

---

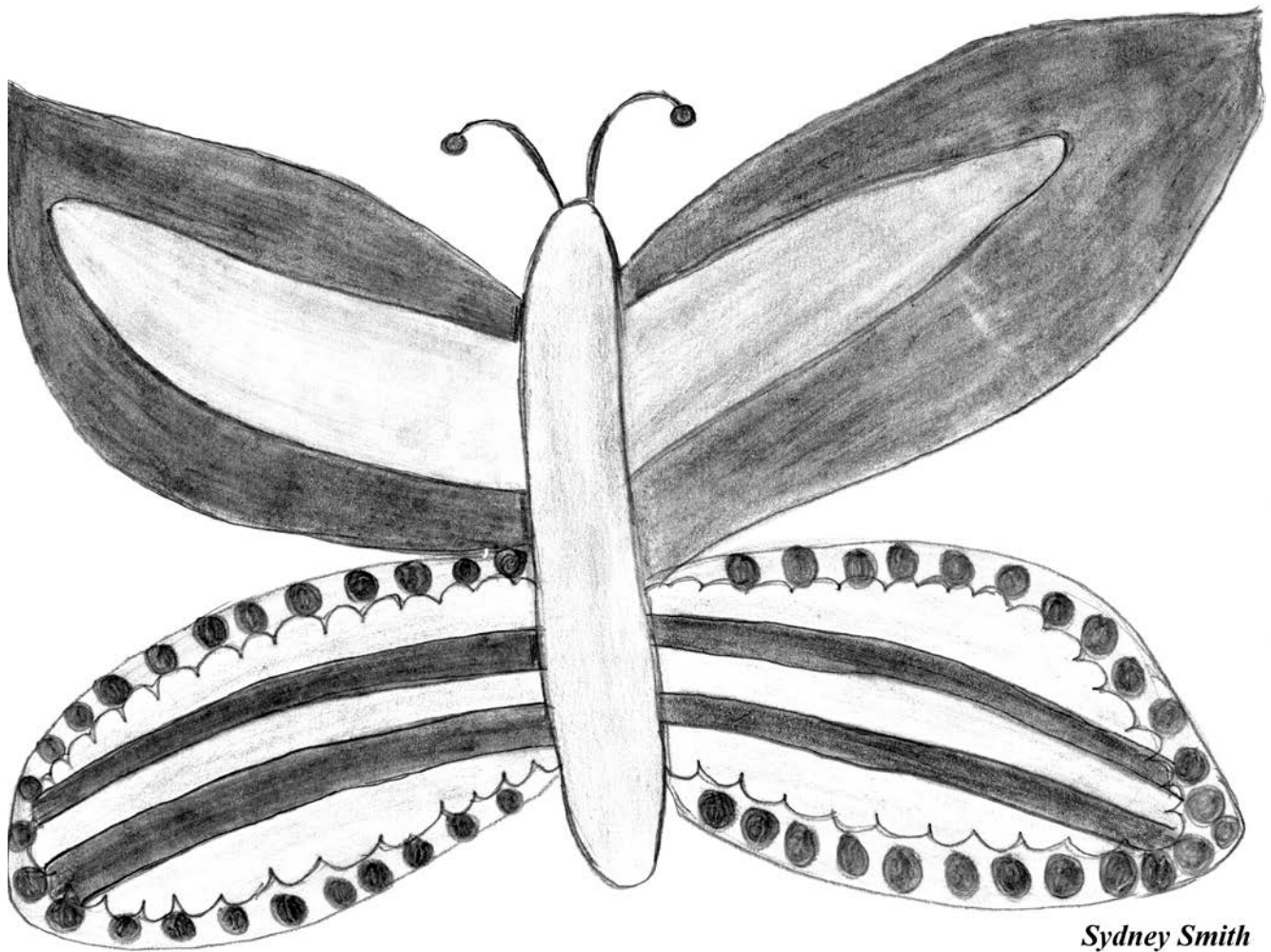
# TEXAS REGISTER

*Volume 40 Number 20*

*May 15, 2015*

*Pages 2625 - 2712*

---



*Sydney Smith  
9th Grade*

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

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

***Texas Register*, (ISSN 0362-4781, USPS 12-0090)**, is published weekly (52 times per year) for \$259.00 (\$382.00 for first class mail delivery) by LexisNexis Matthew Bender & Co., Inc., 701 East Water Street, Charlottesville, VA 22902.

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

The *Texas Register* is published under the Government Code, Title 10, Chapter 2002. Periodicals Postage Paid at Conklin, 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 12887  
Austin, TX 78711  
(512) 463-5561  
FAX (512) 463-5569

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

**Secretary of State –**  
Carlos H. Cascos

**Director –**  
Robert Summers

**Staff**  
Leti Benavides  
Dana Blanton  
Deana Lackey  
Jill S. Ledbetter  
Michelle Miner  
Joy L. Morgan  
Rachel Rigdon  
Barbara Strickland

# IN THIS ISSUE

## **ATTORNEY GENERAL**

Requests for Opinions.....2629

## **EMERGENCY RULES**

### **TEXAS DEPARTMENT OF AGRICULTURE**

#### CITRUS

4 TAC §21.10.....2631

## **PROPOSED RULES**

### **TEXAS HISTORICAL COMMISSION**

#### HISTORIC SITES

13 TAC §16.10, §16.11.....2633

#### HISTORY PROGRAMS

13 TAC §21.31, §21.32.....2634

#### MANAGEMENT AND CARE OF ARTIFACTS AND COLLECTIONS

13 TAC §29.3.....2636

### **TEXAS DEPARTMENT OF LICENSING AND REGULATION**

#### REGISTRATION OF PROPERTY TAX CONSULTANTS

16 TAC §66.70.....2636

#### ELECTRICIANS

16 TAC §§73.51, 73.52, 73.54.....2637

#### AIR CONDITIONING AND REFRIGERATION

16 TAC §75.71.....2638

#### POLYGRAPH EXAMINERS

16 TAC §88.78.....2639

#### DOG OR CAT BREEDERS PROGRAM

16 TAC §91.74.....2639

### **TEXAS STATE BOARD OF EXAMINERS OF PROFESSIONAL COUNSELORS**

#### PROFESSIONAL COUNSELORS

22 TAC §§681.2, 681.9, 681.12, 681.14, 681.15.....2642

22 TAC §681.31.....2643

22 TAC §681.41, §681.48.....2643

22 TAC §681.72.....2644

22 TAC §§681.81 - 681.83.....2645

22 TAC §§681.91 - 681.93.....2645

22 TAC §681.102.....2647

22 TAC §681.123, §681.125.....2647

22 TAC §681.141, §681.142.....2648

22 TAC §§681.161, 681.162, 681.166.....2648

22 TAC §681.202.....2649

22 TAC §681.251.....2649

### **DEPARTMENT OF ASSISTIVE AND REHABILITATIVE SERVICES**

#### DIVISION FOR REHABILITATION SERVICES

40 TAC §§107.701, 107.703, 107.705, 107.707, 107.709, 107.711.....2651

40 TAC §§107.701, 107.703, 107.705, 107.707, 107.709, 107.711, 107.713, 107.715.....2651

#### OFFICE FOR DEAF AND HARD OF HEARING SERVICES

40 TAC §109.231.....2656

40 TAC §109.315, §109.317.....2657

## **WITHDRAWN RULES**

### **COMPTROLLER OF PUBLIC ACCOUNTS**

#### TAX ADMINISTRATION

34 TAC §3.280.....2661

34 TAC §3.285.....2661

34 TAC §3.285.....2661

34 TAC §3.292.....2661

34 TAC §3.297.....2661

34 TAC §3.297.....2661

## **ADOPTED RULES**

### **TEXAS HIGHER EDUCATION COORDINATING BOARD**

#### STUDENT SERVICES

19 TAC §21.282, §21.286.....2663

19 TAC §21.287.....2663

19 TAC §§21.287 - 21.289.....2664

### **TEXAS MEDICAL BOARD**

#### LICENSURE

22 TAC §§163.1, 163.7, 163.11.....2664

#### MEDICAL RECORDS

22 TAC §165.1.....2665

#### TEMPORARY AND LIMITED LICENSES

22 TAC §172.8.....2666

### **TEXAS BOARD OF PHYSICAL THERAPY EXAMINERS**

#### PRACTICE

22 TAC §322.4.....2666

#### LICENSING PROCEDURE

22 TAC §329.2.....	2667	Request for Applications for the Choose Life Grant Program .....	2686
<b>LICENSE RENEWAL</b>		<b>Office of Consumer Credit Commissioner</b>	
22 TAC §341.9.....	2667	Notice of Rate Ceilings.....	2687
<b>PRACTICE SETTINGS FOR PHYSICAL THERAPY</b>		<b>Texas Commission on Environmental Quality</b>	
22 TAC §346.3.....	2668	Agreed Orders.....	2687
<b>TEXAS BOARD OF PROFESSIONAL LAND SURVEYING</b>		Enforcement Orders.....	2693
<b>GENERAL RULES OF PROCEDURES AND PRACTICES</b>		Notice of Receipt of Application and Intent to Obtain Municipal Solid Waste Permit.....	2695
22 TAC §661.41.....	2668	<b>Texas Facilities Commission</b>	
22 TAC §661.46.....	2668	Request for Proposals #303-6-20493.....	2696
22 TAC §661.53.....	2669	Request for Proposals #303-6-20494.....	2696
22 TAC §661.57.....	2669	<b>Department of State Health Services</b>	
<b>STANDARDS OF PROFESSIONAL RESPONSIBILITY AND RULES OF CONDUCT</b>		Licensing Actions for Radioactive Materials .....	2696
22 TAC §663.18.....	2669	Notice of Public Hearings Schedule for Development and Review of Block Grant Funds.....	2699
22 TAC §663.19.....	2670	<b>Texas Department of Housing and Community Affairs</b>	
<b>TEXAS COMMISSION ON ENVIRONMENTAL QUALITY</b>		Request for Proposal.....	2700
<b>CONTROL OF AIR POLLUTION FROM MOTOR VEHICLES</b>		<b>Texas Department of Insurance</b>	
30 TAC §114.2, §114.7.....	2676	Company Licensing.....	2701
30 TAC §114.53.....	2676	<b>Texas Lottery Commission</b>	
30 TAC §§114.60, 114.62, 114.64, 114.70 .....	2676	Instant Game Number 1708 "Queen of Spades".....	2701
30 TAC §114.87.....	2679	Instant Game Number 1710 "Neon 9's".....	2705
<b>DEPARTMENT OF ASSISTIVE AND REHABILITATIVE SERVICES</b>		<b>Public Utility Commission of Texas</b>	
<b>OFFICE FOR DEAF AND HARD OF HEARING SERVICES</b>		Announcement of Application for Amendment to a State-Issued Certificate of Franchise Authority.....	2709
40 TAC §§109.501, 109.503, 109.505, 109.507, 109.509, 109.511, 109.513, 109.515, 109.517, 109.521, 109.523, 109.525, 109.527, 109.529, 109.531, 109.533 .....	2679	Notice of Application for Amendment to a Service Provider Certificate of Operating Authority.....	2709
<b>IN ADDITION</b>		Notice of Application for Approval of a New Depreciation Rate .....	2710
<b>Texas Department of Agriculture</b>		Notice of Application for Service Area Exception .....	2710
2015 Expanding Nutrition Education Grant Program Request for Applications (Extended Deadline).....	2685	<b>Region F Regional Water Planning Group</b>	
2015-2016 Urban Schools Agriculture Grant Program Request for Applications.....	2685	Public Notice of the Initially Prepared Plan .....	2710
<b>Office of the Attorney General</b>		<b>Supreme Court of Texas</b>	
		In the Supreme Court of Texas .....	2711
		<b>Texas Department of Transportation</b>	
		Notice of Availability: Record of Decision US 69/Loop 49 North Lindale Reliever Route in Smith County, Texas .....	2712
		Request for Qualifications.....	2712

# 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-0023-KP**

**Requestor:**

Mr. Jeff May

Collin County Auditor

2300 Bloomdale Road, Suite 3100

McKinney, Texas 75071

Re: Authority of a home-rule municipality to impose building codes and related construction codes in its extraterritorial jurisdiction (RQ-0023-KP)

**Briefs requested by June 1, 2015**

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

TRD-201501592

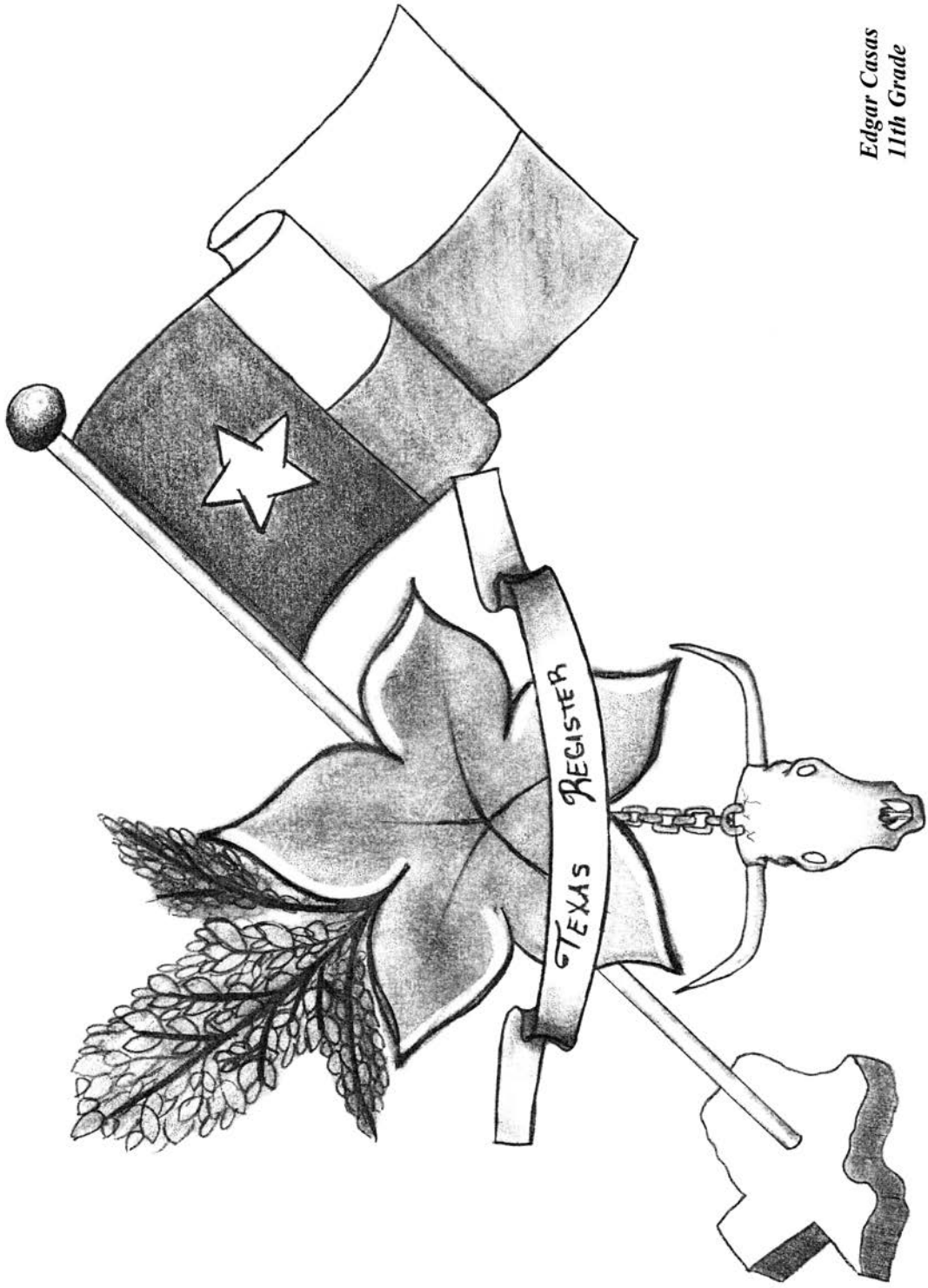
Amanda Crawford

General Counsel

Office of the Attorney General

Filed: May 6, 2015





*Edgar Casas  
11th Grade*

# EMERGENCY RULES

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

## TITLE 4. AGRICULTURE

### PART 1. TEXAS DEPARTMENT OF AGRICULTURE

#### CHAPTER 21. CITRUS

##### SUBCHAPTER A. CITRUS QUARANTINES

###### 4 TAC §21.10

The Texas Department of Agriculture is renewing the effectiveness of the emergency adoption of §21.10 for a 60-day period. The text of the new section was originally published in the January 16, 2015, issue of the *Texas Register* (40 TexReg 309).

Filed with the Office of the Secretary of State on April 29, 2015.

TRD-201501511

Jessica Escobar

Assistant General Counsel

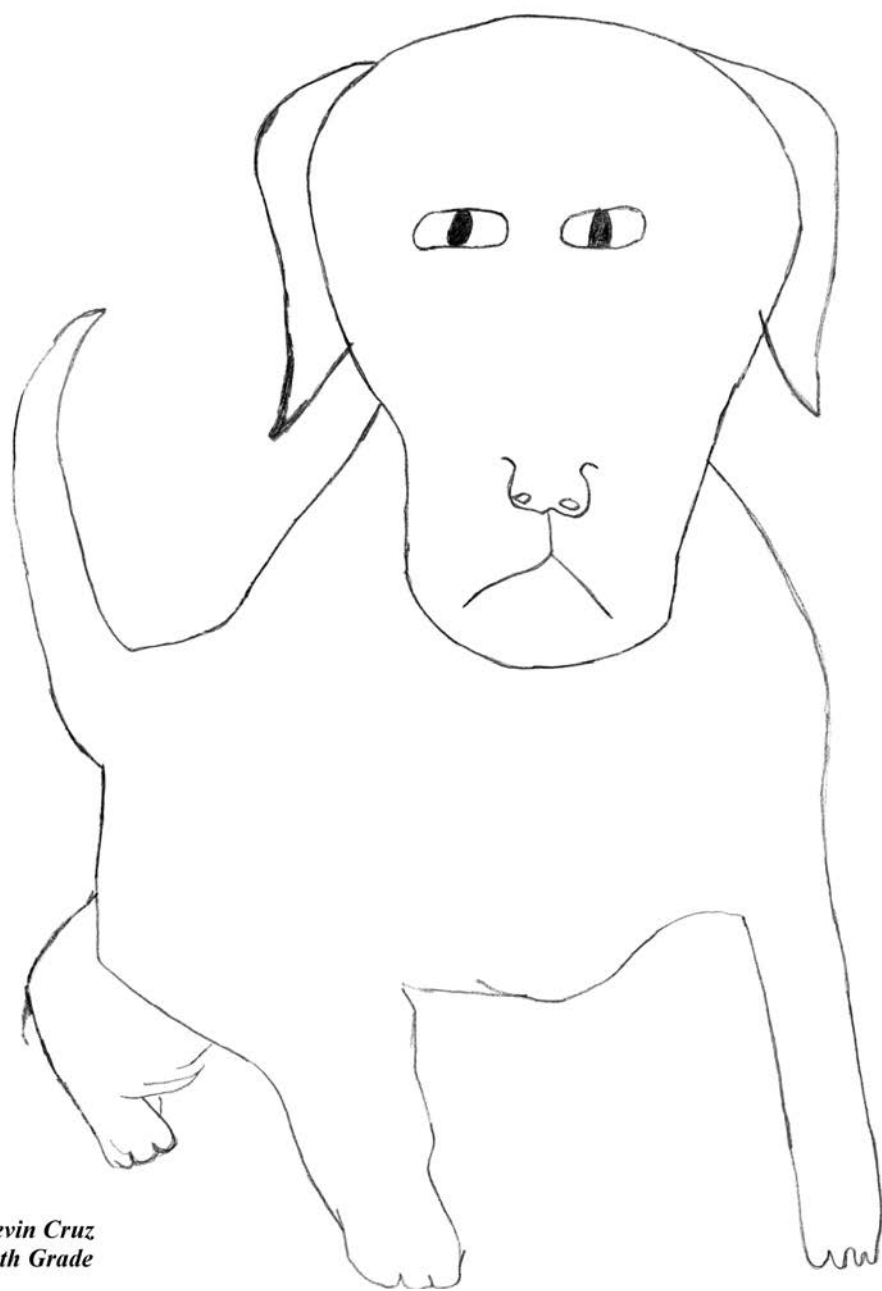
Texas Department of Agriculture

Original effective date: December 31, 2014

Expiration date: June 28, 2015

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





*Kevin Cruz  
11th Grade*



# 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 13. CULTURAL RESOURCES

### PART 2. TEXAS HISTORICAL COMMISSION

#### CHAPTER 16. HISTORIC SITES

##### 13 TAC §16.10, §16.11

The Texas Historical Commission proposes new §16.10 and §16.11, relating to the commemorative and philanthropic naming of certain areas without historical value at State Historic Sites. The purpose of the new sections is to allow the Commission to be prepared to implement proposed legislation regarding naming non-historic areas within State Historic Sites at the earliest possible time, including on the effective date of the act. The proposed rules will establish a procedure and criteria to allow the commission to determine whether and when it will allow non-historic portions of historic sites to be named for individuals or civic or charitable groups. The rule will not be finally adopted unless the proposed legislation becomes law.

Mark Wolfe, Executive Director, has determined that, for the first five years the rules are in effect, there will be no fiscal implications for state or local government. There will also be no effect on small or microbusinesses. The public benefit from the adoption of the rules is that the possibility of commemoration of an individual or civic or charitable group through the naming of a non-historic facility at a State Historic Site will encourage donations to the commission for the benefit of the State Historic Site.

Comments on the proposal may be submitted by mail to Mark Wolfe, Executive Director, Texas Historical Commission, P.O. Box 12276, Austin, Texas 78711-2276. Comments will be accepted for 30 days after publication in the *Texas Register*.

This proposal is authorized under Texas Government Code §442.005(q), which provides that the commission may adopt rules it considers proper for the administration of the chapter.

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

##### §16.10. Commemorative Naming of State Historic Site Facilities.

(a) Commemorative naming refers to the naming of a property or some component of a property for an individual or civic or charitable group in recognition of outstanding achievement, distinctive service, or significant community contribution, generally without financial consideration.

(b) The term "civic or charitable group" shall mean a nonprofit entity, family or group that has made a substantial contribution to the state or community, either through civic involvement, through involvement in historic events relevant to a specific State Historic Site, or through an in-kind donation to support a specific State Historic Site.

For-profit entities shall not be considered civic or charitable groups for purposes of this section.

(c) Only non-historic features at State Historic Sites may be named pursuant to these rules, such as new visitor centers, meeting rooms, theaters, galleries, plazas, and other similar features designed for public use.

(d) The Executive Director and the Deputy Executive Director for Historic Sites shall have the authority to independently review and recommend commemorative naming proposals to the Commission for final approval.

(e) Any proposal for commemorative naming shall be made in writing and shall include sufficient explanation to enable the Commission to make a determination that the request is justified and complies with this policy.

(f) In reaching its decision, the Commission shall consider the proposed name, any contributions the individual or organization has made to the state of Texas, whether or not the local community supports the proposal, and, in the case of individuals, whether or not the person's surviving family supports the proposal.

(g) Commemorative naming may not reference any person not deceased for at least five years.

(h) Commemorative renaming of existing named facilities is discouraged.

(i) The Commission shall have the authority to rescind the naming of any property or component of any property if, in the Commission's opinion, the individual, civic or charitable group is found to have participated in any behavior which would have a negative impact on the site or agency or would discredit the work of the agency in any way.

##### §16.11. Philanthropic Naming of State Historic Site Facilities.

(a) Philanthropic naming refers to the naming of a property or some component of a property for an individual or civic or charitable group in exchange for financial or other consideration.

(b) The term "civic or charitable group" shall mean a nonprofit entity, family or group. For-profit entities shall not be considered civic or charitable groups for purposes of this section.

(c) Only non-historic features at State Historic Sites may be named pursuant to these rules, such as new visitor centers, meeting rooms, theaters, galleries, plazas, and other similar features designed for public use.

(d) Philanthropic naming rights may only be granted as part of a philanthropic naming rights plan developed in support of a particular project at a State Historic Site and approved by the Commission.

(e) Philanthropic naming rights plans shall establish an aggregate campaign goal, taking into consideration capital costs, annual op-

erating and maintenance costs, desirability and marketability, and visibility and prominence of the features to be named.

(f) Subsequent to the approval of a philanthropic naming rights plan by the Commission, the Executive Director and the Deputy Executive Director for Historic Sites, working with the agency's Development Director, shall have the authority to independently review and approve naming proposals consistent with said plan. In reaching this decision, they shall consider whether the gift is from a potentially controversial source, how the donation is to be acknowledged on the site, and any other relevant factors. If, in the opinion of the staff the gift could be controversial, staff may refer the proposed gift to the Commission for final approval.

(g) All assets for which naming rights will be offered shall be valued as a function of the aggregate campaign goal within the philanthropic naming rights plan.

(h) All naming rights shall be approved for a specific term, which shall not be longer than the useful life of the property or facility, as determined by the Commission, unless otherwise established in the naming rights plan approved by the Commission.

(i) The Commission shall have the authority to rescind the naming of any property or component of any property if, in the Commission's opinion, the individual, civic or charitable group is found to have participated in any behavior which would have a negative impact on the site or agency or would discredit the work of the agency in any way.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on April 30, 2015.

TRD-201501515

Mark Wolfe

Executive Director

Texas Historical Commission

Earliest possible date of adoption: June 14, 2015

For further information, please call: (512) 463-6100



## CHAPTER 21. HISTORY PROGRAMS

### SUBCHAPTER E. TEXAS HISTORIC ROADS AND HIGHWAYS PROGRAM

#### 13 TAC §21.31, §21.32

The Texas Historical Commission (THC) proposes new §21.31 and §21.32 under new Subchapter E relating to the Texas Historic Roads and Highways Program.

In 2009, the Texas Legislature established the Texas Historic Roads and Highways Program under House Bill 2642, which amended Texas Government Code Chapter 442 to add §442.025.

The purpose of the Texas Historic Roads and Highways Program is to establish a program for the identification, designation, interpretation, and marketing of Texas historic roads and highways. Under Texas Government Code Chapter §442.025, the Texas Historic Roads and Highways Program is the responsibility of the THC in partnership with the Texas Department of Transportation (TxDOT).

New §21.31 establishes definitions specific to the Texas Historic Roads and Highways Program.

New §21.32 is proposed to provide consistent implementation of the Texas Historic Roads and Highways Program. Section 21.32(a) establishes the authority of THC and TxDOT to enter into a memorandum of understanding to implement the Texas Historic Roads and Highways Program. Section 21.32(b) clarifies that the designation of a road or highway under this program is not, and may not be considered to be, a designation under the National Historic Preservation Act (54 U.S.C. §300101 *et seq.*). Section 21.32(c) establishes that THC and TxDOT may pursue federal funds dedicated to highway enhancement for the program. Section 21.32(d) states that TxDOT is not required to construct or erect a marker under this section unless a grant or donation of funds is made to cover the cost of the design, construction, and erection of the marker. Section 21.32(e) states that money received to cover the cost of a marker under this subsection shall be deposited to the credit of the state highway fund.

Mark Wolfe, Executive Director, has determined that for the first five-year period the new rules are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering these rules.

Mr. Wolfe has determined for each year of the first five-year period the new rules are in effect the public benefit anticipated as a result of the rules will be increased appreciation of historic roads and highways in Texas and their educational and tourism benefits to the state.

Additionally, Mr. Wolfe has determined there may be a positive effect on small or micro businesses in communities that have a connection to historic highway routes by encouraging heritage tourism in those communities.

Comments on the proposal may be submitted by mail to Mark Wolfe, Executive Director, Texas Historical Commission, P.O. Box 12276, Austin, Texas 78711-2276. Comments will be accepted for 30 days after publication in the *Texas Register*.

New §21.31 and §21.32 are proposed under §442.005(q), Texas Government Code, which provides THC with the authority to promulgate rules and conditions to reasonably effect the purposes of this chapter.

The proposal of these rules implements §442.005 and §442.025 of the Texas Government Code.

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

#### §21.31. Definitions.

The following words and terms shall have the given meanings when used in this subchapter unless the context clearly requires otherwise:

(1) "Commission" means the Texas Historical Commission.

(2) "Department" means the Texas Department of Transportation.

(3) "Historic Highway" means the following officially designated highways within the State of Texas as shown on the Rand McNally Official 1923 Auto Trails Map, Districts 12 and 18, or any other highway so designated by the Texas State Legislature:

(A) Bankhead Highway (Texarkana-Dallas-Fort Worth & El Paso)

Highway

(B) Meridian Highway, Mineral Wells Branch Meridian

(C) Southern National Trail (Old Spanish Trail)

(D) Del Rio-Canadian Highway

(E) North Texas Highway

(F) King of Trails

(G) Central Texas Highway

(H) East Texas Highway

(I) Puget Sound to Gulf Highway

(J) Fort Worth-Brady-Fort Stockton Highway

(K) Jefferson Highway

(L) Jefferson Davis Memorial Highway

(M) Ozark Trail

Henry Exall Highway, "X" All Highway

(N) Henry Exall Memorial Highway, Eastern Loop Highway, "X" All Highway

(O) Texas-Louisiana Highway

(P) Pecos Valley Highway

(Q) Albany-Bronco Highway

(R) Paris-Houston Highway, Red River to Gulf Highway

way

(S) Austin to Houston Highway

(T) Gonzales to San Augustine Highway

(U) Wichita Falls and Comanche Highway

(V) Southwest Trail of Texas

(W) Denton-Whitesboro Highway

(X) Tyler-Henderson-Nacogdoches Highway

(Y) Fort Worth-Farwell-Frisco Highway

(Z) Middlebuster Highway

(AA) Wichita Valley Highway

(BB) Waco-Corsicana Highway

(CC) Ben Milam Highway

(DD) Jim Hogg Highway

(EE) Throckmorton Highway

(FF) Hobby Highway

(GG) Charles Schreiner Highway

(HH) Culberson Highway

(II) SAP Route

(JJ) East and West Texas Highway

(KK) Mississippi River Scenic Highway

(LL) Postal Highway

(MM) Star Highway

(NN) Denison-Whitesboro-Fort Worth-Gulf

(OO) Abo Pass Highway

(PP) Texas, Oklahoma, Kansas Route

(QQ) San Antonio-Del Rio

(RR) Lone Star Trail (Beaumont to Brownsville)

(SS) Kansas-Oklahoma, Texas and Gulf Highway

(TT) Gulf to Panhandle Highway

(UU) Dallas-Canadian-Denver Highway

(VV) Lee Highway

(WW) Lone Star Trail (Timpson to El Paso)

(XX) Colorado to Gulf Highway

(YY) Dixie Overland Highway

(ZZ) Coast to Coast Route

(AAA) Southwest Trails

(BBB) Air Line

(CCC) Mineral Wells Trail

(DDD) Atlantic-Pacific Highway

(4) "Historic Roads and Highways Program" means the program operated by the Commission in cooperation with the Department to identify, designate, interpret and market Texas historic roads and highways.

§21.32. *Historic Roads and Highways Program.*

(a) The Commission and the Department may enter into a memorandum of understanding to establish a program for the identification, designation, interpretation, and marketing of Texas historic roads and highways.

