER SYMBOL	THE DEER
THE DRUM SYMBOL	THE DRUM
THE FISH SYMBOL	THE FISH
THE FLOWERPOT SYMBOL	THE FLOWERPOT
THE FROG SYMBOL	THE FROG
THE HAND SYMBOL	THE HAND
THE LADDER SYMBOL	THE LADDER
THE MERMAID SYMBOL	THE MERMAID
THE MOON SYMBOL	THE MOON
THE MUSICIAN SYMBOL	THE MUSICIAN
THE PARROT SYMBOL	THE PARROT
THE PEAR SYMBOL	THE PEAR
THE PITCHER SYMBOL	THE PITCHER
THE ROOSTER SYMBOL	THE ROOSTER
THE ROSE SYMBOL	THE ROSE
THE STAR SYMBOL	THE STAR
THE SUN SYMBOL	THE SUN
THE TREE SYMBOL	THE TREE
THE UMBRELLA SYMBOL	THE UMBRELLA
THE CELLO SYMBOL	THE CELLO
THE WATERMELON SYMBOL	THE WATERMELON
THE WORLD SYMBOL	THE WORLD
THE BARREL SYMBOL	THE BARREL

E. Serial Number - A unique 14 (fourteen) digit number appearing under the latex scratch-off covering on the front of the Ticket. There will be a four (4)-digit "security number" which will be individually boxed and randomly placed within the number. The remaining ten (10) digits of the Serial Number are the Validation Number. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 00000000000000.

F. Low-Tier Prize - A prize of \$3.00, \$4.00, \$7.00, \$10.00, \$17.00 or \$20.00.

G. Mid-Tier Prize - A prize of \$30.00, \$33.00, \$50.00, \$80.00 or \$300.

H. High-Tier Prize - A prize of \$3,000 or \$33,000.

I. Bar Code - A 24 (twenty-four) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven (7) digit Pack number, the three (3) digit Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Ticket.

J. Pack-Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (1538), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 125 within each Pack. The format will be: 1538-0000001-001.

K. Pack - A Pack of "LOTERIA® TEXAS" Instant Game Tickets contains 125 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). There will be 2 fanfold configurations for this game. Configuration A will show the front of Ticket 001 and the back of Ticket 125. Configuration B will show the back of Ticket 001 and the front of Ticket 125.

L. Non-Winning Ticket - A Ticket which is not programmed to be a winning Ticket or a Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC Chapter 401.

M. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "LOTERIA® TEXAS" Instant Game No. 1538 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 "LOTERIA® TEXAS" Instant Game is determined once the latex on the Ticket is scratched off to expose up to 30 (thirty) Play Symbols. The player scratches off the CALLER'S CARD area to reveal 14 symbols. The player scratches only the symbols on the LOTERIA® CARD that match the symbols revealed on the CALLER'S CARD to reveal a bean. The player reveals 4 beans in any complete horizontal or vertical line in the LOTERIA® CARD to win the prize for that line. 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 30 (thirty) Play Symbols must appear under the Latex Overprint on the front portion of the Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Ticket shall be intact;
6. The Serial Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Ticket;
8. The Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The Ticket must not be counterfeit in whole or in part;
10. The Ticket must have been issued by the Texas Lottery in an authorized manner;
11. The Ticket must not have been stolen, nor appear on any list of omitted Tickets or non-activated Tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;
13. The Ticket must be complete and not miscut, and have exactly 30 (thirty) 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 30 (thirty) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures.

17. Each of the 30 (thirty) 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. A Ticket may win up to three (3) times per the prize structure.

C. No adjacent Tickets will contain identical CALLER'S CARD Play Symbols in exactly the same locations.

D. No duplicate Play Symbols in the CALLER'S CARD play area.

E. There will be no occurrence of all 4 symbols in either diagonal matching the CALLER'S CARD symbols.

F. At least 8, but no more than 12, CALLER'S CARD Play Symbols will match a symbol on the LOTERIA® CARD on a Ticket.

G. There will be no duplicate Play Symbols on a LOTERIA® CARD as indicated in the artwork section.

H. Each LOTERIA® CARD will have an occurrence of the rooster symbol as indicated in the artwork section.

2.3 Procedure for Claiming Prizes.

A. To claim a "LOTERIA® TEXAS" Instant Game prize of \$3.00, \$4.00, \$7.00, \$10.00, \$17.00, \$20.00, \$30.00, \$33.00, \$50.00, \$80.00 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, if appropriate, make payment of the amount due the claimant and physically void the Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$30.00, \$33.00, \$50.00, \$80.00 or \$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 Section 2.3.C of these Game Procedures.