(b) The designation of a road or highway under a program established under this section is not, and may not be considered to be, a designation under the National Historic Preservation Act (54 U.S.C. §300101, et seq.).

(c) To supplement revenue available for the program, the Commission and the Department may pursue federal funds dedicated to highway enhancement for the program or seek private donations of funds, services, or in-kind contributions or local government participation.

(d) The Department is not required to construct or erect a marker under this section unless a grant or donation of funds is made to cover the cost of the design, construction, and erection of the marker.

(e) Money received to cover the cost of a marker under this subsection shall be deposited to the credit of the state highway fund.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on April 30, 2015.

TRD-201501516

Bratten Thomason

Division Director

Texas Historical Commission

Earliest possible date of adoption: June 14, 2015

For further information, please call: (512) 463-5854

◆ ◆ ◆

## CHAPTER 29. MANAGEMENT AND CARE OF ARTIFACTS AND COLLECTIONS

### 13 TAC §29.3

The Texas Historical Commission (THC) proposes an amendment to §29.3, concerning scope. The proposed amendment corrects a citation in §29.3(a). The rule currently cites "§442.007(d)(7)", which is a typographical error. There is no (d)(7) in §442.007 of the Texas Government Code. The correct citation is "Texas Government Code §442.007(e)(7)," which states that the state archeologist has the duty of "preserving the archeological and historical heritage of the state."

Mark Wolfe, Executive Director, has determined that for the first five-year period the amendment is in effect there will be no fiscal implications for state or local government as a result of administering the amended section.

Mark Wolfe, Executive Director, has also determined that for each year of the first five-year period that the amendment is in effect the public benefit anticipated as result of this amendment will be a clearer understanding of rule. Additionally, Mr. Wolfe as determined that there will be no effect on small businesses.

Comments on the proposal may be submitted to Mark Wolfe, Executive Director, Texas Historical Commission, P.O. Box 12276, Austin, Texas 78711-2276, (512) 463-6100. Comments will be accepted for 30 days after publication in the *Texas Register*.

The proposal of this amendment implements §442.007 of the Texas Government Code.

No other statutes, articles, or codes are affected by this amendment.

#### §29.3. Scope.

(a) Pursuant to Texas Natural Resources Code, §191.091 and §191.092, all antiquities found on land or under waters belonging to the State of Texas or any political subdivision of the State belong to the State of Texas. The Commission is charged with the administration of the Antiquities Code and exercises the authority of the State in matters related to these state-associated collections. Under Texas Government Code, §442.007(e)(7) [~~§442.007(d)(7)~~], the Commission, through the authority of the State Archeologist, may preserve the historic and archeological heritage of the State.

(b) Pursuant to Texas Government Code, §442.0145, the Commission has the authority to acquire historical documents, records, or historical artifacts for the State of Texas to ensure their protection and use by the people of Texas.

(c) State-associated collections generally are placed in curatorial facilities in Texas. The relationship between the Commission and the curatorial facility is an express trust. Ownership of these collections is not transferred but the Commission has the authority to transfer stewardship of the collections through a held-in-trust agreement with the designated curatorial facility.

(d) All state-associated collections held in curatorial facilities are subject to the statutory authority of the Commission, and these rules supercede the collections management policy of the curatorial facility to the extent of any conflict.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 1, 2015.

TRD-201501524

Mark Wolfe

Executive Director

Texas Historical Commission

Earliest possible date of adoption: June 14, 2015

For further information, please call: (512) 463-1858



## TITLE 16. ECONOMIC REGULATION

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

#### CHAPTER 66. REGISTRATION OF PROPERTY TAX CONSULTANTS

##### 16 TAC §66.70

The Texas Department of Licensing and Regulation (Department) proposes amendments to an existing rule at 16 TAC §66.70, regarding the Registration of Property Tax Consultants program.

The proposed amendment is necessary to update the Department's internet address from "www.license.state.tx.us" to "www.tdlr.texas.gov." The Department was issued the new domain from the Texas Department of Information Resources to further strengthen Texas government brand recognition. In applying this rule change, the Department will allow businesses with previously printed forms that have the old internet address to continue to use these forms through December 31, 2015.

The proposed amendment to §66.70 updates the Department's internet address on all written contracts.

William H. Kuntz, Jr., Executive Director, has determined that for the first five-year period the proposed amendment is in effect there will be no direct cost to state or local government as a result of enforcing or administering the proposed amendment. There is no estimated loss in revenue to the state as a result of enforcing or administering the proposed amendment.

Mr. Kuntz also has determined that for each year of the first five-year period the proposed amendment is in effect, the public will benefit by having the current contact information for the Department and by knowing that they are using an official Texas government website.

The anticipated economic effect on small and micro-businesses and to all other persons who are required to comply with the rules as amended will be minimal and inconsequential. The Department will allow businesses with previously printed forms that have the old internet address to continue to use these forms through December 31, 2015. Therefore, there will be no adverse effect on small or micro-businesses or to persons who are required to comply with the amendment as proposed.

Since the agency has determined that the proposed amendment will have no adverse economic effect on small or micro-businesses, preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis under Texas Government Code §2006.002 is not required.

Comments on the proposal may be submitted by mail to Pauline Easley, Legal Assistant, General Counsel's Office, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711; or by facsimile to (512) 475-3032, or electronically

to [erule.comments@tdlr.texas.gov](mailto:erule.comments@tdlr.texas.gov). The deadline for comments is 30 days after publication in the *Texas Register*.

The amendment is proposed under Texas Occupations Code, Chapters 51 and 1152, which authorize the Commission, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposal are those set forth in Texas Occupations Code, Chapters 51 and 1152. No other statutes, articles, or codes are affected by the proposal.

*§66.70. Responsibilities of Registrant--General.*

(a) (No change.)

(b) A registrant shall list the following information on all written contracts: "Regulated by The Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711, 1-800-803-9202, 512-463-6599; website: [www.tdlr.texas.gov](http://www.tdlr.texas.gov) [[www.license.state.tx.us/complaints](http://www.license.state.tx.us/complaints)]."

(c) - (g) (No change.)

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 4, 2015.

TRD-201501537

William H. Kuntz, Jr.

Executive Director

Texas Department of Licensing and Regulation

Earliest possible date of adoption: June 14, 2015

For further information, please call: (512) 463-8179



## CHAPTER 73. ELECTRICIANS

### 16 TAC §§73.51, 73.52, 73.54

The Texas Department of Licensing and Regulation (Department) proposes amendments to existing rules at 16 TAC §§73.51, 73.52, and 73.54, regarding the Electricians program.

The proposed amendment is necessary to update the Department's internet address from "[www.license.state.tx.us](http://www.license.state.tx.us)" to "[www.tdlr.texas.gov](http://www.tdlr.texas.gov)." The Department was issued the new domain from the Texas Department of Information Resources to further strengthen Texas government brand recognition. In applying these rule changes, the Department will allow businesses with previously printed forms that have the old internet address to continue to use these forms through December 31, 2015.

The proposed amendment to §73.51 updates the Department's internet address on all proposals, invoices and written contracts from electrical contractors.

The proposed amendment to §73.52 updates the Department's internet address on all proposals, invoices and written contracts from electrical sign contractors.

The proposed amendment to §73.54 updates the Department's internet address on all proposals, invoices and written contracts from residential appliance installation contractors.

William H. Kuntz, Jr., Executive Director, has determined that for the first five-year period the proposed amendments are in effect there will be no direct cost to state or local government as

a result of enforcing or administering the proposed amendments. There is no estimated loss in revenue to the state as a result of enforcing or administering the proposed amendments.

Mr. Kuntz also has determined that for each year of the first five-year period the proposed amendments are in effect, the public will benefit by having the current contact information for the Department and by knowing that they are using an official Texas government website.

The anticipated economic effect on small and micro-businesses and to all other persons who are required to comply with the rules as amended will be minimal and inconsequential. The Department will allow businesses with previously printed forms that have the old internet address to continue to use these forms through December 31, 2015. Therefore, there will be no adverse effect on small or micro-businesses or to persons who are required to comply with the amendments as proposed.

Since the agency has determined that the proposed amendments will have no adverse economic effect on small or micro-businesses, preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis under Texas Government Code §2006.002 is not required.

Comments on the proposal may be submitted by mail to Pauline Easley, Legal Assistant, General Counsel's Office, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711; by facsimile to (512) 475-3032; or electronically to [erule.comments@tdlr.texas.gov](mailto:erule.comments@tdlr.texas.gov). The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Occupations Code, Chapters 51 and 1305, which authorize the Commission, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposal are those set forth in Texas Occupations Code, Chapters 51 and 1305. No other statutes, articles, or codes are affected by the proposal.

*§73.51. Electrical Contractors' Responsibilities.*

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

(f) The electrical contractor's name, address, phone number, and license number shall appear on all proposals, invoices, and written contracts from the contractor. The following information: "Regulated by The Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711, 1-800-803-9202, 512-463-6599; website: [www.tdlr.texas.gov](http://www.tdlr.texas.gov) [[www.license.state.tx.us/complaints](http://www.license.state.tx.us/complaints)]" shall be listed on all proposals, invoices, and written contracts.

(g) - (h) (No change.)

*§73.52. Electrical Sign Contractors' Responsibilities.*

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

(f) The electrical sign contractor's name, address, phone number, and license number shall appear on all proposals, invoices, and written contracts from the contractor. The following information: "Regulated by The Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711, 1-800-803-9202, 512-463-6599; website: [www.tdlr.texas.gov](http://www.tdlr.texas.gov) [[www.license.state.tx.us/complaints](http://www.license.state.tx.us/complaints)]" shall be listed on all proposals, invoices, and written contracts.

(g) - (h) (No change.)

*§73.54. Residential Appliance Installation Contractors' Responsibilities.*

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

(e) The residential appliance installation contractor's name, address, phone number, and license number shall appear on all proposals, invoices, and written contracts from the contractor. The following information: "Regulated by The Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711, 1-800-803-9202, 512-463-6599; website: [www.tdlr.texas.gov](http://www.tdlr.texas.gov) [[www.license.state.tx.us/complaints](http://www.license.state.tx.us/complaints)]" or "Regulated by The Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711, 1-800-803-9202, 512-463-6599; website: [www.tdlr.texas.gov](http://www.tdlr.texas.gov) [[www.license.state.tx.us/complaints](http://www.license.state.tx.us/complaints)]. TDLR regulation limited to electrical work only." shall be listed on all proposals, invoices, and written contracts.

(f) - (g) (No change.)

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 4, 2015.

TRD-201501534

William H. Kuntz, Jr.

Executive Director

Texas Department of Licensing and Regulation

Earliest possible date of adoption: June 14, 2015

For further information, please call: (512) 463-8179



## CHAPTER 75. AIR CONDITIONING AND REFRIGERATION

### 16 TAC §75.71

The Texas Department of Licensing and Regulation (Department) proposes amendments to an existing rule at 16 TAC §75.71, regarding the Air Conditioning and Refrigeration program.

The proposed amendment is necessary to update the Department's internet address from "www.license.state.tx.us" to "www.tdlr.texas.gov." The Department was issued the new domain from the Texas Department of Information Resources to further strengthen Texas government brand recognition. In applying this rule change, the Department will allow businesses with previously printed forms that have the old internet address to continue to use these forms through December 31, 2015.

The proposed amendment to §75.71 updates the Department's internet address that must be listed on all proposals and invoices, written contracts and on signage displayed in the place of business if the consumer or service recipient may visit the place of business for service. It also removes outdated language regarding inclusion of the website information.

William H. Kuntz, Jr., Executive Director, has determined that for the first five-year period the proposed amendment is in effect there will be no direct cost to state or local government as a result of enforcing or administering the proposed amendment. There is no estimated loss in revenue to the state as a result of enforcing or administering the proposed amendment.

Mr. Kuntz also has determined that for each year of the first five-year period the proposed amendment is in effect, the public will benefit by having the current contact information for the

Department and by knowing that they are using an official Texas government website.

The anticipated economic effect on small and micro-businesses and to all other persons who are required to comply with the rules as amended will be minimal and inconsequential. The Department will allow businesses with previously printed forms that have the old internet address to continue to use these forms through December 31, 2015. Therefore, there will be no adverse effect on small or micro-businesses or to persons who are required to comply with the amendments as proposed.

Since the agency has determined that the proposed amendments will have no adverse economic effect on small or micro-businesses, preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis under Texas Government Code §2006.002 is not required.

Comments on the proposal may be submitted by mail to Pauline Easley, Legal Assistant, General Counsel's Office, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711; or by facsimile to (512) 475-3032, or electronically to [erule.comments@tdlr.texas.gov](mailto:erule.comments@tdlr.texas.gov). The deadline for comments is 30 days after publication in the *Texas Register*.

The amendment is proposed under Texas Occupations Code, Chapters 51 and 1302, which authorize the Commission, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposal are those set forth in Texas Occupations Code, Chapters 51 and 1302. No other statutes, articles, or codes are affected by the proposal.

#### §75.71. Responsibilities of the Contracting Company.

(a) - (h) (No change.)

(i) An invoice must be provided to the consumer for all air conditioning and refrigeration work performed. The company name, address, and phone number must appear on all proposals and invoices. The affiliated licensee's number must appear on all proposals and invoices for air conditioning and refrigeration work. The following information: "Regulated by The Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711, 1-800-803-9202, 512-463-6599, [www.tdlr.texas.gov](http://www.tdlr.texas.gov) [[www.license.state.tx.us](http://www.license.state.tx.us)]" must be listed on:

- (1) proposals and invoices;
- (2) written contracts; and

(3) a sign prominently displayed in the place of business if the consumer or service recipient may visit the place of business for service.

(j) - (k) (No change.)

~~{(l) The inclusion of the department website information as required under subsection (i) is effective September 1, 2011.}~~

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 4, 2015.

TRD-201501540

William H. Kuntz, Jr.  
Executive Director  
Texas Department of Licensing and Regulation  
Earliest possible date of adoption: June 14, 2015  
For further information, please call: (512) 463-8179



## CHAPTER 88. POLYGRAPH EXAMINERS

### 16 TAC §88.78

The Texas Department of Licensing and Regulation (Department) proposes amendments to an existing rule at 16 TAC §88.78, regarding the Polygraph Examiners program.

The proposed amendment is necessary to update the Department's internet address from "www.license.state.tx.us" to "www.tdlr.texas.gov." The Department was issued the new domain from the Texas Department of Information Resources to further strengthen Texas government brand recognition. In applying this rule change, the Department will allow businesses with previously printed forms that have the old internet address to continue to be used through December 31, 2015.

The proposed amendment to §88.78 updates the Department's internet address on all written contracts for a polygraph examiner's services and the waiver of liability signed by the subject of a polygraph examination.

William H. Kuntz, Jr., Executive Director, has determined that for the first five-year period the proposed amendment is in effect there will be no direct cost to state or local government as a result of enforcing or administering the proposed amendment. There is no estimated loss in revenue to the state as a result of enforcing or administering the proposed amendment.

Mr. Kuntz also has determined that for each year of the first five-year period the proposed amendment is in effect, the public will benefit by having the current contact information for the Department and by knowing that they are using an official Texas government website.

The anticipated economic effect on small and micro-businesses and to all other persons who are required to comply with the rules as amended will be minimal and inconsequential. The Department will allow businesses with previously printed forms that have the old internet address to continue to be used through December 31, 2015. Therefore, there will be no adverse effect on small or micro-businesses or to persons who are required to comply with the amendments as proposed.

Since the agency has determined that the proposed amendments will have no adverse economic effect on small or micro-businesses, preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis under Texas Government Code §2006.002 is not required.

Comments on the proposal may be submitted by mail to Pauline Easley, Legal Assistant, General Counsel's Office, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711; or by facsimile to (512) 475-3032, or electronically to [erule.comments@tdlr.texas.gov](mailto:erule.comments@tdlr.texas.gov). The deadline for comments is 30 days after publication in the *Texas Register*.

The amendment is proposed under Texas Occupations Code, Chapters 51 and 1703, which authorize the Commission, the Department's governing body, to adopt rules as necessary to imple-

ment these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposal are those set forth in Texas Occupations Code, Chapters 51 and 1703. No other statutes, articles, or codes are affected by the proposal.

§88.78. *Responsibility of Licensee--Contract for Services and Waiver of Liability.*

(a) A written contract for a polygraph examiner's services must include the following information: "To file a complaint against a polygraph examiner, contact the Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711, 1-800-803-9202, (512) 463-6599, [www.tdlr.texas.gov](http://www.tdlr.texas.gov) or [cpolygraphexaminers@tdlr.texas.gov](mailto:cpolygraphexaminers@tdlr.texas.gov) [[www.license.state.tx.us](http://www.license.state.tx.us) or [es.polygraph@license.state.tx.us](mailto:es.polygraph@license.state.tx.us)]."

(b) A waiver of liability signed by the subject of a polygraph examination must include the following information: "To file a complaint against a polygraph examiner, contact the Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711, 1-800-803-9202, (512) 463-6599, [www.tdlr.texas.gov](http://www.tdlr.texas.gov) or [cpolygraphexaminers@tdlr.texas.gov](mailto:cpolygraphexaminers@tdlr.texas.gov) [[www.license.state.tx.us](http://www.license.state.tx.us) or [es.polygraph@license.state.tx.us](mailto:es.polygraph@license.state.tx.us)]."

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 4, 2015.

TRD-201501538  
William H. Kuntz, Jr.  
Executive Director  
Texas Department of Licensing and Regulation  
Earliest possible date of adoption: June 14, 2015  
For further information, please call: (512) 463-8179



## CHAPTER 91. DOG OR CAT BREEDERS PROGRAM

### 16 TAC §91.74

The Texas Department of Licensing and Regulation (Department) proposes amendments to an existing rule at 16 TAC §91.74, regarding the Dog or Cat Breeders program.

The proposed amendment is necessary to update the Department's internet address from "www.license.state.tx.us" to "www.tdlr.texas.gov." The Department was issued the new domain from the Texas Department of Information Resources to further strengthen Texas government brand recognition. In applying this rule change, the Department will allow businesses with previously printed forms that have the old internet address to continue to be used through December 31, 2015.

The proposed amendment to §91.74 updates the Department's internet address that must be listed on each contract for the sale or transfer of an animal.

William H. Kuntz, Jr., Executive Director, has determined that for the first five-year period the proposed amendment is in effect there will be no direct cost to state or local government as a result of enforcing or administering the proposed amendment. There is no estimated loss in revenue to the state as a result of enforcing or administering the proposed amendment.

Mr. Kuntz also has determined that for each year of the first five-year period the proposed amendment is in effect, the public will benefit by having the current contact information for the Department and by knowing that they are using an official Texas government website.

The anticipated economic effect on small and micro-businesses and to all other persons who are required to comply with the rules as amended will be minimal and inconsequential. The Department will allow businesses with previously printed forms that have the old internet address to continue to use these forms through December 31, 2015. Therefore, there will be no adverse effect on small or micro-businesses or to persons who are required to comply with the amendments as proposed.

Since the agency has determined that the proposed amendments will have no adverse economic effect on small or micro-businesses, preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis under Texas Government Code §2006.002 is not required.

Comments on the proposal may be submitted by mail to Pauline Easley, Legal Assistant, General Counsel's Office, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711; or by facsimile to (512) 475-3032, or electronically to [erule.comments@tdlr.texas.gov](mailto:erule.comments@tdlr.texas.gov). The deadline for comments is 30 days after publication in the *Texas Register*.

The amendment is proposed under Texas Occupations Code, Chapters 51 and 802, which authorize the Commission, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposal are those set forth in Texas Occupations Code, Chapters 51 and 802. No other statutes, articles, or codes are affected by the proposal.

*§91.74. Responsibilities of Licensee--Mandatory Contract Provisions.*

A licensed breeder must include in each contract for the sale or transfer of an animal:

(1) the license number; and

(2) the following statement: "Dog and cat breeders are regulated by the Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711, 1-800-803-9202, 512-463-6599, [www.tdlr.texas.gov](http://www.tdlr.texas.gov) [[www.license.state.tx.us](http://www.license.state.tx.us)]" or a similar statement adopted by commission rule that includes the department's name, mailing address, telephone numbers, and Internet website address.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 4, 2015.

TRD-201501539

William H. Kuntz, Jr.

Executive Director

Texas Department of Licensing and Regulation

Earliest possible date of adoption: June 14, 2015

For further information, please call: (512) 463-8179



## TITLE 22. EXAMINING BOARDS

# PART 30. TEXAS STATE BOARD OF EXAMINERS OF PROFESSIONAL COUNSELORS

## CHAPTER 681. PROFESSIONAL COUNSELORS

The Texas State Board of Examiners of Professional Counselors (board), proposes amendments to §§681.2, 681.9, 681.12, 681.14, 681.15, 681.31, 681.41, 681.48, 681.72, 681.81, 681.82, 681.83, 681.91, 681.92, 681.93, 681.102, 681.123, 681.125, 681.141, 681.142, 681.161, 681.162, 681.166, 681.202 and 681.251, concerning the licensing and regulation of professional counselors.

### BACKGROUND AND PURPOSE

The proposed amendments to the rules expand and clarify the definitions in Subchapter A.

Amendments to Subchapters B and C reflect the evolutionary methods of counseling.

The amendments also expand and clarify the requirements for tele-practice and simplify the application process in Subchapter D.

Proposed amendments to Subchapter E allow exceptions for applicants with degrees older than 10 years and also specify the additional academic course requirements for applicants starting a counseling program as of August 1, 2017.

Amendments to Subchapter F limit an LPC's number of supervisory sites and delete duplicative language concerning the National Counselor Exam. In addition, proposed amendments to Subchapter F clarify supervision requirements for interns and specify the responsibilities and requirements for LPC supervisors.

Amendments to Subchapter G delete "ADA" and properly spell out the law's title as Americans with Disabilities.

Proposed changes to Subchapter I add new requirements regarding inactive licenses.

Amendments to Subchapter J clarify acceptable types and hours of continued education; and changes to Subchapter K mandate the type of information needed to process a complaint and also require the board's legal counsel to attend an informal conference.

Proposed amendments to Subchapter M clarify certain factors considered in the type of sanction imposed upon a licensee.

Changes to Subchapter N require licensees serving as parenting coordinators to provide certain information to the parties of the legal suit.

### SECTION-BY-SECTION SUMMARY

The proposed amendment to §681.2 expands the definitions of "client" and "indirect hours."

The proposed amendment to §681.9 allows the Chair or Vice Chair to make exceptions to the committee assignments. Currently, rule language authorizes only the board to make such exceptions.

The proposed amendment to §681.12 removes existing subsection (b) because it contains obsolete language. As a result, the section has been renumbered accordingly.



The proposed amendment to §681.14 raises application, licensure and renewal fees for Licensed Professional Counselors, making them comparable to other mental health licensure fees.

The proposed amendment to §681.15 allows exceptions to the specified time for processing applications and renewals in the event of extenuating circumstances.

The proposed amendment to §681.31 clarifies and expands acceptable play therapy.

Proposed amendments to §681.41 specify requirements for distance counseling as well as provide guidance, clarification and consistency on the use of this counseling process.

The proposed amendment to §681.48 adds new subsection (c) to require a licensee's legal name appear on the LPC license certificate. The rest of the subsection is renumbered accordingly to reflect this addition.

The proposed amendment to §681.72 removes extraneous language regarding application material.

The proposed amendment to §681.81 allows the board to hear exceptions to current rule language, which precludes applicants from using degrees and coursework earned 10 years prior to the application date.

The proposed amendment to §681.82 is amended to add couples, families, organizations and communities direct service training as an academic requirement an applicant must receive in order to qualify for LPC licensure.

The proposed amendment to §681.83 allows Lifestyle and Career Development as an elective course while making couples, marriage, families or parenting courses mandatory; these changes are effective for applicants beginning a counseling program as of August 1, 2017.

The proposed amendment to §681.91 limits the number of supervisory sites an LPC Intern can have at any given time. Existing subsection (i) is deleted to ensure consistency with other rules, and the section is renumbered accordingly to reflect this change.

Proposed amendments to §681.92 add organizations and communities as mandatory direct counseling services for an LPC intern, clarifies when the LPC intern must receive specific hours of supervision; the proposed changes also remove redundant language.

Proposed amendments to §681.93 increase the amount of time a licensee must hold licensure before the licensee may apply for supervision status in order to ensure the licensee has adequate experience to supervise interns. It also specifies the percentage of continuing education which must be face to face and expands upon and details the type of records a supervisor must keep for each intern. Finally, amendments to the section provide the legal citation for applicable fair hearing rules and add refund of supervisory fees to an intern as a possible sanction to a supervisor who violates board rules.

The proposed amendment to §681.102 replaces the term ADA with its full, spelled out title, "Americans with Disabilities Act", for clarification.

The proposed amendment to §681.123 specifies the address to which a license renewal notice will be submitted.

The proposed amendment to §681.125 limits the inactive status of an LPC license to a total of 2 years and requires board

approval before a temporary license may be placed on inactive status.

The amendments to §681.141 specify the type of ethics acceptable for Continuing Education credit; changes to the section now allow a supervisor to attend an application committee meeting of the board in lieu of completing required supervision continued education credit.

The amendments to §681.142 specify acceptable continuing education, allow attendance at a complaints committee meeting to count as 3 hours of continuing education credit and exempt board members from meeting the continuing education requirements while serving on the board. In addition, changes to this section require couples, family, organization or communities as a required counseling method or technique for continuing education credit.

Proposed amendments to §681.161 mandate the type of information needed to process a complaint.

Proposed amendments to §681.162 clarify the circumstances under which a formal hearing may be offered to an applicant whose application for licensure was denied.

Amendments to §681.166 require the board's legal counsel to attend each informal conference.

Amendments to §681.202 clarify certain factors considered in the type of sanction imposed upon a licensee.

Proposed amendments to §681.251 reorganize the section to improve clarity.

#### FISCAL NOTE

Bobbe Alexander, Executive Director, has determined that for each year of the first five years the sections are in effect, there will be no fiscal implications to state or local governments as a result of enforcing or administering the sections as proposed.

#### SMALL AND MICRO-BUSINESS IMPACT ANALYSIS

Ms. Alexander has also determined that there will be no economic costs to small businesses or micro-businesses as a result of these proposed rules as these entities will not be required to alter their business practices to comply with the sections as proposed. This was determined by interpretation of the rules that small businesses and micro-businesses will not be required to alter their business practices in order to comply with the sections.

#### ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT

There are no anticipated economic costs to persons who are required to comply with the sections as proposed. There is no anticipated negative impact on local employment.

#### REGULATORY ANALYSIS

The board has determined that this proposal is not a "major environmental rule" as defined by Government Code, §2001.0225. "Major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or reduce risk 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 a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

## TAKINGS IMPACT ASSESSMENT

The board has determined that the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Government Code, §2007.043.

## PUBLIC BENEFIT

Ms. Alexander has also determined that for each year of the first five years the sections are in effect, the public will benefit from adoption of the sections. The public benefit anticipated as a result of enforcing or administering the sections is increased number of individuals served by licensed professional counselors/interns by the availability of additional licensed health professionals through the facilitation of the occupational licensing of applicants with applicable military experience and of qualified military spouses and the effective regulation of the practice of counseling in Texas, which will protect and promote public health, safety, and welfare and ensure that statutory directives are carried out.

## PUBLIC COMMENT

Comments on the proposal may be submitted to Bobbe Alexander, Executive Director, State Board of Examiners of Professional Counselors, Department of State Health Services, Mail Code 1982, P.O. Box 149347, Austin, Texas 78714-9347 or by email to [ipc@dshs.state.tx.us](mailto:ipc@dshs.state.tx.us). When emailing comments, please indicate "Comments on Proposed Rules" in the email subject line. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

## SUBCHAPTER A. THE BOARD

### 22 TAC §§681.2, 681.9, 681.12, 681.14, 681.15

#### STATUTORY AUTHORITY

The amendments are authorized by Occupations Code, §503.203, which authorizes the board to adopt rules necessary for the performance of the board's duties.

The amendments affect Occupations Code, Chapter 503.

#### §681.2. Definitions.

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

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

(6) Client--An individual, couple, family, group, organization or community [A person] who requests and receives counseling services from a licensee or who has engaged in a therapeutic relationship with a licensee.

(7) - (11) (No change.)

(12) Indirect hours--Time spent in management, consultation, administration or other aspects of counseling service ancillary to direct client contact.

(13) - (15) (No change.)

(16) LPC Intern--A person who holds a temporary license to practice counseling only under supervision.

(17) - (18) (No change.)

#### §681.9. Committees.

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

(g) Each committee shall consist of at least one public member and one professional member, unless the board Chair or Vice Chair authorizes otherwise.

#### §681.12. Official Records of the Board.

(a) (No change.)

~~{(b) When a request is unreasonably disruptive to the ongoing business of the office or when the safety of any record is at issue, physical access by inspection may be denied and the requester will be provided the option of receiving duplicate copies at the requester's cost.}~~

~~(b) [(e)] Costs of duplication shall be paid by the requester at the time of or before the duplicated records are sent or given to the requester.~~

~~(c) [(d)] The rules of procedure for inspection and duplication of public records contained in the Public Information Act, Texas Government Code, Chapter 552, shall apply to requests received by the board.~~

#### §681.14. Licensing Fees.

(a) Licensing fees are as follows:

(1) Application, intern license and initial license fee--~~\$250~~ [~~\$190~~];

(2) 2 year renewal fee--~~\$160~~ [~~\$100~~];

(3) late renewal fee:

(A) 1-90 days after license expiration--~~\$200~~ [~~\$125~~];

(B) 91-365 days after license expiration--~~\$240~~ [~~\$150~~].

(4) 2-year inactive status fee--~~\$100~~ [~~\$50~~];

(5) - (6) (No change.)

(7) art therapy specialty designation application fee--~~\$50~~ [~~\$30~~] (in addition to any necessary application fees listed in paragraphs (1) - (6) of this subsection); and

(8) (No change.)

(b) - (e) (No change.)

#### §681.15. Processing Procedures.

Time periods. The board shall comply with the following procedures in processing applications for a license and renewal of a regular license:

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

(4) The board may exceed the time period if:

(A) the number of applications for license or license renewal exceeds the number of applications processed in the same calendar quarter the preceding year by at least 15%;

(B) another public or private entity relied upon by the board caused the delay of the application process; or

(C) good cause shown for exceeding the time period.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 4, 2015.

TRD-201501543

Glenda Corley

Chair

Texas State Board of Examiners of Professional Counselors

Earliest possible date of adoption: June 14, 2015

For further information, please call: (512) 776-6972



## SUBCHAPTER B. AUTHORIZED COUNSELING METHODS AND PRACTICES

### 22 TAC §681.31

#### STATUTORY AUTHORITY

The amendment is authorized by Occupations Code, §503.203, which authorizes the board to adopt rules necessary for the performance of the board's duties.

The amendment affects Occupations Code, Chapter 503.

#### §681.31. *Counseling Methods and Practices.*

The use of specific methods, techniques, or modalities within the practice of professional counseling is limited to professional counselors appropriately trained and competent in the use of such methods, techniques, or modalities. Authorized counseling methods techniques and modalities may include, but are not restricted to, the following:

(1) - (11) (No change.)