B. To claim a "LOTERIA® TEXAS" Instant Game prize of \$3,000 or \$33,000, 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 "LOTERIA® TEXAS" Instant Game prize, the claimant must sign the winning Ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct:

1. a sufficient amount from the winnings of a prize winner who has been finally determined to be:

a. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;

b. in default on a loan made under Chapter 52, Education Code; or

c. in default on a loan guaranteed under Chapter 57, Education Code; and

2. delinquent child support payments from the winnings of a prize winner in the amount of the delinquency as determined by a court or a Title IV-D agency under Chapter 231, Family 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 under \$600 from the "LOTERIA® TEXAS" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of \$600 or more from the "LOTERIA® TEXAS" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Tickets ordered. The number of actual prizes available in a game may vary based on number of Tickets manufactured, testing, distribution, sales and number of prizes claimed. An Instant Game Ticket may continue to be sold even when all the top prizes have been claimed.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game Ticket in the space designated, a Ticket shall be owned by the physical possessor of said Ticket. When a signature is placed on the back of the Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Ticket in the space designated. If more than one name appears on the back of the Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game Tickets and shall not be required to pay on a lost or stolen Instant Game Ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 15,000,000 Tickets in the Instant Game No. 1538. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 1538 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in**
\$3	2,040,000	7.35
\$4	480,000	31.25
\$7	420,000	35.71
\$10	270,000	55.56
\$17	240,000	62.50
\$20	240,000	62.50
\$30	25,000	600.00
\$33	12,500	1,200.00
\$50	11,875	1,263.16
\$80	10,000	1,500.00
\$300	7,500	2,000.00
\$3,000	223	67,264.57
\$33,000	30	500,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 3.99. 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 Commission.

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. 1538 without advance notice, at which point no further Tickets in that game may be sold. The determination of the closing date and reasons for closing will be made in accordance with the Instant Game closing procedures and the Instant Game Rules. See 16 TAC §401.302(j).

6.0 Governing Law. In purchasing an Instant Game Ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game No. 1538, 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-201300007
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: January 2, 2013

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North Central Texas Council of Governments

Request for Proposals for the Clean Cities Recovery Act Interactive Outreach Tools

This request by the North Central Texas Council of Governments (NCTCOG) for consultant services is filed under the provisions of Government Code, Chapter 2254.

NCTCOG is requesting consultant services for the Clean Cities Recovery Act Interactive Outreach Tools. This project will allow the

real-time display of the type of clean, alternative fuel vehicle projects that were funded through the American Recovery and Reinvestment Act. These display tools will be utilized at public outreach events, Clean Cities meetings and workshops as well as other transportation functions as appropriate. This project will educate the public about alternative fuels and advanced technology vehicles, where they come from, the cost benefits, where to find them, etc. In addition, this project will also help NCTCOG grow its database as people could directly register for NCTCOG's newsletter through the display. It will also track the number of visitors and hits therefore producing quantifiable results. Finally, this project will help maintain the transparency desired from the Recovery Act.

Due Date

Proposals must be received no later than 5:00 p.m. on Friday, February 15, 2013, by Pamela Burns, Communications Coordinator, North Central Texas Council of Governments, 616 Six Flags Drive, Arlington, Texas 76011. Copies of the Request for Proposals (RFP) will be available at www.nctcog.org/rfp by the close of business on Friday, January 18, 2013.

NCTCOG encourages participation by disadvantaged business enterprises and does not discriminate on the basis of age, race, color, religion, sex, national origin, or disability.

Contract Award Procedures

The firm or individual selected to perform these activities 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 RFP. 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, 41 United States Code 2000d to 2000d-4; 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-201300046

R. Michael Eastland

Executive Director

North Central Texas Council of Governments

Filed: January 9, 2013

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Texas Parks and Wildlife Department

Notice of Proposed Real Estate Transaction

Land Trade and Granting of Easements

El Paso County

Franklin Mountains

In a meeting on January 24, 2013, the Texas Parks and Wildlife Commission (the Commission) will consider the trade of approximately one acre of land and granting utility and right-of-way easements at Franklin Mountains State Park, El Paso County. At this meeting, the public will have an opportunity to comment on the proposed transaction before the Commission takes action. The meeting will start at 9:00 a.m. at the Texas Parks and Wildlife Department Headquarters, 4200 Smith School Road, Austin, Texas 78744. Prior to the meeting, public comment may be submitted to Corky Kuhlmann, Land Conservation, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744 or by email to corky.kuhlmann@tpwd.state.tx.us or through the TPWD web site at tpwd.state.tx.us.

TRD-201300014

Ann Bright

General Counsel

Texas Parks and Wildlife Department

Filed: January 4, 2013

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Public Utility Commission of Texas

Notice of Application for Designation as an Eligible Telecommunications Carrier

Notice is given to the public of a petition filed with the Public Utility Commission of Texas on December 27, 2012, for designation as an eligible telecommunications carrier (ETC) in the State of Texas for the limited purpose of offering lifeline service to qualified households, pursuant to P.U.C. Substantive Rule §26.418. The commission designates qualified carriers as ETCs pursuant to 47 United States Code §214(e)(2).

Docket Title and Number: Application of YMAX Communications Corp. for Designation as an ETC in the State of Texas for the Limited Purpose of Offering Lifeline. Docket Number 41074.

The Application: YMAX Communications Corp. seeks ETC designation solely to provide lifeline service to qualifying Texas households and will not seek access to funds from the federal universal service

fund for the purpose of providing service to high cost areas. YMAX Communications Corp. requests ETC designation in the non-rural wire centers of Southwestern Bell Telephone Company d/b/a AT&T Texas and GTE Southwest d/b/a Verizon Southwest. A list of requested wire centers is attached to the application as Exhibit 2. The proposed effective date of this application is February 18, 2013.

Persons who wish to comment on this application should notify the Public Utility Commission of Texas by February 7, 2013. Requests for further information should be mailed to the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326 or you may call the Public Utility Commission's Customer Protection Division at (512) 936-7120 or toll-free at (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) at (800) 735-2989 to reach the commission's toll-free number (888) 782-8477. All comments should reference Docket Number 41074.

TRD-201300033

Adriana A. Gonzales

Rules Coordinator

Public Utility Commission of Texas

Filed: January 7, 2013

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Notice of Application for Retail Electric Provider Certification

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on January 4, 2013, for retail electric provider certification, pursuant to §39.352 of the Public Utility Regulatory Act.

Docket Title and Number: Application of Bose Energy, LLC for Retail Electric Provider Certification (Option 1), Docket Number 41109.

Applicant's requested service area is for the geographic area of the entire State of Texas.

Information on the application may be obtained by contacting the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326 or by phone at (512) 936-7120 or toll-free at (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) at (800) 735-2989. All inquiries should reference Docket Number 41109.

TRD-201300035

Adriana A. Gonzales

Rules Coordinator

Public Utility Commission of Texas

Filed: January 7, 2013

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Notice of Application for Waiver from Requirements in Automatic Dial Announcing Devices (ADAD) Application Form

Notice is given to the public of an application filed on January 4, 2013, with the Public Utility Commission of Texas (commission) for waiver from the requirements in the commission prescribed application for a permit to operate automatic dial announcing devices.

Docket Style and Number: Application of Local Corporation for a Waiver to the Federal Registration Number Requirement of the ADAD Application Form, Docket Number 41107.

The Application: Local Corporation filed a request for a waiver of the registration number requirement in the Public Utility Commission of

Texas prescribed application for a permit to operate automatic dial announcing devices (ADAD). Specifically, Question 11(e) of the application requires the Federal Registration Number (FRN) issued to the ADAD manufacturer or programmer either by the Federal Communications Commission (FCC) or Administrative Council Terminal Attachments (ACTA).

Local Corporation states that it uses a contract software provider and does not connect directly to the public switched telephone networks in a manner that is covered by the applicable regulations, and therefore is requesting a waiver.

Persons wishing to comment on the action sought or intervene should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326 or by phone at (512) 936-7120 or toll-free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or use Relay Texas (toll-free) 1-800-735-2989. All comments should reference Docket Number 41107.

TRD-201300036
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: January 7, 2013



Notice of Petition for Restoration of Universal Service Funding

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) of an application on December 28, 2012, for restoration of universal service funding pursuant to Public Utility Regulatory Act (PURA) §56.025 and P.U.C. Substantive Rule §26.406.

Docket Style and Number: Application of Big Bend Telephone Company to Recover Funds From the Texas Universal Service Fund Pursuant to PURA §56.025 and P.U.C. Substantive Rule §26.406. Docket Number 41079.