(12) play therapy which utilizes play and play media as the child's natural medium of self-expression, and verbal tracking of the child's play behaviors and feelings as a part of the therapist's role in helping children overcome their social, emotional, and behavioral [mental] issues;

(13) - (15) (No change.)

(16) assessing and appraising, in compliance with §681.43 of this title (relating to Testing), which utilizes formal and informal instruments and procedures, for which the counselor has received appropriate training and supervision, in individual and group settings for the purposes of determining the client's strengths and weaknesses, mental condition, emotional stability, intellectual ability, interests, aptitudes, achievement level and other personal characteristics for a better understanding of [human] behavior, and for diagnosing mental health disorders; but does not permit the diagnosis of a physical condition or physical disorder;

(17) - (18) (No change.)

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 4, 2015.

TRD-201501544

Glenda Corley

Chair

Texas State Board of Examiners of Professional Counselors

Earliest possible date of adoption: June 14, 2015

For further information, please call: (512) 776-6972



## SUBCHAPTER C. CODE OF ETHICS

### 22 TAC §681.41, §681.48

#### STATUTORY AUTHORITY

The amendments are authorized by Occupations Code, §503.203, which authorizes the board to adopt rules necessary for the performance of the board's duties.

The amendments affect Occupations Code, Chapter 503.

#### §681.41. *General Ethical Requirements.*

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

(g) Technological means of communication may be used to facilitate the therapeutic counseling process. A License Professional Counselor licensed by the State of Texas shall have a face to face initial intake session before beginning a distance counseling relationship. When distance counseling, the licensee must reside in the State of Texas and the client must be a resident of or within the state of Texas with the exception of the military.

~~[(g) Technological means of communication may be used to facilitate the therapeutic counseling process. Counselors engaging in interactive distance counseling must adhere to each provision of the rules and statutes of the board.]~~

(h) - (o) (No change.)

(p) In individuals, couples, families, groups, organizations and communities [individual and group] counseling settings, the licensee shall take reasonable precautions to protect individuals from physical or emotional harm resulting from interaction within a group or from individual counseling.

(q) (No change.)

(r) Records held by a licensee or Board approved supervisor shall be kept for a minimum of five years from the date of the last contact with the client or from the date the LPC-Intern receives full licensure.

(s) (No change.)

(t) Billing Requirements. [A licensee shall bill clients or third parties for only those services actually rendered or as agreed to by mutual understanding at the beginning of services or as later modified by mutual written agreement.]

(1) A licensee shall bill clients or third parties for only those services actually rendered or as agreed to by mutual understanding at the beginning of services or as later modified by mutual written agreement.

(2) [(+) Relationships between a licensee and any other person used by the licensee to provide services to a client shall be so reflected on billing documents.

(3) [(2) Pursuant to Texas Health and Safety Code, Chapter 611, on the written request of a client, a client's guardian, or a client's parent (sole managing, joint managing or possessory conservator) if the client is a minor, a licensee shall provide, in plain language, a written explanation of the types of treatment and charges for counseling treatment intervention previously made on a bill or statement for the client. This requirement applies even if the charges are to be paid by a third party.

(4) [(3) A licensee may not knowingly overcharge a client.

(5) [(4) With the exception of an unkept appointment, a licensee may not submit to a client or a third party payor a bill for counseling treatment intervention that the licensee knows was not provided or knows was improper, unreasonable, or unnecessary.

(u) [(5) A licensee shall comply with requirements of Texas Health and Safety Code, Chapters 611 and 181, concerning the release of mental health records and confidential information.

(v) [(6) Prior to the commencement of counseling services to a minor client who is named in a custody agreement or court order, a licensee shall obtain, [and] review, and abide by a current copy of the custody agreement or court order, as well as any applicable part of the divorce decree. A licensee shall maintain these documents in the client's record. When federal or state statutes provide an exemption to secure consent of a parent or guardian prior to providing services to a

minor, a licensee shall follow the protocol set forth in such federal or state statutes.

(w) [(w)] A licensee shall terminate a professional counseling relationship when it is reasonably clear that the client is not benefiting from the relationship.

(x) [(x)] Upon termination of a relationship if professional counseling is still necessary, the licensee shall take reasonable steps to facilitate the transfer to appropriate care.

(y) [(y)] A licensee shall not evaluate any individual's mental, emotional, or behavioral condition unless the licensee has personally interviewed the individual or the licensee discloses with the evaluation that the licensee has not personally interviewed the individual.

(z) [(z)] A licensee shall not knowingly over treat a client.

(aa) [(aa)] A licensee shall not aid or abet the unlicensed practice of professional counseling by a person required to be licensed under the Act. A licensee shall report to the board knowledge of any unlicensed practice of counseling.

(bb) [(bb)] A licensee or an applicant for licensure shall not participate in any way in the falsification of applications for licensure or renewal of license.

§681.48. *Consumer Information.*

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

(c) The legal name of the licensee shall appear on the license certificate and renewal card.

(d) [(d)] A licensee shall not display a license certificate or current renewal card issued by the board which has been reproduced or is expired, suspended, or revoked.

(e) [(e)] A licensee shall not make any alteration on a license certificate or renewal card issued by the board.

(f) [(f)] On all advertisements, billings and announcements of counseling treatment by an LPC Intern, the intern's name shall be followed by the name of the supervisor in the same type size and font.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 4, 2015.

TRD-201501545

Glenda Corley

Chair

Texas State Board of Examiners of Professional Counselors

Earliest possible date of adoption: June 14, 2015

For further information, please call: (512) 776-6972



## SUBCHAPTER D. APPLICATION PROCEDURES

### 22 TAC §681.72

#### STATUTORY AUTHORITY

The amendment is authorized by Occupations Code, §503.203, which authorizes the board to adopt rules necessary for the performance of the board's duties.

The amendment affects Occupations Code, Chapter 503.

§681.72. *Required Application Materials.*

#### An applicant for licensure must submit:

(1) [(1)] A general application form. [shall include, but not be limited to:]

{(1) specific information regarding personal data, employment and type of practice, other state licenses and certifications held, felony or misdemeanor convictions, and educational background;}

{(2) a statement that the applicant has read the Act and board rules, and agrees to abide by them;}

{(3) the applicant's permission to the board to seek any information it requires to determine the applicant's qualifications;}

{(4) a statement that the applicant, if issued a license certificate, shall return the license to the board upon the revocation or suspension of the license;}

{(5) a statement that the applicant understands that fees submitted in the licensing process are non-refundable;}

{(6) the applicant's signature and the date of signing.}

(2) [(2)] The practicum documentation form. [shall contain:]

{(1) the applicant's name;}

{(2) the name and address of the agency or organization where the practicum was completed;}

{(3) the name, address, degree, position, and licensure status of the supervisor of the practicum;}

{(4) inclusive dates of the practicum, the number of clock-hours of practice, the number of academic semester hours awarded, and the name of the school at which the practicum was taken;}

{(5) the type of setting, the type of clients seen, and the counseling methods practiced;}

{(6) any evaluation of the counseling skills of the applicant; and}

{(7) the signature of the supervisor or agency or school official who can formally attest to the applicant's practicum experience.}

(3) [(3)] A supervisor agreement form. [The supervisor shall submit a supervisory agreement form completed, signed and dated by both the supervisor and the applicant. A current copy of the supervisor's renewal card shall be attached to the agreement form.]

{(d) The supervised experience documentation form must be completed by the applicant's supervisor and contain:}

{(1) the name of the applicant;}

{(2) the name, address, degree, licensure status, and credentials of the applicant's supervisor;}

{(3) the name and address of the agency or organization where the experience was completed;}

{(4) the inclusive dates of the supervised experience and the total number of hours of practice;}

{(5) the number of hours of weekly face-to-face supervision given to the applicant, the total number of supervisory hours received by the applicant in the experience, and the types of supervision used;}

{(6) the applicant's employment status during supervised experience;}

{(7) the types of clients seen and counseling methods used;}

~~{(8) the supervisor's evaluation of the applicant's counseling skills and competence for independent or private practice; and}~~

~~{(9) a statement that the supervised experience complies with the rules set out in Subchapter F of this chapter (relating to Experience Requirements for Licensure) and §681.73 of this title (relating to Application for Art Therapy Specialty Designation).}~~

(4) ~~{(e)}~~ Graduate transcripts~~[- An applicant must have the official transcript(s) showing all relevant graduate work]~~ sent directly to the board from the school(s), either by mail or e-transcript, where the applicant obtained the course work or an official transcript may be attached to the application in a sealed envelope from the college or university.

(5) ~~{(f)}~~ An applicant must submit examination results from the National Board of Certified Counselors verifying a passing score on the National Counselor Exam ~~[along with proof of completion of the Texas Jurisprudence Exam]~~. The National Counselor Exam must have been taken no more than five years prior to the date of application. ~~[If applying by reciprocity, the five year limit does not apply. The Texas Jurisprudence Exam must have been taken no more than two years prior to the date of application.]~~

(6) Proof of completing the Texas Jurisprudence exam taken not more than two years prior to the date of application.

(7) The supervised experience documentation form if applying from another state.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 4, 2015.

TRD-201501546

Glenda Corley

Chair

Texas State Board of Examiners of Professional Counselors

Earliest possible date of adoption: June 14, 2015

For further information, please call: (512) 776-6972



## SUBCHAPTER E. ACADEMIC REQUIREMENTS FOR LICENSURE

### 22 TAC §§681.81 - 681.83

#### STATUTORY AUTHORITY

The amendments are authorized by Occupations Code, §503.203, which authorizes the board to adopt rules necessary for the performance of the board's duties.

The amendments affect Occupations Code, Chapter 503.

#### §681.81. General.

(a) - (g) (No change.)

(h) A graduate degree and graduate coursework that was awarded or earned more than 10 years prior to the application date may not be used to fulfill the requirements for licensure unless the applicant has held a license issued by another state or has been counseling in Texas in an exempt setting for at least five years prior to the application date. Applicants with degrees older than 10 years must petition the board.

#### §681.82. Academic Requirements.

(a) (No change.)

(b) The 48/60 semester hours must be designed to train a person to provide direct services to assist individuals, couples, families, groups, organizations and communities ~~[individuals or groups]~~ in a professional counseling relationship using a combination of mental health and human development principles, methods, and techniques to achieve the mental, emotional, physical, social, moral, educational, spiritual, or career-related development and adjustment of the client throughout the client's life.

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

(c) (No change.)

#### §681.83. Academic Course Content.

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

(c) As of August 1, 2017, the following courses to meet the 60 hour requirement shall include:

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

(3) couples, marriage, families, or parenting;

(4) ~~{(3)}~~ a course in psychopathology to include such content as criteria of psychiatric diagnosis, use of the current Diagnostic and Statistical Manual of Mental Disorders and the theories of psychopathology. The course should also include the basic knowledge of types of psychopharmacological medications; and~~[- Additional courses may also include:]~~

~~{(A) crisis counseling;}~~

~~{(B) couples, marriage, families, or parenting}.~~

(5) Additional courses may also include:

(A) crisis counseling;

(B) lifestyle and career development.

(d) An applicant does not have the right to a hearing if his or her application for licensure is denied based on the applicant's failure to meet academic requirements.

~~{(d) Passing the National Counselor Exam does not guarantee that Texas state licensure requirements have been satisfied.}~~

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 4, 2015.

TRD-201501547

Glenda Corley

Chair

Texas State Board of Examiners of Professional Counselors

Earliest possible date of adoption: June 14, 2015

For further information, please call: (512) 776-6972



## SUBCHAPTER F. EXPERIENCE REQUIREMENTS FOR LICENSURE

### 22 TAC §§681.91 - 681.93

#### STATUTORY AUTHORITY

The amendments are authorized by Occupations Code, §503.203, which authorizes the board to adopt rules necessary for the performance of the board's duties.

The amendments affect Occupations Code, Chapter 503.

§681.91. *Temporary License.*

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

(e) An LPC Intern may have no more than five sites at any given time.

(f) ~~[(e)]~~ An LPC Intern must maintain a temporary license during his or her supervised experience.

(g) ~~[(f)]~~ An LPC Intern license will expire 60 months from the date of issuance.

(h) ~~[(g)]~~ An LPC intern who does not complete the required supervised experience hours during the 60-month time period must reapply for licensure. The person may obtain a new license by complying with the current requirements and procedures for obtaining an original license, including examination requirements.

(i) ~~[(h)]~~ Applicants who previously held licensure in Texas must reapply under requirements in place at the time of application.

~~[(i) Applicants who have completed the supervised experience and who have not passed the NCE at the time of application are not eligible for an initial or an additional temporary license. Such applicants may obtain a regular license by taking and passing the NCE.]~~

(j) - (l) (No change.)

§681.92. *Experience Requirements (Internship).*

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

(g) The experience must consist primarily of the provision of direct counseling services within a professional relationship to individuals, families, couples, ~~[or] groups, organizations and communities~~ by using a combination of mental health and human development principles, methods, and techniques to achieve the mental, emotional, physical, social, moral, educational, spiritual, or career-related development and adjustment of the client throughout the client's life.

(h) The LPC Intern must receive direct supervision consisting of a minimum of four hours per month of face to face or live Internet webcam supervision in individual (up to two Interns) or group (three or more) settings while ~~[for each week]~~ the intern is engaged in counseling. No more than 50% of the total hours of supervision can be live Internet webcam supervision and no more than 50% of the total hours of supervision may be received in group supervision. ~~[No more than 50% of the total hours of group supervision may be live Internet webcam supervision.]~~

(i) - (o) (No change.)

§681.93. *Supervisor Requirements.*

(a) All internships physically occurring in the State of Texas must be completed under the supervision of a board approved supervisor. The supervisor must have held the regular license in good standing for at least 5 years ~~[36 months]~~ from the date of issuance.

(b) (No change.)

(c) A supervisor under this section must have met the following requirements.

(1) A licensee seeking approval to be a supervisor must meet the requirements of subsection (a) of this section, successfully complete 40 clock-hours of training in the supervision of professional counseling or mental health services as set forth in this subsection; and shall submit a \$100 processing fee. Application for supervision status must be submitted within 2 years of completing the 40-hour supervision course or within 5 years of completing a doctoral level supervision course from an accredited university. The initial supervisor approval will expire on the day the licensee's regular license next expires. Renewal of supervisor approval will begin and expire on the same dates

as for the regular license. A renewal application must be filed with the board, accompanied by a \$100 renewal processing fee. The 40 clock-hours of training shall be met through the following:

(A) (No change.)

(B) continuing education programs meeting the requirements of §681.142 of this title (relating to Types of Acceptable Continuing Education) of which 50% of the hours must be face to face instruction.

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

(d) A supervisor shall keep a written record of each supervisory session in the file of the intern.

(1) The supervisory written record shall contain:

(A) fees and record of payment;

(B) the date and length of the supervisory session;

(C) the topics that were discussed during the supervisory session;

(D) identification of the supervisory session as an individual or a group session and interns who are in attendance;

(E) identify if the supervisory session is being conducted face-to-face or live internet webcam;

(F) a record of any concerns the supervisor discussed with the intern; and

(G) current board approved site or sites.

(2) Records shall be kept 5 years past the last date of supervision.

(e) The supervisor must maintain a summary log of the indirect, direct, and supervision hours accrued by an intern in one week and a brief summary of the supervisory session. This log must be dated and initialed by both the supervisor and the intern.

~~[(d) A board approved supervisor shall maintain and sign a record(s) to document the date of each supervision conference and document the LPC Intern's total number of hours of supervised experience accumulated up to the date of the conference. The record shall reflect the approved site where the hours were accrued and the content of the supervision.]~~

(f) ~~[(e)]~~ The full professional responsibility for the counseling activities of an LPC Intern shall rest with the intern's board approved supervisor(s). If the LPC Intern receives disciplinary action by the board, the supervisor may also be subject to disciplinary action.

(1) The supervisor shall ensure that the LPC Intern is aware of and adheres to board rules found in this chapter. ~~[Subchapter C of this chapter (relating to Code of Ethics).]~~

(2) a relationship between the supervisor and the LPC Intern that impairs the supervisor's objective, professional judgment shall be avoided.

(3) A supervisor may not be related within the second degree by affinity or within the third degree by consanguinity to the LPC Intern.

(4) If a supervisor determines that the LPC Intern may not have the counseling skills or competence to practice professional counseling under a regular license, the supervisor shall develop and implement a written plan for remediation of the LPC Intern which shall be part of the LPC Intern's file.

(5) A supervisor shall submit accurate documentation of supervised experience to the board within 30 days of completion of hours.

(6) It is the responsibility of the board approved supervisor to ensure the supervised hours of the LPC Intern were:

- (A) earned after the temporary license was issued; and
- (B) in not less than 18 months.

(g) [(f)] A supervisor whose license is expired, revoked or suspended is no longer an approved supervisor and hours accumulated under that person's supervision after expiration, revocation or suspension may not count as acceptable hours.

(h) [(g)] A supervisor who becomes subject to a board disciplinary order is no longer an approved supervisor. The person shall immediately inform all LPC Interns under their supervision of the board disciplinary order and assist the LPC Interns in finding alternate supervision.

(i) [(h)] A supervisor may not be an employee of an LPC Intern.

(j) [(i)] The LPC Intern may compensate the supervisor for time spent in supervision if the supervision is not part of the supervisor's responsibilities as a paid employee of an agency, institution, clinic, or other business entity.

(k) [(j)] Supervisory status may be denied, revoked, or suspended following a fair hearing for violation of the Act or rules. The fair hearing will be conducted under the fair hearing rules of the Department of State Health Services 25 TAC Chapter 1, Subchapter C.

(l) [(k)] A supervisor whose supervisory status has expired may be required to refund all supervisory fees received after the expiration of the supervisory status to the intern(s) who paid the fees.

(m) [(l)] Supervision of the intern without being approved as a supervisor or after expiration of the supervisor status may be grounds for disciplinary action.

(n) [(m)] Supervisors who are in violation of board rules may be subject to an administrative penalty of up to \$5,000 per day depending on the level of severity and/or be required to refund all or a portion of the fees received by the intern to the supervisor.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 4, 2015.

TRD-201501548

Glenda Corley

Chair

Texas State Board of Examiners of Professional Counselors

Earliest possible date of adoption: June 14, 2015

For further information, please call: (512) 776-6972



## SUBCHAPTER G. LICENSURE EXAMINATIONS

### 22 TAC §681.102

#### STATUTORY AUTHORITY

The amendment is authorized by Occupations Code, §503.203, which authorizes the board to adopt rules necessary for the performance of the board's duties.

The amendment affects Occupations Code, Chapter 503.

#### §681.102. Notice of Results.

(a) (No change.)

(b) Non-electronically administered examinations may be requested as an Americans with Disabilities Act [ADA] accommodation; however, grading will not be immediately available upon completion of the examination.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 4, 2015.

TRD-201501549

Glenda Corley

Chair

Texas State Board of Examiners of Professional Counselors

Earliest possible date of adoption: June 14, 2015

For further information, please call: (512) 776-6972



## SUBCHAPTER I. REGULAR LICENSE RENEWAL; INACTIVE AND RETIREMENT STATUS

### 22 TAC §681.123, §681.125

#### STATUTORY AUTHORITY

The amendments are authorized by Occupations Code, §503.203, which authorizes the board to adopt rules necessary for the performance of the board's duties.

The amendments affect Occupations Code, Chapter 503.

#### §681.123. License Renewal.

(a) At least 30 days prior to the expiration of a regular license the board will send notice to the licensee at the [a licensee's] last known address that includes the expiration date of the license and instructions for renewing the license.

(b) - (e) (No change.)

#### §681.125. Inactive Status.

(a) - (c) (No change.)

(d) A person shall [may] remain subject to investigation and action under Subchapter K of this chapter (relating to Complaints and Violations) during the period of inactive status.

(e) - (f) (No change.)

(g) A person previously approved as a supervisor whose supervisor status has expired for 2 or more years or been inactive for 2 or more years and who wishes to resume the supervisor status or active license status may become a supervisor by again completing a board approved 40 hour supervisor course or equivalent and pay appropriate fees.

(h) The licensee may only remain on inactive status for two years.

(i) A temporary license cannot be placed on inactive status without prior board approval.

~~[(h) The licensee must renew the inactive status every two years.]~~

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 4, 2015.

TRD-201501550

Glenda Corley

Chair

Texas State Board of Examiners of Professional Counselors

Earliest possible date of adoption: June 14, 2015

For further information, please call: (512) 776-6972



## SUBCHAPTER J. CONTINUING EDUCATION REQUIREMENTS

### 22 TAC §681.141, §681.142

#### STATUTORY AUTHORITY

The amendments are authorized by Occupations Code, §503.203, which authorizes the board to adopt rules necessary for the performance of the board's duties.

The amendments affect Occupations Code, Chapter 503.

#### §681.141. General.

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

(c) A licensee must complete at least four hours of continuing education directly related to Texas LPC [counselor] ethics [issues] each renewal period. Completion of the Texas Jurisprudence Exam will count as one hour of continuing education in counselor ethics.

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

(f) A licensee holding the supervisor status must complete either 6 hours of continuing education in supervision or attend an applications committee meeting of the board.

~~[(f) A licensee holding the supervisor status must complete 6 hours of continuing education in supervision every two years.]~~

#### §681.142. Types of Acceptable Continuing Education.

(a) Acceptable continuing education may include:

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

(4) completion of an independent study program directly related to counseling and approved or offered by a nationally recognized professional organization in the mental health field or its state equivalent, approved or offered by an accredited college or university, or approved or offered by a board approved continuing education provider. Nine hours of the 24 required must be face to face;

(5) participation in programs directly related to counseling and are offered by persons approved by the board as continuing education providers; and/or

(6) attendance at a complaints committee meeting of the board without being a respondent [to] or complainant involved in a complaint may receive 3 hours of credit. The hours obtained can be used for [either] ethics [or supervision credit]. To receive continuing education for the supervision status the licensee must attend an applications committee meeting of the board.

(7) Board members are exempt from meeting continuing education requirements while serving on the board.

(b) Continuing education must fall within these approved content areas:

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

(5) counseling methods or techniques;

(A) counseling individuals; ~~and~~

(B) groups; and

(C) couples, family, organizations or communities;

(6) - (10) (No change.)

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 4, 2015.

TRD-201501551

Glenda Corley

Chair

Texas State Board of Examiners of Professional Counselors

Earliest possible date of adoption: June 14, 2015

For further information, please call: (512) 776-6972



## SUBCHAPTER K. COMPLAINTS AND VIOLATIONS

### 22 TAC §§681.161, 681.162, 681.166

#### STATUTORY AUTHORITY

The amendments are authorized by Occupations Code, §503.203, which authorizes the board to adopt rules necessary for the performance of the board's duties.

The amendments affect Occupations Code, Chapter 503.

#### §681.161. Complaint Procedures.

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

(e) The executive director initially reviews the complaint to determine jurisdiction. If a complaint appears to be within the board's jurisdiction, the executive director shall decide whether to authorize sending a copy of the complaint to the respondent and requesting a response, which will [may] include but not be limited to requesting that a copy of the client's entire records be attached to the response. If the executive director does not authorize written notification of the respondent, the complaint will be referred for an investigation and the assigned investigator will determine whether the respondent will be notified by letter, phone call, site visit, or some other appropriate means. If the complaint is against a person licensed by another board, the department staff will forward the complaint to that board not later than the 15th day after the date the agency determines that the information shall be referred to the appropriate agency as provided in Government Code, Chapter 774, relating to exchange of information between regulatory agencies.

(f) - (j) (No change.)

#### §681.162. Disciplinary Action; Notices.

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

(c) If denial based on subsection (a) of this section, revocation, or suspension of a license is proposed, the board shall give written no-



tice of the basis for the proposal and state that the licensee or applicant must request, in writing, a formal hearing within 15 working days of receipt of the notice, or the right to a hearing shall be waived and the license shall be denied, revoked, or suspended.

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

§681.166. *Informal Disposition.*

(a) - (h) (No change.)

(i) The board's legal counsel shall [may] attend each informal conference. The complaints committee member or executive director may call upon the attorney at any time for assistance in the informal conference.

(j) - (v) (No change.)

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 4, 2015.

TRD-201501552

Glenda Corley  
Chair

Texas State Board of Examiners of Professional Counselors  
Earliest possible date of adoption: June 14, 2015  
For further information, please call: (512) 776-6972



## SUBCHAPTER M. SCHEDULE OF SANCTIONS

### 22 TAC §681.202

#### STATUTORY AUTHORITY

The amendment is authorized by Occupations Code, §503.203, which authorizes the board to adopt rules necessary for the performance of the board's duties.

The amendment affects Occupations Code, Chapter 503.

§681.202. *Relevant Factors.*

When a licensee has violated the Act or this chapter, three general factors combine to determine the appropriate sanction which includes: the culpability of the licensee; the harm caused or posed; and the requisite deterrence. It is the responsibility of the licensee to bring exonerating factors to the attention of the complaints committee or the administrative law judge. Specific factors are to be considered as set forth in paragraphs (1) - (5) of this section.

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

(5) Miscellaneous Factors. The following factors are identified:

(A) age and experience of the licensee at time of violation;

(B) presence or absence of prior or subsequent violations committed by the licensee;

(C) - (E) (No change.)

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 4, 2015.

TRD-201501553

Glenda Corley  
Chair

Texas State Board of Examiners of Professional Counselors  
Earliest possible date of adoption: June 14, 2015  
For further information, please call: (512) 776-6972



## SUBCHAPTER N. PARENTING COORDINATION AND PARENTING FACILITATION

### 22 TAC §681.251

#### STATUTORY AUTHORITY

The amendment is authorized by Occupations Code, §503.203, which authorizes the board to adopt rules necessary for the performance of the board's duties.

The amendment affects Occupations Code, Chapter 503.

§681.251. *Parenting Coordination.*

(a) In accordance with the Family Code, §153.601(3), "parenting coordinator" means an impartial third party:

(1) who, regardless of the title by which the person is designated by the court, performs any function described in Family Code, §153.606, in a suit; and

(2) who:

(A) is appointed under Family Code, Chapter 153, Subchapter K (relating to Parenting Plan, Parenting Coordinator, and Parenting Facilitator) by the court on its own motion or on a motion or agreement of the parties to assist parties in resolving parenting issues through confidential procedures; and

(B) is not appointed under another statute or a rule of civil procedure.

(b) A licensee, who serves as a parenting coordinator, has a duty to provide the following information to the parties of the suit.

(c) [(b)] A licensee, who serves as a parenting coordinator, is not acting under the authority of a license issued by the board and is not engaged in the practice of professional counseling. The services provided by the licensee who serves as a parenting coordinator are not within the jurisdiction of the board, but rather the jurisdiction of the appointing court.

[(e) A licensee, who serves as a parenting coordinator, has a duty to provide the information in subsection (b) of this section to the parties to the suit.]

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

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 4, 2015.

TRD-201501554

Glenda Corley  
Chair

Texas State Board of Examiners of Professional Counselors  
Earliest possible date of adoption: June 14, 2015  
For further information, please call: (512) 776-6972

◆   ◆   ◆

# TITLE 40. SOCIAL SERVICES AND ASSISTANCE

## PART 2. DEPARTMENT OF ASSISTIVE AND REHABILITATIVE SERVICES

### CHAPTER 107. DIVISION FOR REHABILITATION SERVICES

#### SUBCHAPTER D. COMPREHENSIVE REHABILITATION SERVICES

The Texas Health and Human Services Commission (HHSC), on behalf of the Texas Department of Assistive and Rehabilitative Services (DARS), proposes the repeal of §107.701, Purpose; §107.703, Legal Authority; §107.705, Definitions; §107.707, Basic Requirements for Eligibility; §107.709, Services Provided; and §107.711, Limitations of Services, concerning Subchapter D, Comprehensive Rehabilitation Services. DARS proposes to replace these rules and/or their subject matter with new §107.701, Purpose; §107.703, Legal Authority; §107.705, Definitions; §107.707, Basic Requirements for Eligibility; §107.709, Services Arrays; §107.711, Service Types; §107.713, Limitations of Services; and §107.715, Complaint Resolution Process, concerning new Subchapter D, Comprehensive Rehabilitation Services.

#### BACKGROUND AND JUSTIFICATION

The DARS CRS program provides rehabilitation services for persons who have experienced a traumatic brain injury (TBI), traumatic spinal cord injury (SCI), or both. CRS services are designed to help such persons live independently within the home environment and the community. Services focus on improving three primary areas that affect function and quality of life: mobility, self-care, and communication skills.

In state fiscal year 2013, DARS initiated a cross-agency project to address identified programmatic concerns. The project focused on addressing the issues of budget and operational processes, research, rate setting methodology, and redesigning the CRS program's service array. DARS proposes to repeal current CRS rules in the Texas Administrative Code and to replace them with new rules that align with proposed program changes.

Some significant changes were proposed for the CRS program, including redesigning the array and types of services offered and adding a new service option, post-acute rehabilitation, for persons who have an SCI. The new proposed CRS rules update the program's purpose and legal authority statements, and contain a more comprehensive list of program terms and definitions. Updated requirements for eligibility clearly state the criteria required for participation in the CRS program. CRS services are clarified in a new section, Service Arrays, as sets of services for persons who have a TBI or SCI. In the new section, Service Types, CRS services are divided into two groups, core and ancillary, that apply across all service arrays. The section, Limitations of Services, is also updated.

#### SECTION-BY-SECTION SUMMARY

DARS proposes new §107.701, Purpose, which states the purpose of the CRS program and proposes the addition of post-acute rehabilitation services for persons who have an SCI.

DARS proposes new §107.703, Legal Authority, which states the legal authority for the program's funding and clarifies subrogation recovery as an existing funding source for CRS.

DARS proposes new §107.705, Definitions, which contains a comprehensive list of terms and definitions related to the program and services.

DARS proposes new §107.707, Basic Requirements for Eligibility, which lists and clarifies eligibility requirements for the CRS program.

DARS proposes new §107.709, Services Arrays, which lists the four sets of CRS program services for persons who have a TBI, SCI, or both.

DARS proposes new §107.711, Service Types, which contains the two types of services offered by the CRS program that apply across the service arrays.

DARS proposes new §107.713, Limitations of Services, which states the limitations that apply to services offered by CRS.

DARS proposes new §107.715, Complaint Resolution Process, which explains the resolution of a complaint through review of a determination made by the CRS program.

#### FISCAL NOTE

Rebecca Treviño, DARS chief financial officer, has determined that during the first five-year period that the proposed repeal and new rules are in effect, there will be no negative fiscal impact to state government. No additional funding is needed; DARS will use existing funds to pay the providers of all services, including providers of post-acute rehabilitation services for persons with spinal cord injury. The funds will apply to services for the same population of consumers that has been served from these funds in the past. Therefore, the proposed repeal and new rules will have no fiscal impact on local health and human services agencies, nor will local governments incur additional costs.

#### SMALL AND MICRO-BUSINESS IMPACT ANALYSIS AND ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT

Ms. Treviño has determined that the proposed repeal and new rules will have no effect on small businesses or micro businesses, because they will not be required to alter their business practices as a result of complying with the proposed repeal and new rules.

#### PUBLIC BENEFIT

Ms. Treviño has determined that, for each year of the first five years that the proposed repeal and new rules will be in effect, it is expected that the public will benefit by being assured that the necessary rules are in place to provide a clear and concise understanding of CRS.

#### REGULATORY ANALYSIS

DARS has determined that this proposal is not a "major environmental rule," as defined by Texas Government Code §2001.0225. "Major environmental rule" is defined as a rule with the specific intent of protecting the environment or reducing risk to human health from environmental exposure, and that may adversely affect the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of a state or a sector of the state in a material way. This proposal is not specifically intended to protect the en-

vironment or reduce risks to human health from environmental exposure.

#### TAKINGS IMPACT ASSESSMENT

DARS has determined that this proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Texas Government Code §2007.043.

#### PUBLIC COMMENT

Written comments on the proposed repeal and new rules may be submitted within 30 days of publication of this proposal in the *Texas Register* to Texas Department of Assistive and Rehabilitative Services, 4900 North Lamar Boulevard, Austin, Texas 78756; or electronically to [DARSrules@state.tx.us](mailto:DARSrules@state.tx.us).

#### 40 TAC §§107.701, 107.703, 107.705, 107.707, 107.709, 107.711

*(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Department of Assistive and Rehabilitative Services or in the Texas Register office, James Earl Rudder Building, 1019 Brazos Street, Austin, Texas.)*

#### STATUTORY AUTHORITY

The repeal is proposed under the authority of the Texas Human Resources Code, Chapter 117 and Chapter 111. They are proposed pursuant to HHSC's statutory rulemaking authority under Texas Government Code, Chapter 531, §531.0055(e), which provides the Executive Commissioner of HHSC with the authority to promulgate rules for the operation of and provision of health and human services by the health and human services agencies.

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

§107.701. *Purpose.*

§107.703. *Legal Authority.*

§107.705. *Definitions.*

§107.707. *Basic Requirements for Eligibility.*

§107.709. *Services Provided.*

§107.711. *Limitations of Services.*

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 4, 2015.

TRD-201501541

Sylvia F. Hardman

General Counsel

Department of Assistive and Rehabilitative Services

Earliest possible date of adoption: June 14, 2015

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



#### 40 TAC §§107.701, 107.703, 107.705, 107.707, 107.709, 107.711, 107.713, 107.715

#### STATUTORY AUTHORITY

The new rules are proposed under the authority of the Texas Human Resources Code, Chapter 117 and Chapter 111. They

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

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

§107.701. *Purpose.*

(a) The purpose of the Comprehensive Rehabilitation Services (CRS) program is to provide the following:

(1) inpatient comprehensive medical rehabilitation services, which include:

(A) traumatic brain injury (TBI) inpatient comprehensive medical rehabilitation services;

(B) traumatic spinal cord injury (SCI) inpatient comprehensive medical rehabilitation services;

(2) post-acute brain injury (PABI) services;

(A) PABI residential services;

(B) PABI non-residential services;

(3) post-acute spinal cord injury services (non-residential);

and

(4) outpatient services, which include:

(A) TBI outpatient services; and

(B) SCI outpatient services.

(b) The purpose of these services is to enhance the quality of life for persons who have a TBI or SCI, or both, and to enable them to function as independently as possible within the home environment and within the community by improving their mobility, self-care, and communication skills.

§107.703. *Legal Authority.*

Legal authority for funding this program is provided by the comprehensive rehabilitation fund, as authorized by §111.060, Texas Human Resources Code, subrogation recovery pursuant to §111.059, Texas Human Resources Code, and by general revenue.

§107.705. *Definitions.*

The following words and terms, when used in this subchapter, have the following meanings for the Comprehensive Rehabilitation Services (CRS) program unless the context clearly indicates otherwise:

(1) Ancillary services--Goods and services that support core CRS services but are not primary interventions. Examples of ancillary services include supplies, medications, and transportation.

(2) Aquatic therapy--A type of therapy that involves an exercise method in water to improve a person's range of motion, flexibility, muscular strength and toning, cardiovascular endurance, fitness, and/or mobility.

(3) Art therapy--A type of therapy in which persons use art media, the creative process, and the resulting artwork to explore their feelings, reconcile emotional conflicts, foster self-awareness, manage behavior, develop social skills, improve reality orientation, reduce anxiety, and/or increase self-esteem.

(4) Audiological services--Evaluation and treatment of hearing, balance, or related disorders.

(5) Behavior management--A set of coordinated services that provide a person with specialized interventions designed to increase adaptive behaviors and to reduce a continuum of maladaptive or socially unacceptable behaviors, up to and including violent dyscontrol, that prevent or interfere with the person's inclusion within the home environment and the community.

(6) Case management--Services that assist persons in the planning, coordination, monitoring, and evaluation of services with emphasis on quality of care, continuity of services, and cost-effectiveness.

(7) Certified professional--A person with the knowledge, experience, and skills to perform a specific job, exhibited by a certificate earned by passing an exam that is accredited by an organization or association that monitors and upholds prescribed standards for the particular industry involved. Examples of certified professionals include a certified brain injury specialist, certified medication aide, and certified nurse aide.

(8) Chemical dependency services--Planned services that are structured to support a person in abstaining from the use of drugs and/or alcohol. Services include identifying and changing behavior patterns that are maladaptive, destructive, or injurious to health and which are related to or result from substance-related disorders, or identifying and changing behavior patterns to restore appropriate levels of physical, psychological, or social functioning.

(9) Cognitive rehabilitation therapy (CRT)--A type of therapy that assists a person to learn or relearn cognitive skills that have been lost or altered due to a traumatic brain injury. Services will enable the person to compensate for lost cognitive functions and include reinforcing, strengthening, or reestablishing previously learned patterns of behavior, or establishing new patterns of cognitive activity or compensatory mechanisms for impaired neurological systems.

(10) Core services--A set of fundamental services that are essential to rehabilitation of persons who have a traumatic brain injury or traumatic spinal cord injury or both. Specific core services are based on assessed individualized needs.

(11) Covered injuries--A term that includes traumatic brain injury and traumatic spinal cord injury.

(12) CRS Program--Comprehensive Rehabilitation Services Program.

(13) Dietary and nutritional services--Services that develop a prescribed diet to meet basic or special therapeutic nutritional needs.

(14) Durable medical equipment and supplies--Any equipment that provides therapeutic benefits to a person due to certain medical conditions.

(15) Family and caregiver education and training services--Information that provides a foundation relating to relationships with a person who has a traumatic brain injury or traumatic spinal cord injury, or both. Services may include learning wound care, blood pressure monitoring, transferring skills, bowel and/or bladder routines, sexuality accommodations, memory strategies, safety routines for bathing, activities of daily living, or strategies for adjustment to disability.

(16) Family therapy--A specialized type of psychotherapy that assists families and caregivers in intimate relationships to nurture change and development.

(17) Group therapy--A type of therapy with two or more persons for a common therapeutic purpose or to achieve a common goal.

(18) Home modification--The use of assistive or adaptive equipment or devices that may be installed in the home to enable a person to perform household tasks. This equipment must be removable from the residence without causing permanent damage to the property. Examples include grab bars in bathrooms or portable ramps for persons who have wheelchairs or other mobility impairments.

(19) IDT--Interdisciplinary team. A team of professionals that closely coordinates services to achieve team treatment goals in order to minimize a person's physical or cognitive disabilities and maximize functional capacity.

(20) Individual therapy--A collaborative process between a therapist and person that is intended to facilitate change and improve quality of life.

(21) Inpatient comprehensive medical rehabilitation--Services provided, as recommended by an interdisciplinary team in a hospital setting, to address medical and rehabilitation issues that require 24-hour-a-day nursing services. These services are available to people who have a traumatic brain injury or traumatic spinal cord injury, or both.

(22) IWRP--An individualized written rehabilitation plan that outlines the goals, services, and other aspects of service provision in the CRS program.

(23) Lawful permanent resident--Any person not a citizen of the United States who is residing in the U.S. under legally recognized and lawfully recorded permanent residence as an immigrant. A lawful permanent resident is also known as a "Permanent Resident Alien," "Resident Alien Permit Holder," and "Green Card Holder."

(24) Licensed professional--A person who has completed a prescribed program of study in a health field, and who has obtained a license indicating his or her competence to practice in that field. Examples of licensed professionals include a registered nurse, physician, or social worker.

(25) Limited skilled nursing--Providing or delegating personal care services and medication administration; assessing a patient to determine the care required; and delivering temporary skilled nursing services for minor illness, injury, or emergency for a period not to exceed 30 days.

(26) Massage therapy--A type of therapy involving the manipulation of soft tissue by hand or through a mechanical or electrical apparatus for therapeutic purposes.

(27) Medical services--Services or supplies that are needed for the diagnosis or treatment of medical conditions.

(28) Mental restoration services--Limited or short term psychiatric services, including treatment and psychotherapy, for mental conditions that are stable or slowly progressive.

(29) Music therapy--A type of therapy using of musical or rhythmic interventions to restore, maintain, or improve a person's social or emotional functioning, mental processing, or physical health.

(30) Neuropsychological and neuropsychiatric services--A comprehensive battery of tests to evaluate neurocognitive, behavioral, and emotional strengths and weaknesses and their relationship to normal and abnormal central nervous system functioning.

(31) Occupational therapy--A type of therapy using assessment and treatment to develop, recover, or maintain the daily living skills of persons who have a physical, mental, or cognitive disorder.

(32) Orthotics--External appliances to support a paralyzed muscle, promote a specific motion, or correct a musculoskeletal deformity.

(33) Outpatient services--Medical treatment, without admittance to a hospital that corrects or modifies a stable or slowly progressive physical or mental impairment that constitutes a substantial impediment to independence. These services are available to people who have a traumatic brain injury or traumatic spinal cord injury, or both.

(34) Over-the-counter medication--Medication that can be obtained without a prescription.

(35) PABI--Post-acute brain injury is a brain injury at the post-acute stage, which is when the patient is medically stable and deemed ready to engage in intensive rehabilitation.

(36) Paraprofessional--A person to whom a particular aspect of a professional task is delegated, but who is not licensed as a fully qualified professional. A paraprofessional is qualified, through experience, training, or a combination thereof, to provide services. Paraprofessionals must have, at a minimum, a high school diploma or its equivalent.

(37) Personal assistance services--Services provided in a residential setting to a person who needs prompts and hands-on supports to participate in services. Services may include, but are not limited to, providing order, safety, and cleanliness assistance; assisting with medication or therapeutic regimens; preparing and serving meals; assisting with laundry; providing supervision and care to meet basic needs; and ensuring evacuation in case of an emergency.

(38) Personal attendant care services--Services provided in a home setting to persons with approved medical needs only, and only when provision of services in the home setting is necessary to enable the person to participate in CRS service arrays, which may include assistance with toileting routines, transferring, bathing, dressing, medications, meals, and activities of daily living.

(39) Physical restoration services--Services that correct or substantially modify, within a reasonable period of time, a physical condition that is stable or slowly progressive.

(40) Physical therapy--A type of therapy that prevents, identifies, corrects, or alleviates acute or prolonged movement dysfunction or pain of anatomical or physiological origin.

(41) Post-acute brain injury services--Services provided as recommended by an interdisciplinary team to address deficits in functional and cognitive skills based on individualized assessed needs. Services may include behavior management, the development of coping skills, and compensatory strategies. These services may be provided on a residential or non-residential basis.

(42) Post-acute rehabilitation services--Post-acute brain injury services and post-acute spinal cord injury services.

(43) Post-acute spinal cord injury services--Services provided as recommended by an interdisciplinary team to address deficits in functional skills based on individualized assessed needs. These services are provided in the home and in the community (non-residential settings).

(44) Prescription medication--A medicine that legally requires a medical prescription to be dispensed.

(45) Prosthetic--A device needed to replace a body part or function.

(46) Provider type--A term that refers to the types of service providers within the CRS program, consisting of certified professionals, licensed professionals, and paraprofessionals.

(47) Rancho Los Amigos Levels of Cognitive Functioning Scale--A scale developed at the Rancho Los Amigos Hospital in Downey, California, that describes eight levels of post-brain injury cognitive function. At "Level IV - Confused/Agitated," the patient is in a heightened state of activity with severely decreased ability to process information. The patient is detached from the present and responds primarily to his or her own internal confusion and behavior is frequently bizarre and non-purposeful relative to the patient's immediate environment.

(48) Recreational therapy--A type of therapy involving recreational or leisure activities that assist in the restoration, remediation, or rehabilitation of a person's level of functioning and independence in life activities, and that promote health and wellness and reduce or eliminate the activity limitations associated with traumatic brain injury, traumatic spinal cord injury, or both.

(49) Rehabilitation technology--Equipment or technology designed to help persons with disabilities perform tasks that would otherwise require assistance.

(50) Room and board--Shelter and food, including the customary and usual diets in residential settings.

(51) Service arrays--A set of services provided to eligible persons who have a traumatic brain injury, traumatic spinal cord injury, or both; services are based on assessed individualized rehabilitation needs that consist of outpatient services, inpatient comprehensive medical rehabilitation services, post-acute brain injury services, and post-acute spinal cord injury services.

(52) Service modality--A term that refers to the mode in which services are delivered; group therapy, individual therapy, or both.

(53) Service types--A term that refers to core and ancillary services.

(54) Speech-language pathology (speech therapy)--A type of therapy using assessment or treatment, or both, of communication disorders, including speech, voice, language, oral pharyngeal function, or cognitive processes.

(55) Texas resident--A person who lives in Texas as evidenced by one of the following unexpired documents: a Texas driver's license, an identification card with an address issued by a governmental entity, a utility bill with an address, a voter registration card, a vehicle registration receipt, or other document approved by the Department of Assistive and Rehabilitative Services.

(56) Transportation--Travel and related expenses.

(57) Traumatic brain injury (TBI)--An injury to the brain that is not degenerative or congenital; and caused by an external physical force, which may produce a diminished or altered state of consciousness, resulting in temporary or permanent impairment of cognitive abilities and/or physical functioning, and partial or total functional disability and/or psychosocial maladjustment.

(58) Traumatic spinal cord injury (SCI)--An acute, traumatic lesion of neural elements in the spinal canal resulting in any degree of temporary or permanent sensory or motor deficit, and/or bladder or bowel dysfunction.

(59) Vision services--A sequence of neurosensory and neuromuscular activities individually prescribed and monitored by the doctor to develop, rehabilitate, and enhance visual skills.

§107.707. Basic Requirements for Eligibility.

(a) To meet the basic eligibility criteria for the Comprehensive Rehabilitation Services (CRS) program, there must be a reasonable expectation that services will benefit the person by improving his or her ability to function within the home environment or within the community, and the person must:

(1) have a traumatic brain injury or traumatic spinal cord injury that constitutes or results in a substantial impediment to the person's ability to function within the home environment or the community;

(2) be at least 15 years of age;

(3) be a U.S. citizen or lawful permanent resident, and a Texas resident (as defined in §107.705(55) of this subchapter (relating to Definitions));

(4) not be participating in, or be eligible for and able to access, another rehabilitation program offering similar rehabilitation treatment or therapy services; however the person may participate in rehabilitation programs that offer complementary rehabilitation services;

(5) be willing to participate in services; and

(6) be medically stable, including no progression of deficits, no deterioration of physical and cognitive status, or both; not be in imminent need of any acute care; and be functioning at a Level IV of the Rancho Los Amigos Levels of Cognitive Functioning Scale or equivalent.

(b) The person's continued eligibility for the CRS program will be reviewed and, if he or she no longer meets all criteria in subsection (a) of this section, program services may be discontinued.

§107.709. Service Arrays.

The Comprehensive Rehabilitation Services program service arrays are a set of services that may be provided to eligible persons who have a traumatic brain injury (TBI), traumatic spinal cord injury (SCI), or both; services are based on assessed individualized rehabilitation needs. The service arrays are:

(1) inpatient comprehensive medical rehabilitation services, which include:

(A) TBI inpatient comprehensive medical rehabilitation services;

(B) SCI inpatient comprehensive medical rehabilitation services;

(2) post-acute brain injury (PABI) services;

(A) PABI residential services;

(B) PABI non-residential services;

(3) post-acute spinal cord injury services (non-residential);

and

(4) outpatient services, which include:

(A) TBI outpatient services; and

(B) SCI outpatient services.

§107.711. Service Types.

The Comprehensive Rehabilitation Services program provides two service types that apply across all service arrays, although not all services may be utilized in all the arrays. The two service types are core services and ancillary services and are listed in paragraphs (1) and (2) of this section.

(1) Core services, are a set of fundamental services essential to the rehabilitation of persons who have traumatic brain injury, traumatic spinal cord injury, or both. Core services may include:

(A) aquatic therapy;

(B) art therapy;

(C) behavior management;

(D) case management;

(E) chemical dependency treatment;

(F) cognitive rehabilitation therapy (CRT);

(G) dietary nutritional services;

(H) massage therapy;

(I) medical services;

(J) mental restoration services;

(K) music therapy;

(L) neuropsychiatric services;

(M) neuropsychological services;

(N) occupational therapy;

(O) personal assistance services;

(P) physical therapy;

(Q) recreational therapy;

(R) room and board; and

(S) speech and language pathology (speech therapy).

(2) Ancillary services, are goods and services that support core services, but are not primary interventions. Ancillary services may include the following:

(A) audiology;

(B) dietary nutritional services;

(C) durable medical equipment (DME) and supplies;

(D) family and caregiver education and training;

(E) family therapy;

(F) home modification;

(G) limited skilled nursing;

(H) mental restoration;

(I) orthotics and prosthetics;

(J) over the counter medications;

(K) personal attendant care;

(L) physical restoration;

(M) prescription medications;

(N) rehabilitation technology;

(O) transportation; and

(P) vision services.

§107.713. Limitations of Services.

The following limitations apply to the Comprehensive Rehabilitation Services (CRS) program service arrays.

(1) Inpatient comprehensive medical rehabilitation hospitalization services are subject to the following limitations:

(A) No more than one year may have elapsed between the onset of injury and the time the person initiates contact with the agency in order for a person to receive these services.

(B) No acute medical procedures are permitted.

(C) Only inpatient facilities located within the state of Texas may be used.

(D) Services are limited to a maximum of 90 days.

(2) Post-acute rehabilitation services for persons who have a traumatic brain injury (TBI), traumatic spinal cord injury (SCI), or both, are subject to the following limitations:

(A) Residential services are limited to persons who have a TBI, or a TBI and SCI.

(B) Persons with an SCI are limited to receiving non-residential services.

(C) Services are limited to a maximum of 180 days.

(3) Outpatient services are subject to the following limitations:

(A) No more than two years may have elapsed between the onset of injury and the time the person initiates contact with the agency in order for the person to receive these services.

(B) Services are limited to a maximum of 120 hours.

(4) At the time the person is discharged from post-acute rehabilitation services or inpatient comprehensive medical rehabilitation hospitalization services, prescribed drugs and medical supplies may not exceed a 30-day supply.

(5) The purchase of CRS program services for eligible persons depends on the availability of CRS funds.

§107.715. Complaint Resolution Process.

(a) This provision applies to the resolution of a complaint through review of a determination made by the Comprehensive Rehabilitation Services (CRS) program, when the complaint concerns:

(1) ineligibility for services;

(2) denial of services; or

(3) termination of services.

(b) An applicant may file a complaint in writing to: CRS Program, Department of Assistive and Rehabilitative Services, 4900 N. Lamar Blvd., Austin, Texas 78751-2316. An applicant also may call DARS Inquiries at 1-800-628-5115 or send an email to [dars.inquiries@dars.state.tx.us](mailto:dars.inquiries@dars.state.tx.us). In accordance with §117.072(b) of the Texas Human Resources Code, the CRS program provides a copy of the procedures under this subchapter to each applicant who wishes to file a complaint and to any person who is the subject of the complaint. DARS and CRS program staff members receive, evaluate, and seek satisfactory resolution to each complaint received.

(c) A complaint regarding the CRS program must be filed within 180 calendar days of the matter giving rise to the complaint. A complaint filed after 180 calendar days will be dismissed without further review by DARS.

(d) The complaint must contain:

(1) the name of the person filing the complaint;

(2) the name of the person for whom the complaint is filed;

(3) the date of the incident that gave rise to the complaint;

(4) the basis for the complaint;

(5) a summary of the facts supporting the complaint; and

(6) the specific relief requested.

(e) DARS staff must make every effort to:

(1) document the date that the complaint was received;

(2) evaluate the complaint and seek facts from the parties involved;

(3) provide a written decision within 60 calendar days to the complainant addressing each allegation;

(4) provide technical assistance and appropriate follow up to the parties involved in the complaint, as necessary; and

(5) retain the documentation of the complaint for five years.

(f) On each complaint under this subchapter, the CRS program maintains a file containing the name of the person filing the complaint, the date the CRS program received the complaint, the subject matter of the complaint, the name of each person contacted concerning the complaint, a summary of the review, and an explanation of the actions taken, if any, to address the complaint.

(g) At least quarterly until final disposition of the complaint, DARS shall notify the person filing the complaint and each person who is a subject of the complaint about the status of the investigation, unless the notice would jeopardize an investigation.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 4, 2015.

TRD-201501542

Sylvia F. Hardman

General Counsel

Department of Assistive and Rehabilitative Services

Earliest possible date of adoption: June 14, 2015

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



## CHAPTER 109. OFFICE FOR DEAF AND HARD OF HEARING SERVICES SUBCHAPTER B. BOARD FOR EVALUATION OF INTERPRETERS

The Texas Health and Human Services Commission (HHSC) on behalf of the Department of Assistive and Rehabilitative Services (DARS) proposes to amend §109.231, concerning Division 1, Board for Evaluation of Interpreters (BEI) Interpreter Certification; and §109.315 and §109.317, concerning Division 2, BEI Court Interpreter Certification.

### BACKGROUND AND JUSTIFICATION

During the 83rd Legislature, Regular Session, 2013, an exceptional item was funded allowing for the development of a court interpreter performance test for DARS' BEI program. A contract to develop the test was awarded to the University of Arizona in March 2014. The contract ends in March 2015 and the court interpreter performance test will be available by September 1, 2015.

The new court interpreter performance test was designed for hearing interpreters wanting to become court certified. Current practice requires hearing interpreter candidates to receive 120 hours of instruction or mentoring in courtroom interpretation knowledge and skills and to have passed the DARS DHHS-approved court interpreter written test. BEI rules are being revised to require hearing interpreter candidates to pass the performance test along with the written test and to eliminate the courtroom interpretation instruction requirement. The performance test now replaces the courtroom interpretation instruction requirement for hearing interpreters. Interpreters who are deaf are exempt from taking the performance test; however, they still must meet current requirements for courtroom interpretation instruction. The BEI rules are being revised to incorporate initial and renewal fees for the new court interpreter performance test. This will defray the costs of test development, rating, and test administration.

#### SECTION-BY-SECTION SUMMARY

Section 109.231, Schedule of Fees, establishes a fee for persons taking the court performance test and increases the annual renewal fees associated with this test.

Section 109.315, Qualifications and Requirements for Court Certificate, is amended to require hearing interpreters to pass the court performance test in order to become court certified. Current rule requires candidates to receive 120 hours of instruction in courtroom interpretation and to take and pass a court interpreter written test. Hearing candidates will no longer be required to receive the 120 hours of courtroom interpretation instruction, but will be required to pass the written and performance court interpreter tests to become certified. Interpreters who are deaf will still be required to pass the written test and to have received the 120 hours of courtroom interpretation instruction to become certified; they are exempt from the court performance test.

Section 109.317, Training Programs for Certified Court Interpreters Managed by DARS or by Public or Private Educational Institutions, is amended with regard to persons intending to be DARS DHHS-approved mentors. Among other requirements, a person intending to be a mentor must pass a written test on legal and court procedure skills. This rule amendment clarifies that the examination is the written court interpreter test.

#### FISCAL NOTE

Rebecca Treviño, DARS Chief Financial Officer, has determined that during the first five-year period that the amended rules are in effect, there will be minimal fiscal impact to state government. For five applicants seeking to become court certified each year, there will be a cost of \$1,013 per year. (Three test raters at \$50 each, plus one team lead at \$52.50, equals total cost per applicant of \$202.50.) With regard to revenue due to the amended rules, there will be an additional \$3,685 per year. (Five applicants each charged a \$185 test fee, plus the current 138 interpreters renewing at the rate increased by \$20 per year, equals \$3,685.) The amended rules will not result in any fiscal implications for local health and human services agencies. Local governments will not incur additional costs.

#### SMALL AND MICRO-BUSINESS IMPACT ANALYSIS

Ms. Treviño has also determined that there will be no effect on small businesses or microbusinesses to comply with the amendments, as they will not be required to alter their business practices as a result of the amended rules. There are no anticipated economic costs to persons who are required to comply with the

proposed rule other than the fees stated in the amended rules. There is no anticipated negative impact on local employment.

#### PUBLIC BENEFIT

Ms. Treviño has determined that for each year of the first five years that the amended rules are in effect, the public will benefit from the rules. The anticipated public benefit of enforcing the proposed amended rules with regard to this program will be ensuring that the necessary rules are in place to provide a clear and concise understanding of the BEI court interpreter certification program.

#### REGULATORY ANALYSIS

DARS has determined that this proposal is not a "major environmental rule" as defined by §2001.0225 of the Texas Government Code. A "major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or reduce risk 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 a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

#### TAKINGS IMPACT ASSESSMENT

DARS has determined that this proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under §2007.043 of the Government Code.

#### PUBLIC COMMENT

Written comments on the proposal may be submitted to the Department of Assistive and Rehabilitative Services, 4800 North Lamar Boulevard, Austin, Texas 78756; or by email to [DARSrules@state.tx.us](mailto:DARSrules@state.tx.us) within 30 days of publication of this proposal in the *Texas Register*.

### DIVISION 1. BEI INTERPRETER CERTIFICATION

#### 40 TAC §109.231

#### STATUTORY AUTHORITY

The proposed amendments are authorized by the Texas Human Resources Code, Chapter 111, §111.051, and Chapter 117. The amendments are proposed pursuant to HHSC's statutory rule-making authority under Texas Government Code, Chapter 531, §531.0055(e), which provides the Executive Commissioner of HHSC with the authority to promulgate rules for the operation of and provision of health and human services by the health and human services agencies.

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

#### §109.231. *Schedule of Fees.*

(a) All fees paid to DARS DHHS in relation to the Board for Evaluation of Interpreters (BEI) [BEI] certification program are non-refundable. DARS is authorized to collect fees for written and performance tests [examinations], for annual certificate renewal, and for five-year recertification. The schedule of fees is as follows.

(1) Administrative, application, and test [examination] fees:

- (A) Test of English Proficiency (TEP)--\$95.
- (B) Basic Performance Test--\$145.



- (C) Advanced Performance Test--\$170.
  - (D) Master Performance Test--\$195.
  - (E) Oral Certificate: Basic (OC:B) Performance Test--\$85.
  - (F) Oral Certificate: Comprehensive (OC:C) Performance Test--\$105.
  - (G) Oral Certificate: Visible (OC:V) Performance Test--\$50.
  - (H) Signing Exact English (SEE) Performance Test--\$85.
  - (I) Morphemic Sign System (MSS) Performance Test--\$85.
  - (J) Level III Intermediary Performance Test--\$50.
  - (K) Level V Intermediary Performance Test--\$50.
  - (L) Test of Spanish Proficiency (TSP)--\$95.
  - (M) Advanced Trilingual Performance Test--\$160.
  - (N) Master Trilingual Performance Test--\$185.
  - (O) Court application administration fee--\$50.
  - (P) Court Interpreter Performance Test--\$185.
  - (Q) [(P)] Court mentor application fee--\$60.
  - (R) [(Q)] Certificate card replacement--\$25.
- (2) Single certificate renewal and five-year recertification fees:
- (A) Annual certificate renewal (on time)--\$75.
  - (B) Annual certificate renewal (1-90 days after expiration date)--\$112.50.
  - (C) Annual certificate renewal (91-364 days after expiration date)--\$150.
  - (D) Court certificate annual renewal (on time)--~~\$55~~ [\$35].
  - (E) Court certificate annual renewal (1-90 days after expiration date)--~~\$82.50~~ [\$52.50].
  - (F) Court certificate annual renewal (91-364 days after expiration date)--~~\$110~~ [\$75].
  - (G) Five-year recertification (on time)--\$70.
  - (H) Five-year recertification (1-90 days after expiration date)--\$105.
  - (I) Five-year recertification (91-364 days after expiration date)--\$140.
  - (J) Court certificate five-year recertification (on time)--\$50.
  - (K) Court certificate five-year recertification (1-90 days after expiration date)--\$75.
  - (L) Court certificate five-year recertification (91-364 days after expiration date)--\$100.
- (3) Multiple certificate renewal and five-year recertification fees:
- (A) Annual certificate renewal (on time)--\$105.

- (B) Annual certificate renewal (1-90 days after expiration date)--\$157.50.
- (C) Annual certificate renewal (91-364 days after expiration date)--\$210.
- (D) Five-year recertification (on time)--\$100.
- (E) Five-year recertification (1-90 days after expiration date)--\$150.
- (F) Five-year recertification (91-364 days after expiration date)--\$200.

(b) Any remittance submitted to DARS DHHS in payment of a required fee shall be in the form of a personal check, certified check, or money order unless this section requires otherwise. Checks drawn on foreign financial institutions are not acceptable.

(c) An applicant whose check for the application and initial certification fee is returned marked insufficient funds, account closed, or payment stopped shall be allowed to reinstate the application by remitting to DARS DHHS a money order or check for guaranteed funds within 30 days of the date of the receipt of the notice by DARS DHHS. Otherwise, the application and the approval shall be invalid. A penalty fee of \$25, in addition to the amount of the check, must be included with the payment remitted to the DARS DHHS office.

(d) A certificate holder whose check for a renewal fee is returned marked insufficient funds, account closed, or payment stopped shall remit to DARS DHHS a money order or check for guaranteed funds within 30 days of the date of receipt of the notice by DARS DHHS. Otherwise, the certificate shall not be renewed. If a renewal card has already been issued, it shall be invalid. If the guaranteed funds are received after expiration date, a late renewal penalty fee shall be assessed. A penalty fee of \$25, in addition to the amount of the check, must be included with the payment remitted to the DARS DHHS office.

(e) Renewing an expired certificate within 12 months of the expiration date requires payment of the applicable renewal fee.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 4, 2015.

TRD-201501535  
 Sylvia F. Hardman  
 General Counsel  
 Department of Assistive and Rehabilitative Services  
 Earliest possible date of adoption: June 14, 2015  
 For further information, please call: (512) 424-4050



## DIVISION 2. BEI COURT INTERPRETER CERTIFICATION

### 40 TAC §109.315, §109.317

#### STATUTORY AUTHORITY

The proposed amendments are authorized by the Texas Human Resources Code, Chapter 111, §111.051, and Chapter 117. The amendments are proposed pursuant to HHSC's statutory rule-making authority under Texas Government Code, Chapter 531, §531.0055(e), which provides the Executive Commissioner of HHSC with the authority to promulgate rules for the operation of

and provision of health and human services by the health and human services agencies.