The Application: Big Bend Telephone Company (BBTC) seeks recovery of funds from the Texas Universal Service Fund (TUSF) due to Federal Communications Commission actions resulting in a reduction in the Federal Universal Service Fund revenues available to BBTC. The petition requests that the commission restore approximately \$500,896.00 in funds from the TUSF to BBTC. BBTC stated it is an ILEC with fewer than 31,000 access lines and is eligible to recover funds from the TUSF.

Persons wishing to intervene or comment on the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326 or by phone at (512) 936-7120 or toll-free at (888) 782-8477. A deadline for intervention in this proceeding will be established. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or use Relay Texas (toll-free) at (800) 735-2989. All comments should reference Docket Number 41079.

TRD-201300034
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: January 7, 2013



Texas Department of Transportation

Notice of Opportunity to Comment: Public-Private Partnership Guidelines

The Texas Department of Transportation (department) is soliciting comments for its adoption of Public-Private Partnership Guidelines. The 82nd Legislature in 2011 enacted Government Code, Chapter 2267, Public and Private Facilities and Infrastructure (Act), and Chapter 2268, Partnership Advisory Commission, to encourage investment in this state by private entities for the development and operation of public infrastructure and government facilities that serve a public need and purpose and to provide governmental entities with the greatest possible flexibility in contracting with private entities and facilitating financing mechanisms to provide those public services.

Based on the requirements of the Act, the department drafted proposed Guidelines to implement the new authority. If adopted, the department may proceed with public-private partnerships for the development and operation of qualifying projects that further the department's broad mission to serve the mobility needs of people and movement of freight by all modes of transportation. A qualifying project may include a warehouse, maintenance facility, administrative office building, vehicle and equipment parking facility, roadside park, ancillary toll facility, ferry, rail station and associated maintenance facility, airport and associated maintenance facility, mass transit facility, port facility, power generation facility, fuel supply facility, or other similar structure or facility currently available or to be made available to the department for public use, including any structure, parking area, appurtenance, and other property required to operate the structure or facility and any technology infrastructure installed in the structure or facility that is essential to the project's purpose. Under the Act, a qualifying project does not include the financing, design, construction, maintenance, or operation of a highway.

The department is seeking both general and specific suggestions. Comments on specific portions of the text should include appropriate citations to sections, subsections, paragraphs, etc. of the draft Guidelines for proper reference. The latest version of the draft Guidelines is available online at:

www.txdot.gov/business/partnerships.html

The department will accept only written comments and they should be addressed to J.D. Ewald, Associate General Counsel, 125 East 11th Street, Austin, Texas 78701 or via email to robin.carter@txdot.gov. The deadline for receipt of comments is 5:00 p.m. on February 8, 2013.

The department will not respond individually to comments received pursuant to this notice. Comments will be reviewed and considered by the department prior to presenting a final draft of the Guidelines and a recommendation to the Texas Transportation Commission.

TRD-201300048
Joanne Wright
Deputy General Counsel
Texas Department of Transportation
Filed: January 9, 2013



Request for Qualifications

Pursuant to the authority granted under Transportation Code, Chapter 223, Subchapter F (enabling legislation), the Texas Department of Transportation (department) may enter into, in each fiscal year, up to three design-build contracts for the design, construction, expansion, extension, related capital maintenance, rehabilitation, alteration, or repair of a highway project with a construction cost estimate of \$50 million or more. The enabling legislation authorizes private involvement in design-build projects and provides a process for the department to solicit

proposals for such projects. Transportation Code, §223.245 prescribes requirements for issuance of a request for qualifications and requires the department to publish a notice of such issuance in the *Texas Register*. The Texas Transportation Commission (commission) adopted 43 TAC Chapter 9, Subchapter I relating to design-build contracts (the "rules"). The enabling legislation, as well as the rules, govern the submission and processing of qualifications submittals, provide for publication of notice that the department is requesting qualifications submittals, and set forth the basic criteria for qualifications, experience, technical competence, and ability to develop a proposed project and such other information the department considers relevant or necessary in the request for qualifications. The commission has authorized the issuance of a request for qualifications (RFQ) to design, construct, and perform capital maintenance on Loop 1604 from SH 16 (Bandera Road) to south of Wiseman Boulevard in Bexar County, through a design-build contract and capital maintenance agreement. The Loop 1604 project to be constructed and maintained under the agreements includes the expansion of Loop 1604 to a four lane non-toll expressway section from FM 471 (Culebra Road) to SH 16 (Bandera Road), with overpasses at Shaenfield Road, New Guilbeau Road, and Braun Road, and has estimated design-build costs of approximately \$76 million. The design-build contract may include an option for the construction of improvements to Loop 1604 at SH 151. This notice represents the next step in the procurement process.