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

*§109.315. Qualifications and Requirements for Court Certificate.*

(a) An applicant who is hearing must meet the following qualifications to become a Board for Evaluation of Interpreters (BEI)-certified court interpreter [must]:

(1) hold at least one BEI certificate at Level III, IV, V, IIIi, IVi, Vi, Advanced, Master, or Oral: Comprehensive; or hold certification from Registry of Interpreters for the Deaf (RID) with a Comprehensive Skills Certificate, Certificate of Interpretation/Certificate of Transliteration, Reverse Skills Certificate, Certified Deaf Interpreter, or Master Comprehensive Skills Certificate, or National Interpreter Certification Advanced or National Interpreter Certification Master; [and]

(2) pass the DARS DHHS-approved court interpreter written test, which may only be taken by applicants who hold one of the certificates listed in paragraph (1) of this subsection; and [an examination on legal and court procedure skills and knowledge.]

(3) pass the court performance test, which may only be taken by applicants who have passed the court interpreter written test.

(b) An applicant who is deaf must meet [have] the following [training and] qualifications to become a BEI-certified court interpreter [take an examination]:

(1) hold at least one BEI certificate at Level III, IV, V, IIIi, IVi, Vi, Advanced, Master, or Oral: Comprehensive; or hold certification from Registry of Interpreters for the Deaf (RID) with a Comprehensive Skills Certificate, Certificate of Interpretation/Certificate of Transliteration, Reverse Skills Certificate, Certified Deaf Interpreter, or Master Comprehensive Skills Certificate, or National Interpreter Certification Advanced or National Interpreter Certification Master;

(2) have completed the following hours of training and/or mentoring:

(A) a minimum of 12 Continuing Education Units (CEUs), which is the equivalent of 120 clock hours, of DARS-DHHS approved courses of instruction in courtroom interpretation knowledge and skills;

(B) a minimum of 120 hours of actual practice provided by a certified court interpreter who has been approved by DARS DHHS to act as a mentor; or

(C) a combined minimum of 120 hours of instruction and mentoring; and

(3) have passed the court interpreter written test, which may only be taken upon completion and approval by DARS DHHS that the applicant has completed the required training and/or mentoring, as set forth in paragraph (2) of this subsection.

[(1) Before taking the court interpreter examination, an applicant must provide to DHHS proof that the applicant has completed instruction in court interpretation in one of the following methods:]

[(A) completion of DHHS-approved courses of instruction in courtroom interpretation knowledge and skills with not less than 12 Continuing Education Units (CEUs);]

[(B) mentoring by a certified court interpreter who has been approved by DHHS to act as a mentor for not less than 120 hours of actual practice; or]

[(C) a combination of instruction and mentoring totaling 120 hours.]

[(2) The current list of DHHS-approved courses of instruction in courtroom interpretation skills and training programs for interpreters applying for court interpreter certification or for certified court interpreters needing continuing education unit credits may be obtained from DHHS or the DARS Inquiries Unit.]

(c) An applicant must provide DARS DHHS with documentary proof that the applicant meets the requirements for testing and for certification.

(d) Applicants who formerly held BEI court certification, but who are ineligible to renew their BEI court certification, must meet all applicable qualifications and requirements of this section.

(e) [(e)] A military service member or military veteran applicant who is deaf may satisfy the training [and qualification] requirements in subsection (b)(2) of this section with verified military service, training, or education. This subsection does not apply to a military service member or military veteran applicant who is deaf and who holds a restricted license issued by another jurisdiction or has an unacceptable criminal history according to the laws applicable to DARS.

(f) [(f)] A military spouse applicant will be issued an expedited BEI court interpreter certificate if the spouse holds a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements in subsections (a) or [and] (b) of this section.

(g) [(e)] A person with an expired certification must not perform work for which a certification is required under Government Code, Chapter 57.

*§109.317. Training Programs for Certified Court Interpreters Managed by DARS or by Public or Private Educational Institutions.*

(a) DARS DHHS-Approved Mentors.

(1) A person intending to be a mentor must apply on a form provided by DARS DHHS and be approved by DARS DHHS.

(2) To be a mentor for court interpreting, the person must:

(A) meet the requirements for and hold court interpreter certification issued by DARS or RID for not less than one year;

(B) pass the court interpreter written test [an examination on legal and court procedure skills]; and

(C) not have been subject to disciplinary action in the previous two years.

(3) Mentors must conform to a course of training prescribed by DARS DHHS.

(b) DARS DHHS-Approved Courses of Instruction.

(1) An approved mentor must submit to DARS DHHS for each proposed mentee a written course outline and materials to be used during instruction.

(2) DARS DHHS reviews the proposed course outline and materials and determines whether the course is approved.

(c) Public or Private Training Programs.

(1) DARS may contract with public or private educational institutions, and other entities, to administer training programs.

(2) Instructors must hold a court interpreter certificate issued by DARS or Registry of Interpreters for the Deaf (RID), be a licensed attorney or paralegal, or be otherwise found to be qualified as an instructor by DARS DHHS.

(3) In accordance with Government Code, §57.021(b), DARS suspends training offered by an institution if the training fails to meet the requirements established by DARS.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 4, 2015.

TRD-201501536

Sylvia F. Hardman

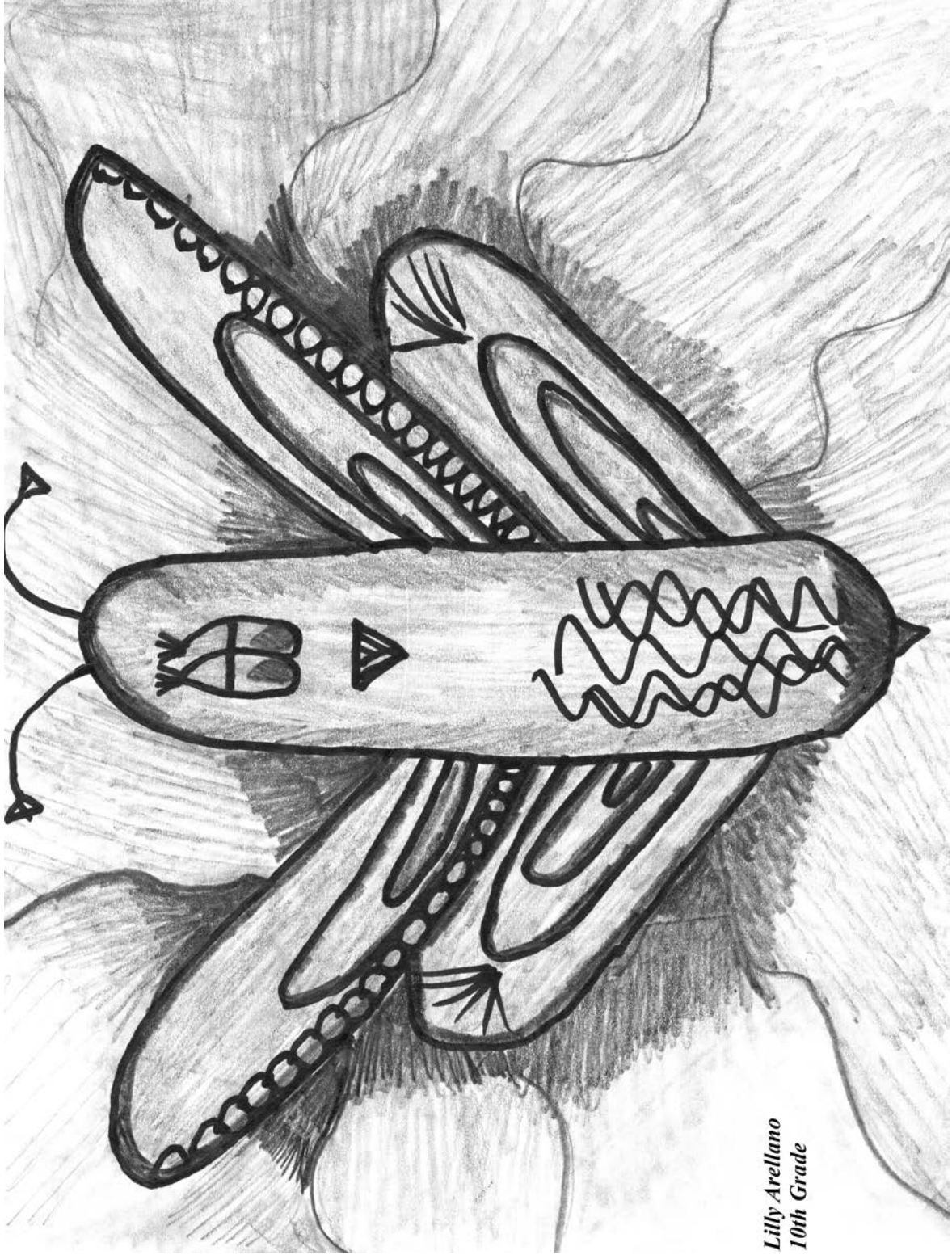
General Counsel

Department of Assistive and Rehabilitative Services

Earliest possible date of adoption: June 14, 2015

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





Lilly Arellano  
10th Grade

# 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 34. PUBLIC FINANCE

### PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

#### CHAPTER 3. TAX ADMINISTRATION

#### SUBCHAPTER O. STATE AND LOCAL SALES AND USE TAXES

##### 34 TAC §3.280

The Comptroller of Public Accounts withdraws proposed new §3.280 which appeared in the October 31, 2014, issue of the *Texas Register* (39 TexReg 8503).

Filed with the Office of the Secretary of State on April 28, 2015.

TRD-201501486

Lita Gonzalez

General Counsel

Comptroller of Public Accounts

Effective date: April 28, 2015

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

◆ ◆ ◆

##### 34 TAC §3.285

The Comptroller of Public Accounts withdraws the proposed repeal of §3.285 which appeared in the October 31, 2014, issue of the *Texas Register* (39 TexReg 8512).

Filed with the Office of the Secretary of State on April 28, 2015.

TRD-201501487

Lita Gonzalez

General Counsel

Comptroller of Public Accounts

Effective date: April 28, 2015

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

◆ ◆ ◆

##### 34 TAC §3.285

The Comptroller of Public Accounts withdraws proposed new §3.285 which appeared in the October 31, 2014, issue of the *Texas Register* (39 TexReg 8513).

Filed with the Office of the Secretary of State on April 28, 2015.

TRD-201501488

Lita Gonzalez

General Counsel

Comptroller of Public Accounts

Effective date: April 28, 2015

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

◆ ◆ ◆

##### 34 TAC §3.292

The Comptroller of Public Accounts withdraws the proposed amendment to §3.292 which appeared in the October 31, 2014, issue of the *Texas Register* (39 TexReg 8520).

Filed with the Office of the Secretary of State on April 28, 2015.

TRD-201501489

Lita Gonzalez

General Counsel

Comptroller of Public Accounts

Effective date: April 28, 2015

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

◆ ◆ ◆

##### 34 TAC §3.297

The Comptroller of Public Accounts withdraws the proposed repeal of §3.297 which appeared in the October 31, 2014, issue of the *Texas Register* (39 TexReg 8525).

Filed with the Office of the Secretary of State on April 28, 2015.

TRD-201501490

Lita Gonzalez

General Counsel

Comptroller of Public Accounts

Effective date: April 28, 2015

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

◆ ◆ ◆

##### 34 TAC §3.297

The Comptroller of Public Accounts withdraws proposed new §3.297 which appeared in the October 31, 2014, issue of the *Texas Register* (39 TexReg 8526).

Filed with the Office of the Secretary of State on April 28, 2015.

TRD-201501491

Lita Gonzalez

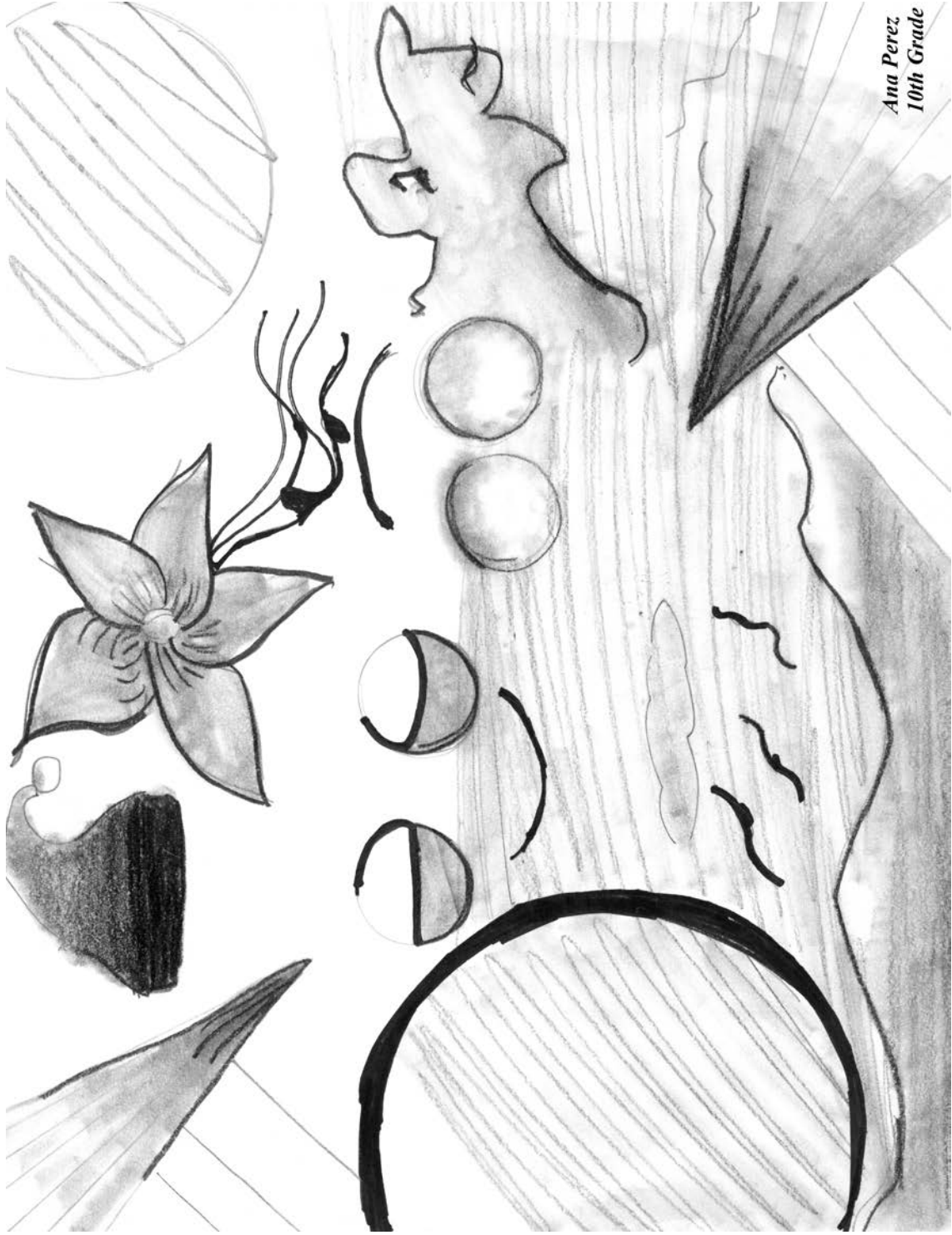
General Counsel

Comptroller of Public Accounts

Effective date: April 28, 2015

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

◆ ◆ ◆



Ana Perez  
10th Grade

# 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 19. EDUCATION

### PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

#### CHAPTER 21. STUDENT SERVICES SUBCHAPTER K. THE GOOD NEIGHBOR SCHOLARSHIP PROGRAM

##### 19 TAC §21.282, §21.286

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to §21.282 and §21.286, concerning the Good Neighbor Scholarship Program. Section 21.282 is adopted with changes to the proposed text as published in the November 7, 2014, issue of the *Texas Register* (39 TexReg 8676) and will be republished. Section 21.286 is adopted without changes.

Specifically, changes to §21.282 introduce terms relevant to new requirements for students receiving continuation awards, beginning fall 2014. The new provisions, which included a grade point average requirement for graduate and undergraduate students and a loss of eligibility once an undergraduate student reaches the credit hour limit for formula funding, were introduced by Senate Bill 1210, passed by the 83rd Legislature, Regular Session. The inclusion of definitions for "continuation award" and "excess hours" caused subsequent definitions to be renumbered. Section 21.286 is amended to clarify that the exemption only applies to courses for which the institution received formula funding.

There were no comments received concerning these amendments.

The amendments are adopted under Texas Education Code, §56.303, which provides the Coordinating Board with the authority to adopt rules to implement the Provisions for the Tuition Equalization Grant (TEG) Program.

##### §21.282. *Definitions.*

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

- (1) Board--The Texas Higher Education Coordinating Board.
- (2) Commissioner--The Commissioner of Higher Education, the Chief Executive Officer of the Board.
- (3) Continuation award--An exemption from tuition awarded to a student in accordance with this subchapter who has received the exemption in a previous semester.

(4) Eligible country--A politically independent nation, other than Cuba and the United States, located in the Western, or American hemisphere.

(5) Excess hours--In accordance with Texas Education Code §54.014, for undergraduates, hours in excess of 30 or more than those required for completion of the degree program in which the student is enrolled.

(6) Native-born citizen of an eligible country--A person who is a citizen of an eligible country and who was born in that country or who was born abroad, if at least one of his or her parents was a citizen of the eligible country and not permanently residing in a foreign country.

(7) Resident of an eligible country--A person who is a citizen of a country and has that country as his or her place of home residence and who intends to return to that country to live immediately after finishing the educational program for which this scholarship will be used.

(8) Scholastically qualified--Meets the basic admissions requirements of the nominating institution.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 28, 2015.

TRD-201501483

Bill Franz

General Counsel

Texas Higher Education Coordinating Board

Effective date: May 18, 2015

Proposal publication date: November 7, 2014

For further information, please call: (512) 427-6114



##### 19 TAC §21.287

The Texas Higher Education Coordinating Board (Coordinating Board) adopts the repeal of §21.287, concerning the Good Neighbor Scholarship Program, without changes to the proposal as published in the November 7, 2014, issue of the *Texas Register* (39 TexReg 8676). The repeal of this section is due to the passage of Senate Bill 1210 (83rd Legislature, Regular Session). Two new sections have been added to reflect the new provisions, causing a subsequent section to be renumbered.

There were no comments received concerning the repeal of this section.

The repeal is adopted under Texas Education Code, §56.303, which provides the Coordinating Board with the authority to

adopt rules to implement the Good Neighbor Scholarship Program.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 28, 2015.

TRD-201501475

Bill Franz

General Counsel

Texas Higher Education Coordinating Board

Effective date: May 18, 2015

Proposal publication date: November 7, 2014

For further information, please call: (512) 427-6114



## 19 TAC §§21.287 - 21.289

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new §§21.287 - 21.289, concerning the Good Neighbor Scholarship Program, without changes to the proposed text as published in the November 7, 2014, issue of the *Texas Register* (39 TexReg 8677).

These new sections reflect the Senate Bill 1210 requirements regarding grade point average and number of completed hours. Specifically, new subsections (a) and (b) of §21.287 add language to implement legislative changes mandated by Senate Bill 1210. New §21.288 outlines hardship provisions that institutions must follow to allow an individual, even though he or she failed to meet program grade point average requirements, to receive an exemption if that failure was due to circumstances outlined in statute as a basis for special consideration. Such circumstances include illness, caring for another person, military deployment or other just causes acceptable to the institution. In addition, in keeping with Senate Bill 1210, the new sections indicate institutions may, on a showing of good cause, allow an undergraduate to receive the exemption although he or she has completed a number of hours considered excessive under §21.287(b) of this subchapter (relating to Continuation Awards).

There were no comments received concerning these new sections.

The new sections are adopted under Texas Education Code, §56.303, which provides the Coordinating Board with the authority to adopt rules to implement the Provisions for the Tuition Equalization Grant (TEG) Program.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 28, 2015.

TRD-201501484

Bill Franz

General Counsel

Texas Higher Education Coordinating Board

Effective date: May 18, 2015

Proposal publication date: November 7, 2014

For further information, please call: (512) 427-6114



## TITLE 22. EXAMINING BOARDS

## PART 9. TEXAS MEDICAL BOARD

### CHAPTER 163. LICENSURE

#### 22 TAC §§163.1, 163.7, 163.11

The Texas Medical Board (Board) adopts amendments to §163.1, concerning Definitions; §163.7, concerning Ten Year Rule; and §163.11, concerning Active Practice of Medicine. Section 163.1 is adopted without changes to the proposed text as published in the March 6, 2015, issue of the *Texas Register* (40 TexReg 1010) and will not be republished. Section 163.7 and §163.11 are adopted with changes to the proposed text as published in the March 6, 2015, issue of the *Texas Register* (40 TexReg 1010). The text of the rules will be republished.

The Board sought stakeholder input through Stakeholder Groups on March 27, 2015. The comments were incorporated into the proposed rules.

The amendments to §163.1 add new paragraph (9)(D), relating to "one-year training program," and new paragraph (13)(D), relating to "two-year training program," to include a domestic training program that subsequently received accreditation by the Accreditation Council for Graduate Medical Education, American Osteopathic Association or Royal College of Physicians, and was accepted by a specialty board that is a member of the American Board of Medical Specialties, the Bureau of Osteopathic Specialists, or the Royal College of Physicians for Board certification purposes. Additional amendments to paragraph (13)(B), relating to "two-year training program," add clarifying language that describes the board-approved program under which a Faculty Temporary License was issued and cites to corresponding rules relating to Faculty Temporary Licenses.

The amendment to §163.7 revises paragraph (1) to add the Royal College of Physicians and Surgeons of Canada to the list of specialty boards from which an applicant can present evidence of current competence and updates the list of requirements to clarify that proof of initial certification through passage of all exams or subsequent passage of a monitored written, specialty certification examination will meet the Ten Year Rule. The rule is adopted with a minor non-substantive change. The Board added the word "or" after paragraph (1)(A) in order to satisfy the Board's intent.

The amendments to §163.11 revise subsection (c)(1)(A) to clarify that proof of initial certification through passage of all exams or subsequent passage of a monitored written, specialty certification examination will meet requirements for purposes of active practice. In addition, the Royal College of Physicians and Surgeons of Canada is added to the list of acceptable specialty boards. The rule is adopted with a minor non-substantive change. The Board added the word "or" after subsection (c)(1)(A) in order to satisfy the Board's intent.

The Board received no public written comments and no one appeared to testify at the public hearing held on April 10, 2015, regarding adoption of the rules.

The amendments are adopted under the authority of the Texas Occupations Code Annotated, §153.001, which provides 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.

§163.7. *Ten Year Rule.*



An applicant who has not passed an examination listed in §163.6(a) of this title (relating to Examinations Accepted for Licensure) for licensure within the ten-year period prior to the filing date of the application must:

(1) present evidence from a member board of the American Board of Medical Specialties, Bureau of Osteopathic Specialists, American Board of Oral and Maxillofacial Surgery, or by the Royal College of Physicians and Surgeons of Canada of passage, within the ten years prior to date of applying for licensure, a monitored:

(A) initial certification examination (passage of all parts required); or

(B) subsequent specialty written certification examination.

(2) obtain through extraordinary circumstances, unique training equal to the training required for specialty certification as determined by a committee of the board and approved by the board, including but not limited to the practice of medicine for at least six months under a faculty temporary license or six months in a training program approved by the board within twelve months prior to the application for licensure; or

(3) pass the Special Purpose Examination (SPEX) within the preceding ten years. The applicant must score 75 or better within three attempts.

*§163.11. Active Practice of Medicine.*

(a) All applicants for licensure shall provide sufficient documentation to the board that the applicant has, on a full-time basis, actively diagnosed or treated persons or has been on the active teaching faculty of an acceptable approved medical school, within either of the last two years preceding receipt of an Application for licensure.

(b) The term "full-time basis," for purposes of this section, shall mean at least 20 hours per week for 40 weeks duration during a given year.

(c) Applicants who do not meet the requirements of subsections (a) and (b) of this section may, in the discretion of the executive director or board, be eligible for:

(1) an unrestricted license if the applicant:

(A) presents evidence from a member board of the American Board of Medical Specialties, Bureau of Osteopathic Specialists, American Board of Oral and Maxillofacial Surgery, or by the Royal College of Physicians and Surgeons of Canada of passage, within the two years prior to date of applying for licensure, of a monitored:

(i) initial specialty certification examination (passage of all parts required); or

(ii) subsequent specialty written certification examination.

(B) completion of remedial education, including but not limited to a mini-residency, fellowship or other structured program; or

(C) such other remedial measures that, in the discretion of the board, are necessary to ensure protection of the public and minimal competency of the applicant to safely practice medicine.

(2) a license subject to one of more of the following conditions:

(A) limitation of the practice of the applicant to specified activities of medicine and/or exclusion of specified activities of medicine; or

(B) such other restrictive or remedial conditions that, in the discretion of the executive director or board, are necessary to ensure protection of the public and establish minimal competency of the applicant to safely practice medicine.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 30, 2015.

TRD-201501512

Mari Robinson, J.D.

Executive Director

Texas Medical Board

Effective date: May 20, 2015

Proposal publication date: March 6, 2015

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



## CHAPTER 165. MEDICAL RECORDS

### 22 TAC §165.1

The Texas Medical Board (Board) adopts amendments to §165.1, concerning Medical Records, without changes to the proposed text as published in the March 6, 2015, issue of the *Texas Register* (40 TexReg 1013). The rule will not be republished.

The Board sought stakeholder input through Stakeholder Groups, which made comments on the suggested changes to the rule at a meeting held on August 22, 2014. The comments were incorporated into the proposed rule.

The amendments to §165.1 add language to subsection (a), contents of Medical Record, to provide that such requirements pertain to all medical records regardless of the medium in which they are made and maintained. Subsection (a)(7) is amended to correct a grammatical error by inserting the word "include." The rule is further amended to include new subsection (a)(8) which clarifies the requirement that a physician document any communication made or received by the physician regarding a patient about which the physician makes a medical decision. The rule is also amended to include new subsection (a)(10) which further clarifies the requirement that electronic patient medical records contain only accurate pre-populated data, described as data that is based on actual findings from assessments, evaluations, examinations, or diagnostic results.

The Board received written comments from the Texas Medical Association (TMA). No one appeared to testify at the public hearing held on April 10, 2015.

#### COMMENT NUMBER 1

TMA does not object to the addition of the words "regardless of the medium utilized," they feel such change is not necessary because the rule as written does not delineate different standards for one form or another and physician education would be a more effective solution.

The Board disagreed with the comment and maintains that it is necessary in order to clarify that the medical recordkeeping requirements apply to all medical records whether electronic or paper.

#### COMMENT NUMBER 2

TMA does not oppose the amendment to §165.1(a)(8) which clarifies the requirement that a physician document any communication made or received by the physician regarding a patient, about which the physician makes a medical decision. However, they suggest substituting "of" for the word "memorializing" because "memorializing" is not used elsewhere in the rules and may lead to confusion.

The Board disagreed with the comment and maintains that the word "memorializing" has no technical or particular meaning and should be interpreted according to the ordinary meaning of the word.

#### COMMENT NUMBER 3

Although TMA is not opposed to the addition of new §165.1(a)(10), they suggested punctuation changes and that the word "non-biographical" either be replaced with the word "non-demographic" or change the language to read "all populated fields containing clinical information within a patient's electronic medical record, must contain accurate data and information pertaining to the patient based on actual findings, assessments, evaluations, diagnostics or assessments as documented by the physician." TMA maintains that such word is not defined and may be confusing to some.

The Board disagreed with the comment and maintains that the rule as published is clear, unambiguous and satisfies the Board's intent to ensure that electronic medical records contain only accurate pre-populated data about a patient, based on actual findings, assessments, evaluations, diagnostics or assessments as documented by the physician.

The amendments are adopted under the authority of the Texas Occupations Code Annotated, §153.001, which provides 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.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 30, 2015.

TRD-201501513

Mari Robinson, J.D.

Executive Director

Texas Medical Board

Effective date: May 20, 2015

Proposal publication date: March 6, 2015

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



## CHAPTER 172. TEMPORARY AND LIMITED LICENSES

### SUBCHAPTER B. TEMPORARY LICENSES

#### 22 TAC §172.8

The Texas Medical Board (Board) adopts an amendment to §172.8, concerning Faculty Temporary License, without changes to the proposed text as published in the March 6, 2015, issue of the *Texas Register* (40 TexReg 1015). The text will not be republished.

The amendment corrects a typographical error in subsection (a)(3)(E) by changing the reference to the Medical Practice Act to the correct section number. The rule is further amended in subsection (a)(4)(A) and (B) to correct a grammatical error relating to the incorrect use of an article preceding a noun.

No comments were received regarding adoption of the rule.

The amendment is adopted under the authority of the Texas Occupations Code Annotated, §153.001, which provides 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.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 30, 2015.

TRD-201501514

Mari Robinson, J.D.

Executive Director

Texas Medical Board

Effective date: May 20, 2015

Proposal publication date: March 6, 2015

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



## PART 16. TEXAS BOARD OF PHYSICAL THERAPY EXAMINERS

### CHAPTER 322. PRACTICE

#### 22 TAC §322.4

The Texas Board of Physical Therapy Examiners adopts an amendment to §322.4, regarding practicing in a manner detrimental to the public health and welfare, without changes to the proposed text as published in the February 27, 2015, issue of the *Texas Register* (40 TexReg 880).

This section establishes that the board may deny a license to or discipline an applicant/respondent who is found practicing in a manner detrimental to the public health and welfare and lists actions that are considered detrimental practice.

The amendment adds language to 22 TAC §322.4 to include failing to maintain confidentiality of all verbal, written, electronic, and nonverbal communication, including compliance with HIPAA regulations is considered detrimental practice.

No comments were received regarding the proposed amendment.

The amendment is adopted under the Physical Therapy Practice Act, Title 3, Subtitle H, Chapter 453, Occupations Code, which provides the Texas Board of Physical Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 27, 2015.

TRD-201501466

John P. Maline  
Executive Director  
Texas Board of Physical Therapy Examiners  
Effective date: May 17, 2015  
Proposal publication date: February 27, 2015  
For further information, please call: (512) 305-6900



## CHAPTER 329. LICENSING PROCEDURE

### 22 TAC §329.2

The Texas Board of Physical Therapy Examiners adopts amendments to §329.2, regarding Licensure by Examination, without changes to the proposed text as published in the February 27, 2015, issue of the *Texas Register* (40 TexReg 880).

This section establishes the requirements for applying for licensure as a physical therapist or physical therapist assistant through examination.

The amendment establishes a lifetime maximum of attempts and a low score maximum for taking the National Physical Therapy Examination (NPTE) to comply with changes in the eligibility requirements which will be implemented by the Federation of State Boards of Physical Therapy (FSBPT) who owns and administers the test. It also eliminates the requirement for remediation after two (2) or more unsuccessful attempts.

No comments were received regarding the proposed amendment.

The amendment is adopted under the Physical Therapy Practice Act, Title 3, Subtitle H, Chapter 453, Occupations Code, which provides the Texas Board of Physical Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 27, 2015.

TRD-201501469  
John P. Maline  
Executive Director  
Texas Board of Physical Therapy Examiners  
Effective date: May 17, 2015  
Proposal publication date: February 27, 2015  
For further information, please call: (512) 305-6900



## CHAPTER 341. LICENSE RENEWAL

### 22 TAC §341.9

The Texas Board of Physical Therapy Examiners adopts amendments to §341.9, regarding Retired Status; Performing Volunteer Charity Care, with changes to the proposed text as published in the February 27, 2015, issue of the *Texas Register* (40 TexReg 881). The name of the section is adopted with a non-substantive change, but the rule text is not changed. The section will be republished.