Through this notice, the department is seeking qualifications submittals (QS) from teams interested in entering into a design-build contract and capital maintenance agreement. The department intends to evaluate any QS received in response to the RFQ and may request submission of detailed proposals, potentially leading to negotiation, award, and execution of a design-build contract and capital maintenance agreement. The department will accept for consideration any QS received

in accordance with the enabling legislation, the rules, and the RFQ on or before the deadline in this notice. The department anticipates issuing the RFQ, receiving and analyzing the QSs, developing a shortlist of proposing entities or consortia, and issuing a request for proposals (RFP) to the shortlisted entities. After review and a best value evaluation of the responses to the RFP, the department may negotiate and enter into a design-build contract and capital maintenance agreement for the project.

RFQ Evaluation Criteria. QSs will be evaluated by the department for shortlisting purposes using the following general criteria: qualifications and experience and statement of technical approach. The specific criteria under the foregoing categories will be identified in the RFQ, as will the relative weighting of the criteria.

Release of RFQ and Due Date. The department currently anticipates that the RFQ will be available on January 18, 2013. Copies of the RFQ will be available at the Texas Department of Transportation, 4615 Northwest Loop 410, Building 1, San Antonio, Texas 78229 or on the following website:

www.txdot.gov/inside-txdot/projects/studies/san-antonio/loop1604.html

QSs will be due by 3:00 p.m. on February 15, 2013 at the address specified in the RFQ.

TRD-201300049
Joanne Wright
Deputy General Counsel
Texas Department of Transportation
Filed: January 9, 2013



How to Use the Texas Register

Information Available: The 14 sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

Governor - Appointments, executive orders, and proclamations.

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

Secretary of State - opinions based on the election laws.

Texas Ethics Commission - summaries of requests for opinions and opinions.

Emergency Rules- sections adopted by state agencies on an emergency basis.

Proposed Rules - sections proposed for adoption.

Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

Adopted Rules - sections adopted following public comment period.

Texas Department of Insurance Exempt Filings - notices of actions taken by the Texas Department of Insurance pursuant to Chapter 5, Subchapter L of the Insurance Code.

Texas Department of Banking - opinions and exempt rules filed by the Texas Department of Banking.

Tables and Graphics - graphic material from the proposed, emergency and adopted sections.

Transferred Rules- notice that the Legislature has transferred rules within the *Texas Administrative Code* from one state agency to another, or directed the Secretary of State to remove the rules of an abolished agency.

In Addition - miscellaneous information required to be published by statute or provided as a public service.

Review of Agency Rules - notices of state agency rules review.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative quarterly and annual indexes to aid in researching material published.

How to Cite: Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words "TexReg" and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 36 (2011) is cited as follows: 36 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written "36 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 36 TexReg 3."

How to Research: The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, Room 245, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code*, section numbers, or TRD number.

Both the *Texas Register* and the *Texas Administrative Code* are available online at: <http://www.sos.state.tx.us>. The *Register* is available in an .html version as well as a .pdf (portable document

format) version through the internet. For website information, call the Texas Register at (512) 463-5561.

Texas Administrative Code

The *Texas Administrative Code (TAC)* is the compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the *TAC*.

The *TAC* volumes are arranged into Titles and Parts (using Arabic numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency.

The complete TAC is available through the Secretary of State's website at <http://www.sos.state.tx.us/tac>.

The following companies also provide complete copies of the TAC: Lexis-Nexis (800-356-6548), and West Publishing Company (800-328-9352).

The Titles of the *TAC*, and their respective Title numbers are:

1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

How to Cite: Under the *TAC* scheme, each section is designated by a *TAC* number. For example in the citation 1 TAC §27.15: 1 indicates the title under which the agency appears in the *Texas Administrative Code*; *TAC* stands for the *Texas Administrative Code*; §27.15 is the section number of the rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).

How to update: To find out if a rule has changed since the publication of the current supplement to the *Texas Administrative Code*, please look at the *Index of Rules*. The *Index of Rules* is published cumulatively in the blue-cover quarterly indexes to the *Texas Register*. If a rule has changed during the time period covered by the table, the rule's *TAC* number will be printed with the *Texas Register* page number and a notation indicating the type of filing (emergency, proposed, withdrawn, or adopted) as shown in the following example.

TITLE 1. ADMINISTRATION

Part 4. Office of the Secretary of State

Chapter 91. Texas Register

40 TAC §3.704.....950 (P)