This section establishes the requirements for eligibility for renewal of retired status of licenses, and for the reinstatement from retired to active status of licenses.

The amendment eliminates the need for a notarized application and modifies the language concerning requirements for reinstatement from retired status to active status.

No comments were received regarding the proposed amendment.

The amendment is adopted under the Physical Therapy Practice Act, Title 3, Subtitle H, Chapter 453, Occupations Code, which provides the Texas Board of Physical Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

§341.9. *Retired Status; Performing Volunteer Charity Care.*

(a) Retired status means that a licensee is providing physical therapy services only in the domain of voluntary charity care.

(b) As used in the section:

(1) "voluntary charity care" means physical therapy services provided for no compensation as a volunteer of a charitable organization as defined in §84.003 of the Texas Civil Practice and Remedies Code. Charitable organizations include any bona fide charitable, religious, prevention of cruelty to children or animals, youth sports and youth recreational, neighborhood crime prevention or patrol, or educational organization (excluding fraternities, sororities, and secret societies), or other organization promoting the common good and general welfare for the people in a community, including these types of organizations with a §501(c)(3) or (4) exemption from federal income tax, some chambers of commerce, and volunteer centers certified by the Department of Public Safety.

(2) "compensation" means direct or indirect payment of anything of monetary value.

(c) To be eligible for retired status, a licensee must hold a current license on active or inactive status.

(d) Requirements for initiation of retired status. The components required to put a license on retired status are:

- (1) a completed retired status application form;
- (2) completion of board-approved continuing competence activities for the current renewal period;
- (3) the retired status fee and any late fees which may be due; and
- (4) a passing score on the jurisprudence exam.

(e) Requirements for renewal of retired status. A licensee on retired status must renew the retired status every two years on his/her license renewal date. The components required to renew the retired status are:

- (1) a completed retired status application form;
- (2) completion of six units of board-approved continuing competence activities by both PTs and PTAs;
- (3) the retired status renewal fee, and any late fees which may be due; and
- (4) a passing score on the jurisprudence exam.

(f) Requirements for reinstatement of active status. A licensee on retired status may request a return to active status at any time. The components required to return to active status are:

(1) a signed renewal application form, documenting completion of board-approved continuing competence activities for the current renewal period, as described in §341.2 of this title, 30 CCUs for PTs and 20 CCUs for PTAs:

(A) proof of voluntary charity care as defined in subsection (b)(1) of this section can count toward up to one-half (1/2) of the continuing competence requirement;

(B) ten (10) hours of voluntary charity care equals 1 CCU.

(2) the renewal fee, and any late fees which may be due; and

(3) a passing score on the jurisprudence exam.

(g) A license may be maintained on retired status indefinitely.

(h) A licensee on retired status may use the designation "PT, retired" or "PTA, retired", as appropriate.

(i) Licensees on retired status are subject to the audit of continuing competence activities as described in §341.2 of this title, concerning Continuing Competence Requirements.

(j) Licensees providing voluntary charity care are subject to the provisions of the Physical Therapy Practice Act and Rules; and as such, violations could result in disciplinary action.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 27, 2015.

TRD-201501467

John P. Maline

Executive Director

Texas Board of Physical Therapy Examiners

Effective date: May 17, 2015

Proposal publication date: February 27, 2015

For further information, please call: (512) 305-6900



## CHAPTER 346. PRACTICE SETTINGS FOR PHYSICAL THERAPY

### 22 TAC §346.3

The Texas Board of Physical Therapy Examiners adopts an amendment to §346.3, regarding practice of physical therapy in an Early Childhood Intervention (ECI) setting, without changes to the proposed text as published in the February 27, 2015, issue of the *Texas Register* (40 TexReg 882).

This section provides the requirements for the provisions of physical therapy service in the Early Childhood Intervention (ECI) setting.

The amendment changes the requirement for review of the plan of care from at least every 30 days to at least every 60 days, or concurrent with every visit if the child is seen at intervals greater than 60 days.

No comments were received regarding the proposed amendment.

The amendment is adopted under the Physical Therapy Practice Act, Title 3, Subtitle H, Chapter 453, Occupations Code, which provides the Texas Board of Physical Therapy Examiners with

the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 27, 2015.

TRD-201501468

John P. Maline

Executive Director

Texas Board of Physical Therapy Examiners

Effective date: May 17, 2015

Proposal publication date: February 27, 2015

For further information, please call: (512) 305-6900



## PART 29. TEXAS BOARD OF PROFESSIONAL LAND SURVEYING

### CHAPTER 661. GENERAL RULES OF PROCEDURES AND PRACTICES SUBCHAPTER D. APPLICATIONS, EXAMINATIONS, AND LICENSING

#### 22 TAC §661.41

The Texas Board of Professional Land Surveying (TBPLS) adopts an amendment to §661.41, concerning Applications, without changes to the proposed text as published in the December 5, 2014, issue of the *Texas Register* (39 TexReg 9458). The text will not be republished.

The amendment requires survey reports submitted with exam applications to be of a more manageable size for the Board office staff. The amendment changes the dimensions as listed in 22 TAC §661.41(b)(2) from 24" x 36" to 11" x 17".

No comments were received regarding adoption of this amendment.

The rule amendments are adopted under Texas Occupations Code §1071.151, §1071.252, and Government Code §2001.004.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 30, 2015.

TRD-201501519

Tony Estrada

Executive Director

Texas Board of Professional Land Surveying

Effective date: May 20, 2015

Proposal publication date: December 5, 2014

For further information, please call: (512) 239-5263



#### 22 TAC §661.46

The Texas Board of Professional Land Surveying (TBPLS) adopts an amendment to §661.46, concerning the Seal and

Oath, without changes to the proposed text as published in the December 5, 2014, issue of the *Texas Register* (39 TexReg 9459). The amendment adopted inserted language that was omitted in subsection (b) of the August 2013 rule revision. This language clarifies that the Board office is to receive a copy of a new licensee's seal and signature.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Occupations Code §1071.151, §1071.351, and Government Code §2001.004.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 30, 2015.

TRD-201501518

Tony Estrada

Executive Director

Texas Board of Professional Land Surveying

Effective date: May 20, 2015

Proposal publication date: December 5, 2014

For further information, please call: (512) 239-5263



## 22 TAC §661.53

The Texas Board of Professional Land Surveying (TBPLS) adopts an amendment to §661.53, concerning active duty military, without changes to the proposed text as published in the December 5, 2014, issue of the *Texas Register* (39 TexReg 9460).

Legislation enacted by the 83rd Legislature, Regular Session (SB 162) required regulatory agencies to accommodate military personnel seeking licensing by expediting their application for licensure. The adopted amendment to §661.53 allows military personnel seeking licensure with the Board to receive credit for relevant service, training or education.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Occupations Code §§1071.151, 1071.253, 1071.254, 1071.259, and Government Code §2001.004.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 30, 2015.

TRD-201501520

Tony Estrada

Executive Director

Texas Board of Professional Land Surveying

Effective date: May 20, 2015

Proposal publication date: December 5, 2014

For further information, please call: (512) 239-5263



## 22 TAC §661.57

The Texas Board of Professional Land Surveying (TBPLS) adopts an amendment to §661.57, concerning land surveying firms compliance, without changes to the proposed text as published in the December 5, 2014, issue of the *Texas Register* (39 TexReg 9461).

The adopted amendment, which adds §661.57(10), requires a firm to have a full-time registered professional land surveyor supervising contract crews.

No comments were received regarding adoption of the amendment.

The rule amendment is adopted under Texas Occupations Code §1071.151, §1071.325 and Government Code §2001.004.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 30, 2015.

TRD-201501521

Tony Estrada

Executive Director

Texas Board of Professional Land Surveying

Effective date: May 20, 2015

Proposal publication date: December 5, 2014

For further information, please call: (512) 239-5263



## CHAPTER 663. STANDARDS OF PROFESSIONAL RESPONSIBILITY AND RULES OF CONDUCT

### SUBCHAPTER B. PROFESSIONAL AND TECHNICAL STANDARDS

#### 22 TAC §663.18

The Texas Board of Professional Land Surveying (Board) adopts an amendment to §663.18, concerning certification, without changes to the proposed text as published in the December 5, 2014, issue of the *Texas Register* (39 TexReg 9462).

The adopted amendment deletes the word "only" from subsection (a), removing the restriction that only final documents receive the land surveyor's seal and signature.

No comments were received regarding adoption of this amendment.

The rule amendment is adopted under Texas Occupations Code §1071.151 and Government Code §2001.004.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 30, 2015.

TRD-201501522

Tony Estrada

Executive Director

Texas Board of Professional Land Surveying

Effective date: May 20, 2015

Proposal publication date: December 5, 2014

For further information, please call: (512) 239-5263

◆ ◆ ◆  
**22 TAC §663.19**

The Texas Board of Professional Land Surveying (Board) adopts an amendment to §663.19, concerning survey drawings/written/description/reports, without changes to the proposed text as published in the December 5, 2014, issue of the *Texas Register* (39 TexReg 9462).

The amendment removed vagueness created by the phrase "if appropriate" formerly found in subsection (f). It was believed that land surveyors interpreted the phrase as not having to show adjoining on the survey report. The Board believes showing adjoining on the survey report is an indication that the land surveyor has done his/her research on the property being surveyed.

No comments were received regarding adoption of the amendment.

The rule amendment is adopted under Texas Occupations Code §1071.151 and Government Code §2001.004.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 30, 2015.

TRD-201501523

Tony Estrada

Executive Director

Texas Board of Professional Land Surveying

Effective date: May 20, 2015

Proposal publication date: December 5, 2014

For further information, please call: (512) 239-5263

◆ ◆ ◆  
**TITLE 30. ENVIRONMENTAL QUALITY**

**PART 1. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

**CHAPTER 114. CONTROL OF AIR POLLUTION FROM MOTOR VEHICLES**

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) adopts amendments to §§114.2, 114.7, 114.53, 114.60, 114.62, 114.64, 114.70, and 114.87.

Section 114.64 is adopted *with change* to the proposed text as published in the December 5, 2014, issue of the *Texas Register* (39 TexReg 9468). Sections 114.2, 114.7, 114.53, 114.60, 114.62, 114.70, and 114.87 are adopted *without changes* to the proposed text and, therefore, will not be republished.

Sections 114.2, 114.53, and 114.87 will be submitted to the United States Environmental Protection Agency (EPA) as a revision to the state implementation plan (SIP).

Background and Summary of the Factual Basis for the Adopted Rules

The commission adopts revisions to incorporate a procedure for counties to opt out of the Low Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program (LIRAP) and to be released from program obligations, including remittance of the fee to fund the LIRAP. The commission also

adopts language that differentiates between a LIRAP participating county and a non-participating county.

The LIRAP was established to enhance the objectives of the Vehicle Inspection and Maintenance (I/M) Program. The 77th Texas Legislature, 2001, enacted House Bill (HB) 2134 to assist low income individuals with repairs, retrofits, or retirement of vehicles that fail emissions inspections. HB 2134 required the commission and the Texas Department of Public Safety (DPS), by rule, to provide the minimum guidelines by which eligible counties may implement the LIRAP. The commission, in coordination with DPS, adopted rules implementing HB 2134.

The LIRAP is a voluntary program, and only those counties that have implemented vehicle emissions I/M programs are eligible to participate in the LIRAP. I/M program counties include Brazoria, Fort Bend, Galveston, Harris, and Montgomery Counties in the Houston-Galveston-Brazoria (HGB) area; Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, and Tarrant Counties in the Dallas-Fort Worth (DFW) area; Travis and Williamson Counties in the Austin-Round Rock (ARR) area; and El Paso County. To participate, an eligible county must submit a written request to the TCEQ from the county's commissioners court to implement the LIRAP. The TCEQ executive director and the participating county then enter into a grant contract for implementation of the program. The LIRAP is separated into two grant programs - Drive a Clean Machine (DACM) and local initiative projects (LIP). DACM funds provide monetary assistance to qualifying vehicle owners in participating counties for emission-related vehicle repair, retrofit, and replacement. LIP funds are granted to participating counties for use in approved projects focused on improving air quality in the program area.

The LIRAP is funded through a fee (LIRAP fee) that is charged to vehicle owners in participating counties. The LIRAP fee is \$6.00 in participating DFW and HGB-area counties, and it is charged to vehicle owners who receive on-board diagnostics (OBD) emissions inspection tests. The LIRAP fee is \$2.00 in participating ARR-area counties, and it is charged to vehicle owners for any emissions inspection test performed. The LIRAP fee was remitted at authorized inspection stations during annual vehicle safety and emissions inspections until March 1, 2015. As of that date, the LIRAP fee is paid to the Texas Department of Motor Vehicles (DMV) or county tax assessor-collector during vehicle registration. This change is a result of a 2014 revision to Chapter 114, Subchapters A, B, and C (Rule Project Number 2013-035-114-AI), transitioning the state to a single sticker system for vehicle inspection and registration and implementing HB 2305, 83rd Texas Legislature, 2013.

On April 28, 2014, the commission received Court Order No. 2014-221-04-21 from the Collin County Commissioners Court withdrawing the county from participation in the LIRAP. The court order was sent with a letter requesting that the commission release Collin County from program requirements, including collection of the LIRAP fee. At the time the LIRAP was established, the rules did not specify a procedure to allow participating counties to opt out of the program or to be released from the LIRAP fee requirement. This rulemaking provides Collin County or any participating county with a procedure for opting out of the LIRAP, which includes being released from collection of the LIRAP fee and ending of the contract between the county and the TCEQ executive director. This rulemaking amends Subchapter A to revise the definitions for the LIRAP to account for counties opting out of the program and adds four new definitions to further clarify program elements and differentiate between counties participat-

ing in the LIRAP and non-participating counties. This rulemaking also amends Subchapter C, Divisions 1, 2, and 3. Division 1 is amended to specify the I/M fees that apply in a participating nonattainment county, a county that is in the process of opting out of the LIRAP, and a non-participating nonattainment county. Division 2 is amended to provide a mechanism for participating nonattainment counties to opt out of the LIRAP, and Division 3 is amended to provide a mechanism for early action compact (EAC) counties to opt out of the LIRAP and accordingly, revise the I/M fee requirements in §114.87.

#### Section by Section Discussion

In addition to the adopted amendments associated with providing a mechanism for counties to opt out of the LIRAP, various stylistic, non-substantive changes are included to update rule language to current Texas Register style and format requirements. Such changes include appropriate and consistent use of acronyms, section references, rule structure, and certain terminology. These changes are non-substantive and generally are not specifically discussed in this preamble.

#### §114.2, Inspection and Maintenance Definitions

The acronym for the Low Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program is replaced with the full program title to be consistent with the title of the referenced subchapter and Texas Register requirements.

#### §114.7, Low Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program Definitions

The title of §114.7 is corrected by amending the term "retrofit" to be singular. In addition, four definitions are added to §114.7 to clarify program requirements and differentiate between participating counties and non-participating counties. "LIRAP fee" is added as paragraph (13) to define the fee that vehicle owners in participating LIRAP counties pay when their vehicles receive certain emissions tests, OBD tests in DFW and HGB-area counties, and any emissions test in El Paso, Travis, and Williamson Counties. El Paso is currently a non-participating county. Assessment of the LIRAP fee is authorized by Texas Health and Safety Code (THSC), §382.202.

"LIRAP fee termination date" is added as paragraph (14) to define the effective date upon which a county opting out of the LIRAP would no longer pay the LIRAP fee. "LIRAP opt-out effective date" is added as paragraph (15) to define the date upon which a county that was participating in the LIRAP becomes a non-participating county. Withdrawal from the program is effective on the date that both of the following requirements have been met: 1) the county is no longer subject to the LIRAP fee; and 2) the grant contract between the county and the TCEQ executive director that established participation in the program is ended. The grant contract cannot be ended before the LIRAP fee termination effective date.

"Non-participating county" is added as paragraph (18) to differentiate between counties that are eligible to participate in the LIRAP but choose not to and eligible counties that participate in the LIRAP. The definition for "Participating county" is amended to clarify that a county that is in the process of opting out of the LIRAP will be considered a participating county until the LIRAP opt-out effective date. The definition for "Recognized emissions repair facility" is amended to replace the reference to 37 Texas Administrative Code (TAC) §23.93 with 37 TAC §23.51 as it replaced the former as of March 13, 2013. The remaining def-

initions in §114.7 are renumbered to accommodate the added definitions.

#### §114.53, Inspection and Maintenance Fees

Section 114.53(d)(1), (2), and (3) is amended to more fully describe the LIRAP fee as it relates to the vehicle I/M programs in El Paso County and the DFW and HGB-area counties. Subparagraphs are added to §114.53(d)(1), (2), and (3) to explain remittance of I/M fees, including the LIRAP fee, in a county participating in the LIRAP, a participating county that is in the process of opting out of the LIRAP, and a county that is not participating in the LIRAP and not subject to the LIRAP fee. Section 114.53(d)(1) is reorganized to allow the adopted subparagraphs to be consistent among the paragraphs of §114.53(d). The state fees vehicle owners pay during vehicle registration in participating counties, subparagraph (A) for each paragraph in §114.53(d), includes the LIRAP fee. The state fees vehicle owners pay during vehicle registration in participating counties that are in the process of opting out of the LIRAP, subparagraph (B) for each paragraph in §114.53(d), includes the LIRAP fee until the effective LIRAP fee termination date, after which state fees will not include the LIRAP fee. The state fees vehicle owners pay during vehicle registration in non-participating counties, subparagraph (C) for each paragraph in §114.53(d), does not include the LIRAP fee.

#### §114.60, Applicability for LIRAP

Section 114.60(c)(7) is added to specify that LIRAP requirements are not applicable to vehicles registered in counties that do not participate in the program. This addition clarifies that vehicles in non-participating counties are not subject to LIRAP requirements.

#### §114.62, LIRAP Funding

Section 114.62(a) is amended to clarify that the LIRAP is funded through money collected only in participating counties, and the term "participating" replaces "affected" in §114.62(c) for consistency in describing counties that participate in the program.

#### §114.64, LIRAP Requirements

The counties that are eligible to participate in the LIRAP are limited to those that are included in I/M program areas, but no county is required to participate in the LIRAP. The original rule to implement the program included a procedure to allow counties to opt into the LIRAP, but it did not include a procedure to allow counties to opt out. The adopted amendments to §114.64 establish a procedure for opting out of the LIRAP.

The commission amends §114.64(a), concerning implementation of the LIRAP, to indicate that participation in the program is voluntary. The commission amends §114.64(b)(3) to clarify that vehicle repair and retrofit assistance through the DACM Program is only available for vehicles registered in participating LIRAP counties.

The commission adds §114.64(g) to establish the procedure for opting out of the LIRAP. Section 114.64(g)(1) requires a county wishing to opt out of the program to submit a written request from the county commissioners court to the TCEQ executive director, which is consistent with the process for opting into the LIRAP. The written request should include one of two possible LIRAP opt-out effective dates, either the LIRAP fee termination effective date or the last day of the legislative biennium in which the LIRAP fee termination effective date occurs. The first option completely withdraws the opt-out county from the program on the same date

that the county is no longer subject to the LIRAP fee. The second option extends the opt-out county's program participation past the LIRAP fee termination effective date to allow the county time to spend any remaining funds that have been allocated by the commission.

Participation in the LIRAP makes grant funds available to counties for program-related projects and to qualified vehicle owners, and the LIRAP is funded through appropriations made by the legislature from Clean Air Account 151, into which LIRAP fees collected from county vehicle owners are deposited. Due to the program's reliance on public support, the commission requested public comment on the method and process by which counties wishing to opt into or out of the LIRAP would do so, including any associated public notice requirements.

Adopted §114.64(g)(2) describes the procedure the commission will follow to release a county from LIRAP requirements upon receiving a written request from the county to opt out. Release from LIRAP requirements includes removing the LIRAP fee from the state fees charged to vehicle owners during vehicle registration, which requires the commission to coordinate with the DMV and DPS and to contact the Legislative Budget Board of Texas (LBB). The process to remove the LIRAP fee will be initiated upon receipt by the TCEQ executive director of a request from a county to opt out of the program. The DMV vehicle registration notices list charges for state inspection fees, which include the LIRAP fee in counties participating in the program. These fees are paid by vehicle owners when they register their vehicles. The DMV prints and distributes vehicle registration notices at least 90 days prior to registration expiration dates, so registration notices that include the LIRAP fee will be in circulation in an opt-out county for at least 90 days after the TCEQ initiates the fee removal process. The LIRAP fee will be effectively removed for an opt-out county once it is no longer included in the state fee charges that appear on vehicle registration notices in the affected county. For example, if the TCEQ executive director received a written request to withdraw from the program on August 1st, then the effective LIRAP fee termination date would be on or after December 1st because December would be the first month for which registration notices that did not include the LIRAP fee would be printed. The DMV prints registration notices mid-month, so a written request to withdraw that was received by the TCEQ executive director in mid-August would likely not result in the LIRAP fee being effectively terminated for the submitting county until, at the earliest, January 1st.

The effective LIRAP fee termination date for a county opting out of the LIRAP is the first day of the month for the month that the DMV issues registration notices that do not include the LIRAP fee. Until the LIRAP fee termination effective date, a county in the process of opting out of the LIRAP is still considered a participating county because the LIRAP fee cannot be assessed in a non-participating county. Depending upon the LIRAP opt-out effective date included in a county's written request to opt out of the program, the county could be completely withdrawn from the LIRAP on the LIRAP fee termination effective date, ending the contract between the county and the TCEQ executive director simultaneous with removal of the LIRAP fee. The county may instead choose to continue to participate in LIRAP activities without being subject to the LIRAP fee until the end of the legislative biennium in which the fee termination date occurs. Choosing the first option could end the county's participation in the LIRAP before all grant funds allocated to the county have been spent. The second option would allow a county the opportunity to continue LIRAP activities and spend previously allocated LI-

RAP grant funds until the end of the biennium in which the LIRAP fee termination date occurred for that county.

Adopted §114.64(g)(3) describes the LIRAP opt-out effective date, which is the date upon which a participating county is no longer subject to the LIRAP fee and the grant contract between the county and the TCEQ executive director is ended. On this date, the county becomes a non-participating county. The commission will allow a county wishing to opt out of the LIRAP a choice of two options in determining when the program is ended for that county, so there are two possible effective dates upon which a participating county becomes a non-participating county. The first occurs simultaneous with the LIRAP fee termination effective date, and the second occurs on the last day of the legislative biennium in which the LIRAP fee termination effective date occurs. The commission revises proposed §114.64(g)(3) in response to a comment received, which is discussed in the Response to Comments section of this preamble. Revised §114.64(g)(3) indicates that not more than 90 days after a county's LIRAP opt-out effective date, the unspent balance of allocated LIRAP funds for the opt-out county will be returned to the commission unless the county has entered into an official inter-county elective agreement with other participating counties in the same region to share allocated LIRAP funds. If an inter-county elective agreement exists, then the portion of LIRAP allocations that is shared and unspent as of the LIRAP opt-out effective date will be redistributed among the remaining participating counties that are part of that agreement. The redistribution of a county's allocated and unspent LIRAP funds will occur not more than 90 days after the county's LIRAP opt-out effective date.

#### §114.70, Records, Audits, and Enforcement

The commission amends §114.70(c) and (d) to incorporate recordkeeping and inspection requirements for counties that opt out of the LIRAP. Adopted §114.70(c) requires program participants in counties opting out of the LIRAP to maintain program records concerning the opt-out county for three years after the effective LIRAP opt-out date for the county. Program participants include the county, its designated entity, participating recognized emissions repair facilities, and participating vehicle retirement facilities. Adopted §114.70(d) requires that in the three-year period during which records must be kept after a county's LIRAP opt-out effective date, the TCEQ executive director must be allowed to conduct audits and inspections of the records kept concerning the opted out county by program participants.

#### §114.87, Inspection and Maintenance Fees

The commission amends §114.87 to apply the changes adopted in §114.53 to counties with early action compact programs that participate in the vehicle emissions I/M program. Adopted §114.87(d)(1) - (3) explains remittance of I/M fees, including the LIRAP fee, in a county participating in the LIRAP, a participating county that is in the process of opting out of the LIRAP, and a county that is not participating in the LIRAP and not subject to the LIRAP fee. The description of the state fees vehicle owners pay during vehicle registration in participating EAC counties, paragraph (1), includes the LIRAP fee. The description of the state fees vehicle owners pay during vehicle registration in participating EAC counties that are in the process of opting out of the LIRAP, paragraph (2), includes the LIRAP fee until the effective LIRAP fee termination date, after which state fees do not include the LIRAP fee. The description of the state fees vehicle



owners pay during vehicle registration in non-participating EAC counties, paragraph (3), does not include the LIRAP fee.

#### Final Regulatory Impact Determination

The commission reviewed this rulemaking in light of the regulatory impact analysis requirements of Texas Government Code, §2001.0225 and determined that it does not meet the definition of a "major environmental rule" as defined in that statute. A "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." Additionally, this rulemaking does not meet any of the four applicability criteria for requiring a regulatory impact analysis for a major environmental rule, which are listed in Texas Government Code, §2001.0225(a). Texas Government Code, §2001.0225 applies only to a major environmental rule, the result of which is to: 1) exceed a standard set by federal law, unless the rule is specifically required by state law; 2) exceed an express requirement of state law, unless the rule is specifically required by federal law; 3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or 4) adopt a rule solely under the general powers of the agency instead of under a specific state law.

The amendments to Chapter 114 are adopted in accordance with HB 2134, which authorized the LIRAP found in THSC, Chapter 382. HB 2134 was enacted to enhance the objective of the vehicle emissions I/M program. The LIRAP provides financial assistance to low-income individuals for repair, retrofit, or retirement of vehicles that fail an emissions inspection. The rulemaking is not expected 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.

The rulemaking implements requirements of 42 United States Code (USC), §7410, which requires states to adopt a SIP that provides for the implementation, maintenance, and enforcement of the National Ambient Air Quality Standards (NAAQS) in each air quality control region of the state. The LIRAP was designed to enhance the objectives of the I/M program, and the commission previously submitted the I/M rules to the EPA as a revision to the Texas SIP, which the EPA approved effective July 25, 2014. While 42 USC, §7410 generally does not require specific programs, methods, or reductions in order to meet the standard, the SIP must include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance as may be necessary or appropriate to meet the applicable requirements of this chapter (42 USC, Chapter 85). The provisions of the Federal Clean Air Act (FCAA) recognize that states are in the best position to determine what programs and controls are necessary or appropriate in order to meet the NAAQS. This flexibility allows states, affected industry, and the public to collaborate on the best methods for attaining the NAAQS for the specific regions in the state. Even though the FCAA allows states to develop their own programs, this flexibility does not relieve a state from developing a program that meets the requirements of 42 USC, §7410. States are not free to ignore the requirements of 42 USC, §7410 and must develop programs to assure that their

contributions to nonattainment areas are reduced so that these areas can be brought into attainment on schedule.

The requirement to provide a fiscal analysis of adopted regulations in the Texas Government Code was amended by Senate Bill (SB) 633 during the 75th Texas Legislature, 1997. The intent of SB 633 was to require agencies to conduct a regulatory impact analysis of extraordinary rules. These rules are identified in the statutory language as major environmental rules that will have a material adverse impact and will exceed a requirement of state law, federal law, or a delegated federal program, or are adopted solely under the general powers of the agency. With the understanding that this requirement would seldom apply, the commission provided a cost estimate for SB 633 concluding that "based on an assessment of rules adopted by the agency in the past, it is not anticipated that the bill will have significant fiscal implications for the agency due to its limited application." The commission also noted that the number of rules that would require assessment under the provisions of the bill was not large. This conclusion was based, in part, on the criteria set forth in the bill that exempted the adopted rules from the full analysis unless the rule was a major environmental rule that exceeds a federal law.

As discussed earlier in this preamble, the FCAA does not always require specific programs, methods, or reductions in order to meet the NAAQS; thus, states must develop programs for each area contributing to nonattainment to help ensure that those areas will meet the attainment deadlines. Because of the ongoing need to address nonattainment issues and to meet the requirements of 42 USC, §7410, the commission routinely proposes and adopts SIP rules. The legislature is presumed to understand this federal scheme. If each rule adopted for inclusion in the SIP was considered to be a major environmental rule that exceeds federal law, then every SIP rule would require the full regulatory impact analysis contemplated by SB 633. This conclusion is inconsistent with the conclusions reached by the commission in its cost estimate and by the LBB in its fiscal notes. Since the legislature is presumed to understand the fiscal impacts of the bills it passes and that presumption is based on information provided by state agencies and the LBB, the commission believes that the intent of SB 633 was only to require the full regulatory impact analysis for rules that are extraordinary in nature. While the SIP rules will have a broad impact, the impact is no greater than is necessary or appropriate to meet the requirements of the FCAA. For these reasons, rules adopted for inclusion in the SIP fall under the exception in Texas Government Code, §2001.0225(a) because they are required by federal law.

The commission has consistently applied this construction to its rules since this statute was enacted in 1997. Since that time, the legislature has revised the Texas Government Code but left this provision substantially un-amended. It is presumed that "when an agency interpretation is in effect at the time the legislature amends the laws without making substantial change in the statute, the legislature is deemed to have accepted the agency's interpretation." *Central Power & Light Co. v. Sharp*, 919 S.W.2d 485, 489 (Tex. App. Austin 1995), *writ denied with per curiam opinion respecting another issue*, 960 S.W.2d 617 (Tex. 1997); *Bullock v. Marathon Oil Co.*, 798 S.W.2d 353, 357 (Tex. App. Austin 1990, *no writ*); *Cf. Humble Oil & Refining Co. v. Calvert*, 414 S.W.2d 172 (Tex. 1967); *Dudney v. State Farm Mut. Auto Ins. Co.*, 9 S.W.3d 884, 893 (Tex. App. Austin 2000); *Southwestern Life Ins. Co. v. Montemayor*, 24 S.W.3d 581 (Tex. App. Austin 2000, *pet. denied*); and *Coastal Indust. Water Auth. v. Trinity Portland Cement Div.*, 563 S.W.2d 916 (Tex. 1978).

The commission's interpretation of the regulatory impact analysis requirements is also supported by a change made to the Texas Administrative Procedure Act (APA) by the legislature in 1999. In an attempt to limit the number of rule challenges based upon APA requirements, the legislature clarified that state agencies are required to meet these sections of the APA against the standard of "substantial compliance." The legislature specifically identified Texas Government Code, §2001.0225, as falling under this standard. The commission has substantially complied with the requirements of Texas Government Code, §2001.0225.

The specific intent of these adopted rules is to amend sections of the TAC, which would allow any participating county to opt out of the LIRAP, including the collection of the LIRAP fee collected at the time of vehicle registration, without a future rulemaking. By providing a mechanism for participating counties to opt out of the LIRAP, this rulemaking creates a more comprehensive program in accordance with the TCEQ's statutory obligation to create and implement the LIRAP. Additionally, even if the adopted rulemaking was a major environmental rule, it does not exceed a standard set by federal law or exceed an express requirement of state law. No contract or delegation agreement covers the topic that is the subject of this rulemaking. Therefore, this rulemaking is not subject to the regulatory analysis provisions of Texas Government Code, §2001.0225(b) because it does not meet the definition of a "major environmental rule," nor does it meet any of the four applicability criteria for a major environmental rule.

The commission invited public comment regarding the draft regulatory impact analysis determination during the public comment period, and none were received.

#### Takings Impact Assessment

The commission evaluated the adopted rulemaking and performed an assessment of whether Texas Government Code, Chapter 2007 is applicable. The specific intent of these rules is to amend sections of the TAC, which will allow any participating county to opt out of the LIRAP, including the collection of program-related LIRAP fee, without a future rulemaking. The rules will substantially advance this stated purpose by amending sections in Chapter 114, Subchapters A and C to include revisions of the definitions and fees and to provide a mechanism for participating counties to opt out of the LIRAP. By providing a mechanism for participating counties to opt out of the LIRAP, this rulemaking creates a more comprehensive program in accord with the TCEQ's statutory obligation to create and implement the LIRAP.

Texas Government Code, §2007.003(b)(4) provides that Texas Government Code, Chapter 2007 does not apply to this rulemaking because it is an action reasonably taken to fulfill an obligation mandated by state law. THSC, Chapter 382 requires the commission to establish and authorize the commissioners court of a participating county to implement a LIRAP subject to agency oversight that may include reasonable, periodic commission audits. Consequently, this rulemaking meets the exemption criteria in Texas Government Code, §2007.003(b)(4).

Nevertheless, the commission further evaluated these adopted rules and performed an assessment of whether these rules constitute a "taking" under Texas Government Code, Chapter 2007. Promulgation and enforcement of these rules would be neither a statutory nor a constitutional taking of private real property. Specifically, the subject regulations do not affect a landowner's rights in private real property because this rulemaking does not burden (constitutionally), nor restrict or limit the owner's right to

property and reduce its value by 25% or more beyond that which would otherwise exist in the absence of the regulations. These adopted rules create a voluntary program for counties in the state to participate in and opt out of the LIRAP.

In addition, because the subject regulations do not provide more stringent requirements they do not burden, restrict, or limit an owner's right to property and reduce its value by 25% or more beyond that which would otherwise exist in the absence of the regulations. Therefore, these adopted rules do not constitute a taking under the Texas Government Code, Chapter 2007. For these reasons, Texas Government Code, Chapter 2007 does not apply to this rulemaking.

#### Consistency with the Coastal Management Program

The commission reviewed this rulemaking and found that it is identified in the Coastal Coordination Act Implementation Rules, 31 TAC §505.11(b)(4) relating to rules subject to the Texas Coastal Management Program (CMP), and will, therefore, require that goals and policies of the CMP be considered during the rulemaking process.

The commission reviewed this rulemaking for consistency with the CMP goals and policies in accordance with the regulations of the Coastal Coordination Advisory Committee and determined that the rulemaking is editorial and procedural in nature and will have no substantive effect on commission actions subject to the CMP and therefore, is consistent with CMP goals and policies.

The commission invited public comment regarding the consistency with the CMP during the public comment period, and none were received.

#### Public Comment

The comment period was from December 5, 2014 through January 9, 2015. The commission offered a public hearing on January 6, 2015, but it was not opened because no one signed up to provide oral testimony. The commission received written comments from the North Central Texas Council of Governments (NCTCOG) and the Transportation and Natural Resources Department of Travis County (Travis County). In general, both commenters supported this rulemaking; however, NCTCOG recommended changes related to the distribution of funds and record-keeping and auditing requirements.

#### Response to Comments

##### *Comment*

Travis County supported the proposed rulemaking and added that it will benefit participating counties to have a formal procedure for opting out of the LIRAP that includes removing the LIRAP fee.

##### *Response*

The commission appreciates Travis County's support of this rulemaking and agrees that having a formal procedure to opt out of the LIRAP will benefit the counties that participate in the program.

##### *Comment*

NCTCOG agreed that counties opting out of the LIRAP should have options and commented that those provided in this rulemaking provide flexibility when it comes to spending allocated funds.

##### *Response*

The commission appreciates NCTCOG's comment and agrees that a county opting out of the program should have options with regard to the use of allocated LIRAP funds. The commission's staff will work closely with each opt-out county to help the county spend allocated LIRAP funds by the chosen LIRAP opt-out effective date.

*Comment*

NCTCOG commented that due to an agreement among the participating DFW counties to share LIRAP funds, which is facilitated by NCTCOG, it would be complicated to require an opt-out county to return unspent allocations to the TCEQ upon a county's LIRAP opt-out effective date. NCTCOG recommended that the TCEQ amend its proposal to allow the redistribution of an opt-out county's unspent allocations to other participating counties within the region.

*Response*

The commission has amended proposed §114.64(g)(3) to specify that unspent allocations will be returned to the commission not more than 90 days after a county's LIRAP opt-out effective date unless there is an official inter-county elective agreement that the opt-out county shares allocated LIRAP funds with other participating counties in the same region. If there is an inter-county elective agreement, then not more than 90 days after a county's LIRAP opt-out effective date, the portion of LIRAP allocations that is shared and unspent as of the LIRAP opt-out effective date will be redistributed among the remaining participating counties that are part of the agreement.

*Comment*

NCTCOG recommended that the TCEQ develop a process to allow opt-out counties to spend all collected funds, appropriated and otherwise. NCTCOG commented that LIRAP fees are currently being collected in participating counties at a higher rate than what is appropriated by the legislature and that there is a large surplus of unappropriated funds. NCTCOG added that opt-out counties should be able to exhaust all collected funds, even after the LIRAP opt-out effective date.

*Response*

The commission has not made the suggested change to the rule. The LIRAP is a voluntary program, and a participating county may choose to opt out at its discretion. The opt-out process established in this rulemaking offers an opt-out county the choice of extending participation in the program beyond the date upon which the LIRAP fee is no longer collected, the LIRAP fee termination date. This allows the county to spend LIRAP grant funds that have been appropriated by the legislature and allocated by the commission. The commission only has the authority to allocate funds appropriated by the legislature to participating counties or an area specified by the legislature. Any future appropriations are unknown and are dependent upon the legislature, which appropriates funding for the LIRAP to the commission during each biennial session from Clean Air Account 151. Clean Air Account 151 is used to safeguard the air resources of the state, and LIRAP fees from vehicle owners in each participating county are deposited into the account as part of a county's participation in the program. LIRAP appropriations from Clean Air Account 151 are not identified by revenue source and county, and as such, it would not be possible to identify future LIRAP appropriations as corresponding to a county that has opted out of the program without additional statutory or appropriations direction.

*Comment*

NCTCOG recommended that the TCEQ alert all counties of any modifications to the LIRAP resulting from legislative action.

*Response*

The LIRAP has been modified by legislative action four times since the 77th Texas Legislature enacted HB 2134 in 2001. The commission has and will continue to notify counties of changes to the LIRAP that result from legislative action.

*Comment*

NCTCOG supported the amendment to §114.70(c) and (d) that will maintain program-related recordkeeping and auditing requirements related to an opt-out county after that county's opt-out effective date. NCTCOG recommended that the TCEQ add automobile dealerships to the list of entities that must comply with these requirements.

*Response*

The commission appreciates NCTCOG's support of the amendment to §114.70(c) and (d). However, the commission has not made the suggested change. The commission did not propose to revise §114.70 to require automobile dealerships to comply with program-related recordkeeping and auditing requirements. Adding automobile dealerships would impose new requirements that were not made available for public review and comment.

Furthermore, the commission does not consider it necessary at this time to make automobile dealerships subject to LIRAP-related recordkeeping and auditing requirements. One of the LIRAP's main objectives is to repair or remove older, polluting vehicles from roadways in counties where vehicle emissions inspections are conducted. Participating automobile dealerships facilitate the purchase of replacement vehicles by eligible applicants in exchange for those applicants' retired vehicles. Under the program, replacement vehicles are partially paid for with vouchers representing DACM grant funds. Dealerships transfer retired vehicles to participating dismantlers and return the vouchers and retired vehicle information to the program administrator for reimbursement. Participating dismantlers and program administrators are subject to §114.70 requirements. Dismantlers provide proof that retired vehicles have been destroyed, and program administrators maintain records for the entire DACM process.

*Comment*

NCTCOG agreed that the opt-out time frame was reasonable based on the various processes that must be undertaken by the TCEQ, DMV, and DPS.

*Response*

The commission appreciates NCTCOG's assessment that the LIRAP fee termination process, including the time frame, is reasonable.

*Comment*

NCTCOG was disappointed that the TCEQ did not hold a public hearing in the DFW region since the rulemaking was initiated by Collin County's request to opt out of LIRAP.

*Response*

While the commission appreciates that Collin County made the original request for opt-out that prompted this rulemaking, the commission must also balance both resource availability and the necessity for holding public hearings in various areas of the

state. For rules that apply statewide, the commission has regularly held public hearings in Austin or in Austin and other parts of the state.

### SUBCHAPTER A. DEFINITIONS

#### 30 TAC §114.2, §114.7

##### Statutory Authority

The amendments are adopted under Texas Water Code (TWC), §5.102, concerning General Powers, that provides the commission with the general powers to carry out its duties under the TWC; TWC, §5.103, concerning Rules, that authorizes the commission to adopt rules necessary to carry out its powers and duties under the TWC; TWC, §5.105, concerning General Policy, that authorizes the commission by rule to establish and approve all general policy of the commission; and under Texas Health and Safety Code (THSC), §382.017, concerning Rules, that authorizes the commission to adopt rules consistent with the policy and purposes of the Texas Clean Air Act. The amendments are also adopted under THSC, §382.002, concerning Policy and Purpose, that establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.011, concerning General Powers and Duties, that authorizes the commission to control the quality of the state's air; and THSC, §382.012, concerning the State Air Control Plan, that authorizes the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air. Additionally, the amendments are adopted under THSC, §382.209, concerning the Low Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program (LIRAP), that authorizes the commission and the Public Safety Commission to adopt rules implementing the LIRAP; and THSC, §382.210, concerning Implementation Guidelines and Requirements for the LIRAP, that authorizes the commission to adopt rules creating guidelines to assist participating counties in implementing the LIRAP.

The adopted amendments implement THSC, §§382.002, 382.011, 382.012, 382.017, 382.209, and 382.210.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on May 1, 2015.

TRD-201501527

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Effective date: May 21, 2015

Proposal publication date: December 5, 2014

For further information, please call: (512) 239-6812



### SUBCHAPTER C. VEHICLE INSPECTION AND MAINTENANCE; LOW INCOME VEHICLE REPAIR ASSISTANCE, RETROFIT, AND ACCELERATED VEHICLE RETIREMENT PROGRAM; AND EARLY ACTION COMPACT COUNTIES

## DIVISION 1. VEHICLE INSPECTION AND MAINTENANCE

### 30 TAC §114.53

##### Statutory Authority

The amendment is adopted under Texas Water Code (TWC), §5.102, concerning General Powers, that provides the commission with the general powers to carry out its duties under the TWC; TWC, §5.103, concerning Rules, that authorizes the commission to adopt rules necessary to carry out its powers and duties under the TWC; TWC, §5.105, concerning General Policy, that authorizes the commission by rule to establish and approve all general policy of the commission; and under Texas Health and Safety Code (THSC), §382.017, concerning Rules, that authorizes the commission to adopt rules consistent with the policy and purposes of the Texas Clean Air Act. The amendment is also adopted under THSC, §382.002, concerning Policy and Purpose, that establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.011, concerning General Powers and Duties, that authorizes the commission to control the quality of the state's air; and THSC, §382.012, concerning the State Air Control Plan, that authorizes the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air. Additionally, the amendment is adopted under THSC, §382.209, concerning the Low Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program (LIRAP), that authorizes the commission and the Public Safety Commission to adopt rules implementing the LIRAP; and THSC, §382.210, concerning Implementation Guidelines and Requirements for the LIRAP, that authorizes the commission to adopt rules creating guidelines to assist participating counties in implementing the LIRAP.

The adopted amendment implements THSC, §§382.002, 382.011, 382.012, 382.017, 382.209, and 382.210.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on May 1, 2015.

TRD-201501528

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Effective date: May 21, 2015

Proposal publication date: December 5, 2014

For further information, please call: (512) 239-6812



## DIVISION 2. LOW INCOME VEHICLE REPAIR ASSISTANCE, RETROFIT, AND ACCELERATED VEHICLE RETIREMENT PROGRAM

### 30 TAC §§114.60, 114.62, 114.64, 114.70

##### Statutory Authority

The amendments are adopted under Texas Water Code (TWC), §5.102, concerning General Powers, that provides the commission with the general powers to carry out its duties under the TWC; TWC, §5.103, concerning Rules, that authorizes the com-

mission to adopt rules necessary to carry out its powers and duties under the TWC; TWC, §5.105, concerning General Policy, that authorizes the commission by rule to establish and approve all general policy of the commission; and under Texas Health and Safety Code (THSC), §382.017, concerning Rules, that authorizes the commission to adopt rules consistent with the policy and purposes of the Texas Clean Air Act (TCAA). The amendments are also adopted under THSC, §382.002, concerning Policy and Purpose, that establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.011, concerning General Powers and Duties, that authorizes the commission to control the quality of the state's air; and THSC, §382.012, concerning the State Air Control Plan, that authorizes the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air. Additionally, the amendments are adopted under THSC, §382.209, concerning the Low Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program (LIRAP), that authorizes the commission and the Public Safety Commission to adopt rules implementing the LIRAP; and THSC, §382.210, concerning Implementation Guidelines and Requirements for the LIRAP, that authorizes the commission to adopt rules creating guidelines to assist participating counties in implementing the LIRAP.

The adopted amendments implement THSC, §§382.002, 382.011, 382.012, 382.017, 382.209, and 382.210.

§114.64. *LIRAP Requirements.*

(a) Implementation. Participation in the Low Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program (LIRAP) is voluntary. An affected county may choose to participate in the program at its discretion. Upon receiving a written request to participate in the LIRAP by a county commissioners court, the executive director shall authorize the implementation of a LIRAP in the requesting county. The executive director and county shall enter into a grant contract for the implementation of the LIRAP.

(1) The grant contract must provide conditions, requirements, and projected funding allowances for the implementation of the LIRAP.

(2) A participating county may contract with an entity approved by the executive director for services necessary to implement the LIRAP. A participating county or its designated entity shall demonstrate to the executive director that, at a minimum, the county or its designated entity has provided for appropriate measures for determining applicant eligibility and repair effectiveness and ensuring against fraud.

(3) The participating county shall remain the contracted entity even if the county contracts with another county or another entity approved by the executive director to administer the LIRAP.

(b) Repair and retrofit assistance. A LIRAP must provide for monetary or other compensatory assistance to eligible vehicle owners for repairs directly related to bringing certain vehicles that have failed a required emissions test into compliance with emissions requirements or for installing retrofit equipment on vehicles that have failed a required emissions test, if practically and economically feasible, in lieu of or in combination with repairs performed to bring a vehicle into compliance with emissions requirements. Vehicles under the LIRAP must be repaired or retrofitted at a recognized emissions repair facility. To determine eligibility, the participating county or its designated entity shall make applications available for LIRAP participants. The application, at a minimum, must require the vehicle owner to demonstrate that:

(1) the vehicle has failed a vehicle emissions test within 30 days of application submittal;

(2) the vehicle can be driven under its own power to the emissions inspection station or vehicle retirement facility;

(3) the vehicle is currently registered in and has been registered in the participating program county for at least 12 of the 15 months immediately preceding the application for assistance;

(4) the vehicle has passed the safety portion of the Texas Department of Public Safety (DPS) motor vehicle safety and emissions inspection as recorded in the Vehicle Inspection Report (VIR), or provide assurance that actions will be taken to bring the vehicle into compliance with safety requirements;

(5) the vehicle owner's net family income is at or below 300% of the federal poverty level; and

(6) any other requirements of the participating county or the executive director are met.

(c) Accelerated vehicle retirement. A LIRAP must provide monetary or other compensatory assistance to eligible vehicle owners to be used toward the purchase of a replacement vehicle.

(1) To determine eligibility, the participating county or its designated entity shall make applications available for LIRAP participants. The application, at a minimum, must require the vehicle owner to demonstrate that:

(A) the vehicle meets the requirements under subsection (b)(1) - (3) and (5) of this section;

(B) the vehicle has passed a DPS motor vehicle safety or safety and emissions inspection within 15 months prior to application submittal; and

(C) any other requirements of the participating county or the executive director are met.

(2) Eligible vehicle owners of pre-1996 model year vehicles that pass the required United States Environmental Protection Agency (EPA) Start-Up Acceleration Simulation Mode (ASM) standards emissions test, but would have failed the EPA Final ASM standards emissions test, or some other criteria determined by the commission, may be eligible for accelerated vehicle retirement and replacement compensation under this section.

(3) Notwithstanding the vehicle requirement provided under subsection (b)(1) of this section, an eligible vehicle owner of a vehicle that is gasoline powered and is at least 10 years old as determined from the current calendar year (i.e., 2010 minus 10 years equals 2000) and meets the requirements under subsection (b)(2), (3), and (5) of this section, may be eligible for accelerated vehicle retirement and compensation.

(4) Replacement vehicles must:

(A) be in a class or category of vehicles that has been certified to meet federal Tier 2, Bin 5 or cleaner Bin certification under 40 Code of Federal Regulations §86.1811-04, as published in the February 10, 2000, issue of the *Federal Register* (65 FR 6698);

(B) have a gross vehicle weight rating of less than 10,000 pounds;

(C) have an odometer reading of not more than 70,000 miles;

(D) be a vehicle, the total cost of which does not exceed \$35,000 and up to \$45,000 for hybrid, electric, or natural gas vehicles, or vehicles certified as Tier 2 Bin 3 or cleaner Bin certification under 40

Code of Federal Regulations §86.1811-04, as published in the February 10, 2000, issue of the *Federal Register* (65 FR 6698); and

(E) have passed a DPS motor vehicle safety inspection or safety and emissions inspection within the 15-month period before the application is submitted.

(d) Compensation. The participating county shall determine eligibility and approve or deny the application promptly. If the requirements of subsection (b) or (c) of this section are met and based on available funding, the county shall authorize monetary or other compensations to the eligible vehicle owner.

(1) Compensations must be:

(A) no more than \$600 and no less than \$30 per vehicle to be used for emission-related repairs or retrofits performed at recognized emissions repair facilities, including diagnostics tests performed on the vehicle; or

(B) based on vehicle type and model year of a replacement vehicle for the accelerated retirement of a vehicle meeting the requirements under this subsection. Only one retirement compensation can be used toward one replacement vehicle annually per applicant. The maximum amount toward a replacement vehicle must not exceed:

(i) \$3,000 for a replacement car of the current model year or previous three model years, except as provided by clause (iii) of this subparagraph;

(ii) \$3,000 for a replacement truck of the current model year or the previous two model years, except as provided by clause (iii) of this subparagraph;

(iii) \$3,500 for a replacement hybrid, electric, natural gas, and federal Tier 2 Bin 3 or cleaner Bin certification under 40 Code of Federal Regulations §86.1811-04, as published in the February 10, 2000, issue of the *Federal Register* (65 FR 6698) vehicle of the current model year or the three previous model years.

(2) Vehicle owners shall be responsible for paying the first \$30 of emission-related repairs or retrofit costs that may include diagnostics tests performed on the vehicle.

(3) For accelerated vehicle retirement, provided that the compensation levels in paragraph (1)(B) of this subsection are met and minimum eligibility requirements under subsection (c) of this section are met, a participating county may set a specific level of compensation or implement a level of compensation schedule that allows flexibility. The following criteria may be used for determining the amount of financial assistance:

(A) model year of the vehicle;

(B) miles registered on the vehicle's odometer;

(C) fair market value of the vehicle;

(D) estimated cost of emission-related repairs necessary to bring the vehicle into compliance with emission standards;

(E) amount of money the vehicle owner has already spent to bring the vehicle into compliance, excluding the cost of the vehicle emissions inspection; and

(F) vehicle owner's income.

(e) Reimbursement for repairs and retrofits. A participating county shall reimburse the appropriate recognized emissions repair facility for approved repairs and retrofits within 30 calendar days of receiving an invoice that meets the requirements of the county or designated entity. Repaired or retrofitted vehicles must pass a DPS safety

and emissions inspection before the recognized emissions repair facility is reimbursed. In the event that the vehicle does not pass the emissions retest after diagnosed repairs are performed, the participating county has the discretion, on a case-by-case basis, to make payment for diagnosed emissions repair work performed.

(f) Reimbursements for replacements. A participating county shall ensure that funds are transferred to a participating automobile dealership no later than 10 business days after the county receives proof of the sale, proof of transfer to a dismantler, and any administrative documents that meet the requirements of the county or designated entity. A list of all administrative documents must be included in the agreements that are entered into by the county or designated entity and the participating automobile dealerships.

(1) A participating county shall provide an electronic means for distributing replacement funds to a participating automobile dealership once all program criteria have been met. The replacement funds may be used as a down payment toward the purchase of a replacement vehicle. Participating automobile dealers shall be located in the State of Texas. Participation in the LIRAP by an automobile dealer is voluntary.

(2) Participating counties shall develop a document for confirming a person's eligibility for purchasing a replacement vehicle and for tracking such purchase.

(A) The document must include at a minimum, the full name of applicant, the vehicle identification number of the retired vehicle, expiration date of the document, the program administrator's contact information, and the amount of money available to the participating vehicle owner.

(B) The document must be presented to a participating dealer by the person seeking to purchase a replacement vehicle before entering into negotiations for a replacement vehicle.

(C) A participating dealer who relies on the document issued by the participating county has no duty to confirm the eligibility of the person purchasing a replacement vehicle in the manner provided by this section.

(g) Opting out of the LIRAP. Participation in the LIRAP is voluntary. A participating county may opt out of the program. Procedures to release a participating county from the LIRAP shall be initiated upon the receipt of a written request to the executive director by the county commissioners court in a participating county.

(1) A written request to opt out of the LIRAP shall request release from the LIRAP fee as defined in §114.7 of this title (relating to Low Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program Definitions) and the grant contract established in subsection (a) of this section. The written request shall include one of the following possible LIRAP opt-out effective dates as defined in §114.7 of this title:

(A) the LIRAP fee termination effective date as defined in §114.7 of this title; or

(B) the last day of the legislative biennium in which the LIRAP fee termination effective date as defined in §114.7 of this title occurred.

(2) Upon receipt of a written request to be released from participation in the LIRAP, the executive director shall notify, in writing, with a copy sent to the requesting county, the Texas Department of Motor Vehicles (DMV), DPS, and the Legislative Budget Board of Texas that the LIRAP fee should no longer be collected for vehicles undergoing inspection and registration in the affected county.

(3) A county opting out of the LIRAP remains a participating county until the LIRAP opt-out effective date as defined in §114.7 of this title, on which date the county is no longer subject to the LIRAP fee, and the grant contract established in subsection (a) of this section is ended. Not more than 90 days after a county's LIRAP opt-out effective date, the unspent balance of allocated LIRAP funds for that county will be returned to the commission unless the county opting out has entered into an official inter-county elective agreement with other participating counties in the same region to share allocated LIRAP funds. If the county opting out has entered into an official inter-county elective agreement with other participating counties in the same region to share allocated LIRAP funds, then the portion of LIRAP allocations that is shared and unspent as of the LIRAP opt-out effective date will be redistributed among the remaining participating counties that are part of that agreement. This redistribution of funds will occur not more than 90 days after a county's LIRAP opt-out effective date.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on May 1, 2015.

TRD-201501529

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Effective date: May 21, 2015

Proposal publication date: December 5, 2014

For further information, please call: (512) 239-6812



### DIVISION 3. EARLY ACTION COMPACT COUNTIES

#### 30 TAC §114.87

Statutory Authority

The amendment is adopted under Texas Water Code (TWC), §5.102, concerning General Powers, that provides the commission with the general powers to carry out its duties under the TWC; TWC, §5.103, concerning Rules, that authorizes the commission to adopt rules necessary to carry out its powers and duties under the TWC; TWC, §5.105, concerning General Policy, that authorizes the commission by rule to establish and approve all general policy of the commission; and under Texas Health and Safety Code (THSC), §382.017, concerning Rules, that authorizes the commission to adopt rules consistent with the policy and purposes of the Texas Clean Air Act. The amendment is also adopted under THSC, §382.002, concerning Policy and Purpose, that establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.011, concerning General Powers and Duties, that authorizes the commission to control the quality of the state's air; and THSC, §382.012, concerning the State Air Control Plan, that authorizes the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air. Additionally, the amendment is adopted under THSC, §382.209, concerning the Low Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program (LIRAP), that authorizes the commission and the Public Safety Commission to adopt rules implementing the LIRAP; and THSC, §382.210, concerning Implementation Guidelines and Requirements for the LIRAP,

that authorizes the commission to adopt rules creating guidelines to assist participating counties in implementing the LIRAP.

The adopted amendment implements THSC, §§382.002, 382.011, 382.012, 382.017, 382.209, and 382.210.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on May 1, 2015.

TRD-201501530

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Effective date: May 21, 2015

Proposal publication date: December 5, 2014

For further information, please call: (512) 239-6812



### TITLE 40. SOCIAL SERVICES AND ASSISTANCE

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

##### CHAPTER 109. OFFICE FOR DEAF AND HARD OF HEARING SERVICES

##### SUBCHAPTER C. SPECIALIZED TELECOMMUNICATIONS ASSISTANCE PROGRAM

#### 40 TAC §§109.501, 109.503, 109.505, 109.507, 109.509, 109.511, 109.513, 109.515, 109.517, 109.521, 109.523, 109.525, 109.527, 109.529, 109.531, 109.533

The Texas Health and Human Services Commission (HHSC), on behalf of the Texas Department of Assistive and Rehabilitative Services (DARS), adopts amendments to Subchapter C, Specialized Telecommunications Assistance Program "STAP", §109.501, concerning Purpose; §109.503, concerning Legal Authority; §109.505, concerning Definitions; §109.507, concerning Determination of Basic Specialized Telecommunications Equipment or Service; §109.509, concerning Preliminary and Comprehensive Assessment; §109.511, concerning Voucher Recipient Eligibility; §109.513, concerning Persons Authorized to Certify Disability; §109.515, concerning Vouchers; and §109.517, concerning Determination of Voucher Category Value and Eligibility Criteria for a Voucher; and new rules §109.521, concerning Determination of Approved Equipment or Services; §109.523, concerning Reimbursement Amounts for Approved Equipment or Services; §109.525, concerning STAP Vendor Eligibility Requirements; §109.527, concerning STAP Vendor Duties and Responsibilities; §109.529, concerning Voucher Reimbursement; §109.531, concerning Suspension or Loss of STAP Vendor Eligibility; and §109.533, concerning Reinstatement of STAP Vendors. Sections 109.513 and 109.529 are adopted with changes to the proposed text as published in the November 21, 2014, issue of the *Texas Register* (39 TexReg 9183) and will be republished. Sections 109.501, 109.503, 109.505, 109.507, 109.509, 109.511, 109.515, 109.517, 109.521, 109.523, 109.525, 109.527, 109.531, and 109.533 are

adopted without changes to the proposed text as published in the November 21, 2014, issue of the *Texas Register* (39 TexReg 9183) and will not be republished.

## BACKGROUND AND JUSTIFICATION

The amendments and new rules are the result of SB 512, 83rd Legislature, Regular Session, 2013, which transferred STAP reimbursement responsibilities from the PUC to DARS. Prior to this transfer, DARS' statutory authority covered STAP responsibilities only relating to the consumer, equipment and services, and STAP voucher issuance. Since PUC rules regarding the registration and reimbursement of STAP vendors became enforceable by DARS under SB 512, DARS adopts these new rules to replace the PUC rules.

The proposal was posted for public comment in the November 21, 2014, issue of the *Texas Register*. In addition, DARS held four public meetings during February 2014 in McAllen, Houston, Austin, and Dallas to solicit public comment on the current program and on proposed modifications to STAP.

## SECTION-BY-SECTION SUMMARY

DARS adopts amendments to §109.501, Purpose, by introducing acronyms used throughout the rule.

DARS adopts amendments to §109.503, Legal Authority, by using acronyms.

DARS adopts amendments to §109.505, Definitions, by adding new definitions for the approved equipment or service, acronyms for DARS and DHHS, entity, reimbursement amount, STAP, STAP contractor, STAP vendor, TUSF, voucher category, and voucher category value. In addition, DARS adopts amendments to clarify definitions for application, basic specialized telecommunications equipment, basic specialized telecommunications service, financial assistance, resident, STAP vendor, and voucher.

DARS adopts amendments to §109.507, Determination of Basic Equipment or Service, by changing the section title to "Determination of Basic Specialized Telecommunications Equipment or Service," and by clarifying the equipment and service types covered by STAP. In addition, DARS adopts amendments to clarify that DARS DHHS is the DARS office responsible for implementing this section.

DARS adopts amendments to §109.509, Preliminary and Comprehensive Assessment, by adding DARS DHHS as the identifying agency and updating terminology to replace the word "device" with the word "equipment."

DARS adopts amendments to §109.511, Eligibility, by changing the section title to read "Voucher Recipient Eligibility." Paragraphs were also added to detail safeguards for STAP applicants who return vouchers, return equipment, or stop services.

DARS adopts amendments to §109.513, Persons Authorized to Certify Disability, to add the term "DARS" to "DHHS" to update terminology. As a result of public comment, a new paragraph is added that will allow "any other professional approved by DARS DHHS" to certify applicants for disability pertaining to the STAP requirement in §109.511(a)(6).

DARS adopts amendments to §109.515, Vouchers, by clarifying the payment guarantee of a voucher and the requirement of certification. Terminology is updated to replace the word "device" with the word "equipment."

DARS adopts amendments to §109.517, Determination of Voucher Category Value and Eligibility Criteria for a Voucher, by updating terminology to replace the word "device" with the word "equipment" and by clarifying DARS DHHS as the DARS office responsible for implementing this section.

DARS adopts new §109.521, Determination of Approved Equipment or Services, establishing the requirements for approved equipment or services. This approach for determining approved equipment or services is new to STAP.

DARS adopts new §109.523, Reimbursement Amounts for Approved Equipment or Services, establishing the criteria for determining reimbursement amounts for approved equipment or services. Current practice allows the lesser of the voucher value, 125 percent of the manufacturer's suggested retail price, or the STAP vendor's selling price. This method has led to inequitable pricing variations, which are confusing to STAP applicants and STAP vendors. Under new §109.523, proposed reimbursement amounts will be posted to the website for 45 days for comment prior to establishing the reimbursement amount. This adopted method of determining reimbursement amounts is new to STAP.

DARS adopts new §109.525, STAP Vendor Eligibility Requirements, establishing the eligibility requirements for entities to serve as STAP vendors in the STAP program. This rule incorporates elements from existing DARS contract standards. A new requirement for STAP is that vendors must exchange or receive reimbursement for at least one voucher every six months to maintain eligibility as a STAP vendor. If a vendor wants to be reinstated, a process is developed in which the STAP vendor can be reinstated the same day the request is made. STAP vendors who have lost eligibility may seek reinstatement as provided in §109.533.

DARS adopts new §109.527, STAP Vendor Duties and Responsibilities, establishing the duties and responsibilities governing STAP vendors. The rule requires that STAP vendors be monitored on-site and that STAP vendors select appropriate equipment when working with or as certifiers. STAP vendors cannot charge a STAP voucher recipient an additional fee, cost, or penalty. Fees are typically charged when purchasing a wireless device. Carriers such as AT&T are not STAP vendors under this program, forcing STAP vendors to purchase equipment at cost and be reimbursed at cost. The amount reimbursed for these devices as established by §109.523 will address a fair profit to STAP vendors so that additional fees will not be necessary. Additionally, STAP vendors are required to provide all equipment or services authorized on the voucher. Section 109.527 is new to DARS and incorporates DARS contract standards and PUC policy guidance.

DARS adopts new §109.529, Voucher Reimbursement, establishing the requirements for STAP vendor reimbursement under STAP. This is a new rule for DARS and incorporates elements that were used by PUC. New §109.529 prohibits partial exchanges and states that equipment must be exchanged as authorized on the voucher. The prohibition of partial exchange is new to STAP. As a result of public comment, §109.529(a) is amended to clarify the requirement for the STAP contractor to reimburse the STAP vendor within 45 days after receiving the voucher and supporting documentation.

DARS adopts new §109.531, Suspension or Loss of STAP Vendor Eligibility, establishing the criteria for suspending or barring a STAP vendor from participating or receiving reimbursement un-



der STAP and the criteria for reinstatement. This rule is new to DARS.

DARS adopts new §109.533, Reinstatement of STAP Vendors, establishing the process for reinstatement of STAP vendors who have been suspended or determined ineligible to participate in the program. Reinstatement requires a request made to DARS in writing and written documentation that all eligibility requirements have been met and that any violations or deficiencies have been remedied. This rule is new to DARS and to STAP.

#### COMMENTS

DARS received comments during the 30-day comment period and a summary of the comments, along with the agency's responses follow.

Comment: A commenter requested that §109.513, Persons Authorized to Certify Disability, be amended to include licensed physician assistants (PAs) as persons authorized to certify disability for STAP applicants. The commenter stated that the proposed new rule "violates Texas law limiting the practice of PAs."

Response: DARS is adopting this rule with change. The language does not violate Texas law because this provision would not limit the practice of PAs. PAs can still practice in accordance with their enabling statutes and state rules. This provision relates to DARS' authority to establish rules to implement the STAP program. This includes establishing who can certify STAP eligibility for DARS' statutory purposes. However, DARS has determined that, given the expanded roles of providers of such services to the deaf and hard of hearing community, greater flexibility is needed to allow DARS the option of approving other professionals as warranted and determined by DARS. DARS is amending this rule by adding new §109.513(a)(14) any other professional approved by DARS DHHS.

Comment: A commenter requested that the proposed §109.513, Persons Authorized to Certify Disability, be amended to include managers and directors who work with the deaf and hard of hearing and deaf-blind in non-profit organizations as persons authorized to certify disability for STAP applicants. The nature of their work ensures that these managers and directors are sufficiently knowledgeable about the individuals applying for STAP to certify disability.

Response: DARS is adopting this rule with change. Respectfully, DARS does not agree with the commenter that this rule needs to be amended to include managers and directors who work with the deaf and hard of hearing and deaf-blind in non-profit organizations. Current §109.513(a)(13), which lists among those authorized to certify disability, "DARS DHHS-approved specialists working in a disability-related field," covers such professionals. Furthermore, DARS is adding new §109.513(a)(14), any other professional approved by DARS DHHS, which will also cover such professionals.

Comment: A commenter, regarding §109.523, Reimbursement Amounts for Approved Equipment or Services, recommended that the current methodology of determining reimbursement to STAP vendors for the exchange of a STAP voucher for approved equipment be maintained in lieu of the proposed methodology. The commenter indicated that the proposed methodology would be confusing to STAP applicants and vendors.

Response: DARS is adopting this rule without change. This new rule gives DARS the authority to establish the reimbursement amount as part of the methodology established in §109.529. The process to establish the reimbursement amount will involve

stakeholder input and will be published on the STAP website for 45 days and DARS does not agree that the proposed methodology would be confusing. The goal is to establish a reimbursement amount that is fair and equitable to all stakeholders of STAP. The current PUC rule has led to inequitable pricing variations that this new rule addresses.

Comment: A commenter questioned whether or not the proposed rule, §109.527, STAP Vendor Duties and Responsibilities, has the potential of violating the privacy of non-STAP consumers if the information requested by the state will personally identify the non-STAP consumers.

Response: DARS is adopting this rule without change. DARS does not interpret the new rule as potentially violating the privacy of non-STAP consumers; it is consistent with current practice. If a vendor believes that names are protected, confidential information, then copies of these invoices for review may have the consumers' names redacted in accordance with any applicable laws.

Comment: A commenter indicated that in §109.529, Voucher Reimbursement, the requirement in §109.529(a), where the vendor must submit a copy of the voucher to DARS DHHS, seems to contradict the requirement in §109.529(h), where the vendor must submit voucher reimbursement requests with supporting documentation to the contractor.

Response: DARS is adopting this rule with change. DARS agrees that the language in §109.529(a) needs clarification to avoid apparent conflict with §109.529(h). DARS is amending §109.529(a) to clarify the requirement for the STAP contractor to reimburse the STAP vendor within 45 days after receiving the voucher and supporting documentation.

#### STATUTORY AUTHORITY

The amendments and new rules are adopted under the authority of Texas Utilities Code, Chapter 56, and in accordance with HHSC's statutory rulemaking authority under Texas Government Code, Chapter 531, §531.0055(e), which provides the Executive Commissioner of the Texas Health and Human Services Commission with the authority to promulgate rules for the operation of and provision of health and human services by the health and human services agencies.

#### *§109.513. Persons Authorized to Certify Disability.*

(a) An applicant must be certified as a person with a disability that impairs the person's ability to effectively access the telephone network. The following can serve as certifiers:

- (1) licensed hearing aid specialists;
- (2) licensed audiologists;
- (3) licensed physicians;
- (4) licensed advanced practice registered nurses;
- (5) DARS rehabilitation counselors;
- (6) state-certified teachers of persons who are deaf or hard of hearing;
- (7) licensed speech pathologists;
- (8) state-certified teachers of persons who are visually impaired;
- (9) state-certified teachers of persons who are speech-impaired;
- (10) state-certified special education teachers;

(11) STAP specialists as named in a DARS DHHS STAP Outreach and Training contract;

(12) licensed social workers;

(13) DARS DHHS-approved specialists working in a disability-related field; or

(14) any other professional approved by DARS DHHS.

(b) By certifying an application, a certifier attests that he or she:

(1) is eligible to certify under the provisions of the program;

(2) has personally met with and assessed the applicant's disability to determine that he or she is eligible, in accordance with the program eligibility criteria;

(3) has reviewed the information on the application to ensure that the form is completed properly and that all requested information has been provided; and

(4) has determined that the applicant will be able to benefit from access to the telephone network system provided by the specialized telecommunications equipment or services requested on the application.

(c) An application must be properly certified before DARS DHHS can process and approve the application and issue the voucher.

(d) Certifiers who have violated or who are suspected of violating any DARS, PUC, or other rules, policies, or laws relating to this program may no longer be authorized to certify applications. Persons committing or suspected of committing such violations may be referred to the PUC, to the certifier's licensing agency, or to both, as appropriate.

*§109.529. Voucher Reimbursement.*

(a) Not later than the 45th calendar day after the date the STAP contractor receives the voucher and all required supporting documentation from the STAP vendor, the STAP contractor shall pay the STAP vendor from the TUSF the lesser of the:

(1) DARS DHHS established reimbursement amount;

(2) STAP vendor's advertised purchase price for a voucher properly exchanged for specialized telecommunications equipment or a service for which a voucher recipient exchanges the voucher; or

(3) voucher value established by DARS DHHS for the voucher category of the equipment or service exchanged.

(b) A STAP vendor will receive not more than the STAP vendor's advertised price of the equipment or service if the recipient of a voucher exchanges the voucher for equipment or service that the STAP vendor sells for less than the DARS DHHS-established reimbursement amount.

(c) Vouchers will not be reimbursed for partial exchanges. All equipment must be exchanged as authorized on the voucher.

(d) STAP vendors will not be reimbursed for voucher exchanges that are made during any time the STAP vendor is noncompliant, suspended, ineligible, debarred, or inactive.

(e) STAP vendors seeking reimbursement for the sale of STAP equipment from an additional source (such as Medicare, Medicaid, or private insurance) in conjunction with a voucher exchange may not receive more than the total price of the equipment from all sources.

(f) A STAP vendor that exchanges a STAP voucher in person for the purchase of approved equipment or services in accordance with

STAP requirements may request reimbursement from the STAP contractor. The STAP contractor will reimburse the STAP vendor from the TUSF for a voucher exchanged in accordance with STAP rules and policy when the STAP vendor provides the STAP contractor with the following documentation:

(1) the STAP vendor's copy of the voucher that states that Section 2 of the voucher must be completed and signed, in the space provided thereon, by an individual the STAP vendor authorizes to exchange and sign vouchers. By signing the voucher, the STAP vendor certifies that the equipment or service has been delivered to the voucher recipient and that the equipment was new when delivered and was not used, re-conditioned, or obsolete. The completed and signed voucher must be sent to DARS.

(2) a receipt that contains a description of the equipment or service exchanged for the STAP voucher and the total price charged to the voucher recipient, including the amount to be reimbursed by DARS for the equipment or service exchanged.

(g) A STAP vendor that exchanges a STAP voucher by mail for the purchase of approved equipment or services in accordance with STAP requirements may request reimbursement from the STAP contractor. The STAP contractor will reimburse a voucher (exchanged in accordance with STAP rules and policy) upon receipt from the STAP vendor of:

(1) proof of delivery of the equipment or service to the voucher recipient; and

(2) a receipt that contains a description of the equipment or service exchanged by mail for the STAP voucher and the total price charged to the voucher recipient, including the amount to be reimbursed by the STAP contractor from the TUSF for the equipment or service exchanged.

(h) STAP vendors must submit voucher reimbursement requests along with supporting documentation to the contractor within 120 calendar days of the date of the voucher exchange or on the proof of delivery.

(i) Vouchers or supporting documentation submitted after 120 calendar days from the date of the voucher exchange will not be reimbursed.

(j) Vouchers submitted that do not have supporting documentation, as required by this chapter, and/or are not submitted within 120 calendar days from the date of the voucher exchange will not be reimbursed.

(k) DARS DHHS may investigate whether the presentation of a voucher for payment represents a valid transaction for equipment or service under the program.

(l) If there is a dispute regarding the amount or propriety of the payment or whether the equipment or service is appropriate or adequate to meet the needs of the voucher recipient, DARS DHHS and/or the STAP contractor may:

(1) delay or deny payment of a voucher to a STAP vendor until the dispute is resolved;

(2) provide payment of a voucher, conditional upon the return of the payment if the equipment is returned to the STAP vendor or if the service is not used by the voucher recipient; or

(3) provide an alternative dispute resolution process for resolving a dispute regarding a subject described by paragraphs (1) or (2) of this subsection.

(m) Reimbursements may also be subject to other such limitations or conditions as determined by DARS DHHS to be just and reasonable, including investigation of whether the presentation of a STAP voucher represents a valid transaction for equipment or services under STAP.

(n) If a dispute arises as to whether the submitted documentation is sufficient to create a presumption of a valid STAP sales transaction, DARS DHHS will make the final determination on the sufficiency of the documentation.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 28, 2015.

TRD-201501482

Sylvia F. Hardman

General Counsel

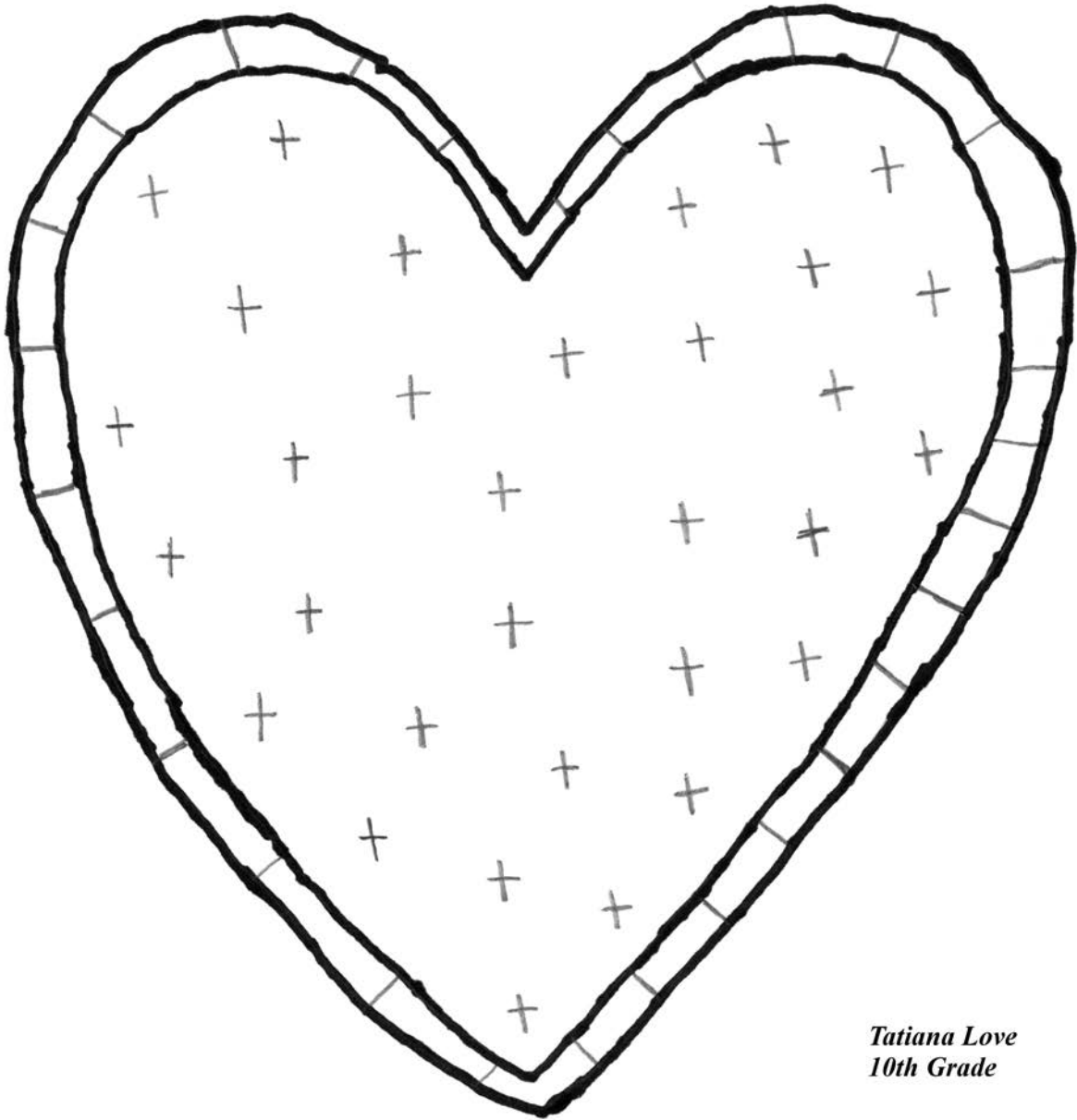
Department of Assistive and Rehabilitative Services

Effective date: May 18, 2015

Proposal publication date: November 21, 2014

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





*Tatiana Love*  
*10th Grade*

# 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

### 2015 Expanding Nutrition Education Grant Program Request for Applications (Extended Deadline)

In order to facilitate the participation of school districts statewide, the Texas Department of Agriculture (TDA) has **extended** the period to accept applications for the **Expanding the 3E's Grant Program (X3E)**. X3E is administered in accordance with Texas Education Code §38.026, in which the state legislature has appropriated funding to the TDA to award grants up to \$10,000 to public school campuses that are in good standing with the Texas Comptroller's Office and have clearly demonstrated the use of best practices in nutrition education.

TDA is authorized by §12.0027 of the Texas Agriculture Code to administer the 3E's Grant Program (3E's) to promote better health and nutrition programs and prevent obesity among children in this state. The objective of the program is to increase awareness of the importance of good nutrition, especially for children, and to encourage children's health and well-being through education, exercise and eating right. TDA's 3E's Grant Program consists of two program categories:

1. **Establishing the 3E's Grant Program (Establish3E)** - a program that incentivizes nutrition education programs in any childcare institution or community organization; and
2. **Expanding the 3E's Grant Program (X3E)** - a program that rewards nutrition education programs in public schools only.

Grant applications will be accepted from any public school campus in the State of Texas in good standing with TDA. If multiple campuses in a district are applying for the same project, the requests should be combined into one application. The application will require the school district to list participating campus names and the requested amount per campus. Applicants may seek up to \$10,000 per campus for expenses related to the implementation, supplementation, improvement, or expansion of nutrition education program, Coordinated School Health Plan, or farm to school activities proposed in the application. Total funding awarded to a single school district may be limited to \$50,000.

Selected projects will receive funding on a cost reimbursement basis. Funds will not be advanced to grantees. Selected applicants must have the financial capacity to pay all costs up-front.

#### Application Requirements and Deadline

Application and information can be downloaded from TDA's website at: [www.texasagriculture.gov](http://www.texasagriculture.gov) under the Grants & Services Tab.

One complete application packet, including the proposal narrative and signed application, **must be received by TDA before close of business (5:00 p.m. CST) on Thursday, May 21, 2015**. It is the applicant's responsibility to ensure the timely delivery of all required materials. Applicants who have previously submitted an application may supplement their application through the extended deadline.

For questions regarding submission of the proposal and/or TDA requirements, please contact TDA's Grants Office at (512) 463-6616 or by email at [Grants@TexasAgriculture.gov](mailto:Grants@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-201501583

Jessica Escobar

Assistant General Counsel

Texas Department of Agriculture

Filed: May 6, 2015



### 2015-2016 Urban Schools Agriculture Grant Program Request for Applications

The Texas Department of Agriculture (TDA) is accepting applications for the **Urban Schools Agricultural Grant Program** from Texas public elementary or middle school from an urban school district with an enrollment of at least 49,000 students. A non-profit organization may also submit a proposal with the support of an eligible Texas public or middle school where the project will be administered.

Pursuant to the Texas Agriculture Code, §§48.001 - 48.005, and Texas Administrative Code, Title 4, Part 1, Chapter 1, §§1.800 - 1.804, TDA hereby requests applications for agricultural projects designed to foster an understanding and awareness of agriculture in elementary and middle school students, to be conducted during the period of October 1, 2015, through September 30, 2016, from certain Texas urban school districts or nonprofit organizations that partner with these schools.

Agriculture is defined as the science, art, or practice of cultivating the soil, producing crops, raising livestock, and in varying degrees the preparation and marketing of the resulting products. TDA encourages schools to consider partnerships with agricultural organizations such as a local Master Gardener program, 4-H or FFA clubs. Projects funded must be dedicated to education and/or awareness of agriculture in elementary and middle school students in certain urban school districts in Texas and should be designed to improve students' understanding and appreciation of agriculture.

#### Eligibility

Submitted proposals must benefit a Texas public elementary or middle school from an urban school district with an enrollment of at least 49,000 students.

A non-profit organization may also submit a proposal with the support of an eligible Texas public or middle school where the project will be administered.

Eligible school districts according to Texas Education Agency's (TEA) October 2014-2015 record:

Aldine Independent School District;

Arlington Independent School District;

Austin Independent School District;

Conroe Independent School District;

Cypress-Fairbanks Independent School District;

Dallas Independent School District;  
El Paso Independent School District;  
Fort Bend Independent School District;  
Fort Worth Independent School District;  
Frisco Independent School District;  
Garland Independent School District;  
Houston Independent School District;  
Katy Independent School District;  
Klein Independent School District;  
Lewisville Independent School District;  
North East Independent School District;  
Northside Independent School District;  
Pasadena Independent School District;  
Plano Independent School District; and  
San Antonio Independent School District.

If your school district is not listed above, and you feel it meets the minimum student enrollment of 49,000, you may attach a TEA verification of enrollment to your application.

#### **Funding Parameters**

Selected projects will receive funding on a cost reimbursement basis. Funds will not be advanced to grantees. Selected applicants must have the financial capacity to pay for all costs up front.

Awards are subject to the availability of funds. If no funds are appropriated or collected for this purpose, applicants will be informed accordingly.

Eligible school districts should submit a single application. The application will require the school district to list participating campus names and the requested amount per campus. School districts and non-profit organizations are limited to a maximum grant award of \$10,000; a single campus may not receive more than \$2,500.

#### **Application Requirements and Deadline**

Application and information can be downloaded from TDA's website at: [www.texasagriculture.gov](http://www.texasagriculture.gov) under the Grants & Services Tab.

LATE APPLICATIONS WILL NOT BE ACCEPTED. Applicants may not supplement or amend the application after the deadline. Handwritten applications and/or narratives will not be accepted. Any portion of the application received after the deadline will not be considered or included in the review process.

One complete application packet, including the project narrative and signed application, **must be received by TDA before close of business (5:00 p.m. CST) on Wednesday, May 27, 2015.** It is the applicant's responsibility to ensure the timely delivery of all required materials.

#### **Preferred:**

Electronic Versions:

Email: [Grants@TexasAgriculture.gov](mailto:Grants@TexasAgriculture.gov)

The Proposal may be sent to TDA at either of the following addresses:

By U.S. Mail:

Texas Department of Agriculture

Trade & Business Development - Grants

P.O. Box 12847

Austin, Texas 78711

By Overnight or Hand Delivery:

Texas Department of Agriculture

Trade & Business Development - Grants

1700 North Congress, 11th Floor

Austin, Texas 78701

For questions regarding submission of the proposal and/or TDA requirements, please contact TDA's Grants Office at (512) 463-6616 or by email at [Grants@TexasAgriculture.gov](mailto:Grants@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-201501525

Jessica Escobar

Assistant General Counsel

Texas Department of Agriculture

Filed: May 1, 2015

## **Office of the Attorney General**

### **Request for Applications for the Choose Life Grant Program**

The Office of the Attorney General (OAG) is soliciting applications for projects that support the Choose Life Grant Program. The purpose of the OAG Choose Life Grant Program is to provide funds, using a competitive allocation method, as described in Chapter 402 of the Government Code.

#### **Applicable Funding Source for Choose Life Grant Program:**

The Choose Life Grant Program receives funding from a separate account in the general revenue fund that the OAG is authorized to administer to make grants to an eligible organization. The Choose Life account is authorized by §504.662 of the Transportation Code and §402.036 of the Government Code and is funded by fees collected for the purchase of a Choose Life License Plate, as well as gifts, grants, donations and legislative appropriations. All funding is contingent upon an appropriation to the OAG by the Texas Legislature. The OAG makes no commitment that an Application, once submitted, or a grant, once funded, will receive subsequent funding.

#### **Eligibility Requirements:**

*Eligible Applicants:* An Applicant Organization must be an eligible organization in this state to apply for the Choose Life Grant Program, meaning it must meet *all* of the following criteria:

- An organization that provides services in this state and is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt charitable organization under Section 501(c)(3) of that code;
- Provides counseling and material assistance to pregnant women who are considering placing their children for adoption;
- Does not charge for services provided;
- Does not provide abortions or abortion-related services or make referrals to abortion providers;
- Is not affiliated with an organization that provides abortions or abortion-related services or makes referrals to abortion providers; and

- Does not contract with an organization that provides abortions or abortion-related services or makes referrals to abortion providers.

*Eligibility:* The OAG will initially screen each application for eligibility. Applications will be deemed ineligible if the application is submitted by an ineligible applicant; the application is not filed in the manner and form required by the Application Kit; the application is filed after the deadline established in the Application Kit; or the application does not meet other requirements as stated in the Request for Applications (RFA) and the Application Kit.

**How to Obtain Application Kit:** The OAG will post the Application Kit on the OAG's website at [www.texasattorneygeneral.gov/chooselife](http://www.texasattorneygeneral.gov/chooselife). Updates and other helpful reminders about the application process will also be posted at this location. Potential Applicant Organizations are encouraged to refer to this site regularly.

#### **Deadlines and Filing Instructions for the Grant Application:**

*Application Deadline:* The Applicant Organization must submit its application, including all required attachments, to the OAG and the OAG must receive the submitted application and all required attachments by the deadline established in the Application Kit to be considered timely filed.

*Filing Instructions:* Strict compliance with the filing instructions, as provided in the Application Kit, is required. The OAG will not consider an application if it is not filed by the due date as stated in the Application Kit.

*Minimum and Maximum Amounts of Funding Available:* Minimum and maximum amounts of funding are subject to change as stated in the Application Kit. The minimum grant request the OAG will consider is \$1,000. As of the date this Application Kit is published, the amount available in the Choose Life account to award is approximately \$39,000. Applications requesting an amount below the minimum will not be considered.

*Start Date and Length of Grant Contract Period:* The term of this grant contract is one year from September 1, 2015, through August 31, 2016, with the ability for an extension of time, subject to and contingent on funding and approval by the OAG.

*No Match or Volunteer Requirements:* There are no match or volunteer requirements.

*Award Criteria:* The OAG will make funding decisions that support the efficient and effective use of public funds. Scoring and review components will include, but are not limited to, information provided by the applicant on the proposed project activities and budget. Funding decisions will use a competitive allocation method. All grant decisions including, but not limited to, eligibility, evaluation and review, and funding rest completely within the discretionary authority of the OAG. The decisions made by the OAG are final and are not subject to appeal.

*Grant Purpose Area:* All grant projects must address one or more of the purpose areas as stated in the Application Kit.

*Prohibitions on Use of Choose Life Grant Program Funds:* OAG grant funds may not be used to support activities related to providing abortions or abortion-related services, or making referrals to abortion providers. OAG grant funds may not be used to support or pay the costs of equipment, overtime, out-of-state travel, dues, or lobbying; any portion of the salary or any other compensation for an elected government official; the purchase or lease of vehicles; the purchase of promotional items or recreational activities; costs of travel that are unrelated to the direct delivery of services that support the OAG grant-funded program; the costs for consultants or vendors who participate directly in writing a grant application; or for any unallowable costs set forth in applicable state or federal law, rules, regulations,

guidelines, policies, procedures or cost principles. Grant funds may not be used to purchase any other products or services the OAG identifies as inappropriate or unallowable within this RFA or the Application Kit.

**OAG Contact Person:** If additional information is needed, contact Lyndsay Ysla at [Grants@texasattorneygeneral.gov](mailto:Grants@texasattorneygeneral.gov) or (512) 936-1278.

TRD-201501595

Amanda Crawford

General Counsel

Office of the Attorney General

Filed: May 6, 2015



## **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 05/11/15 - 05/17/15 is 18% for Consumer<sup>1</sup>/Agricultural/Commercial<sup>2</sup> credit through \$250,000.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 05/11/15 - 05/17/15 is 18% for Commercial over \$250,000.

The monthly ceiling as prescribed by §303.005<sup>3</sup> for the period of 05/01/15 - 05/31/15 is 18% for Consumer/Agricultural/Commercial credit through \$250,000.

The monthly ceiling as prescribed by §303.005 for the period of 05/01/15 - 05/31/15 is 18% for Commercial over \$250,000.

<sup>1</sup> Credit for personal, family or household use.

<sup>2</sup> Credit for business, commercial, investment or other similar purpose.

<sup>3</sup> For variable rate commercial transactions only.

TRD-201501571

Leslie Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: May 5, 2015



## **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 June 15, 2015. 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 June 15, 2015. 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: AA Foundries, Incorporated; DOCKET NUMBER: 2014-1722-AIR-E; IDENTIFIER: RN102163664; LOCATION: San Antonio, Bexar County; TYPE OF FACILITY: foundry; RULES VIOLATED: 30 TAC §116.115(b) and §116.116(a)(1), New Source Review (NSR) Permit Number 3922, General Conditions Number 1, and Texas Health and Safety Code (THSC), §382.085(b), by failing to operate and maintain equipment as represented in a permit application; and 30 TAC §116.115(b)(2)(E), NSR Permit Number 3922, General Conditions Number 7, and THSC, §382.085(b), by failing to maintain complete operating records and data sufficient to demonstrate compliance with a permit; PENALTY: \$2,475; ENFORCEMENT COORDINATOR: Carol McGrath, (210) 403-4063; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(2) COMPANY: AMHM ENTERPRISE INCORPORATED dba Corner Stop; DOCKET NUMBER: 2015-0021-PST-E; IDENTIFIER: RN102278793; LOCATION: Beaumont, Jefferson County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §115.245(2) and Texas Health and Safety Code (THSC), §382.085(b), by failing to verify proper operation of the Stage II equipment at least once every 12 months; 30 TAC §115.246(a)(3) and THSC, §382.085(b), by failing to maintain Stage II records at the station; and 30 TAC §115.242(d)(3) and THSC, §382.085(b), by failing to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order, and free of defects that would impair the effectiveness of the system, including but not limited to, absence or disconnection of any component that is part of the approved system; PENALTY: \$3,529; ENFORCEMENT COORDINATOR: Holly Kneisley, (817) 588-5856; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(3) COMPANY: AXTELL WATER SUPPLY CORPORATION; DOCKET NUMBER: 2015-0101-PWS-E; IDENTIFIER: RN101442648; LOCATION: Axtell, McLennan County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.46(s)(2)(C)(i), by failing to verify the accuracy of manual disinfectant residual analyzers at least once every 90 days using chlorine solutions of known concentrations; 30 TAC §290.41(c)(3)(O) and §290.43(e), by failing to provide an intruder-resistant fence at Plant Numbers 1 and 2; 30 TAC §290.42(e)(4)(A), by failing to provide a full-face self-contained breathing apparatus or supplied air respirator that meets Occupational Safety and Health Administration standards for construction and operation that is readily accessible outside the chlorination room; 30 TAC §290.43(c)(4), by failing to provide all water storage tanks with a liquid level indicator located at the tank site; 30 TAC §290.43(c)(8), by failing to ensure that the facility's clearwells, ground storage tanks, standpipes and elevated tanks are

painted, disinfected, and maintained in strict accordance with current American Water Works Association Standards; 30 TAC §290.46(i), by failing to adopt an adequate plumbing ordinance, regulations, or service agreement with provisions for proper enforcement to ensure that neither cross-connections nor other unacceptable plumbing practices are permitted; 30 TAC §290.46(w), by failing to maintain internal procedures to notify the executive director by a toll-free reporting phone number immediately following certain events if the event may negatively impact the production or delivery of safe and adequate drinking water; 30 TAC §290.46(f)(2), (3)(A)(iv), and (B)(iii), by failing to provide facility records to commission personnel at the time of the investigation; and 30 TAC §290.46(j), by failing to utilize a customer service inspection certificate form in the format found in 30 TAC §290.47(d) or receive approval from the executive director for any customer service inspection certificate form which varies from the specified format prior to being placed in use; PENALTY: \$613; ENFORCEMENT COORDINATOR: Epifanio Villarreal, (361) 825-3425; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(4) COMPANY: BARTON WATER SUPPLY CORPORATION; DOCKET NUMBER: 2015-0153-PWS-E; IDENTIFIER: RN101439172; LOCATION: Gordon, Erath County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.46(d)(2)(B) and §290.110(b)(4) and Texas Health and Safety Code, §341.0315(c), by failing to maintain a disinfectant residual of at least 0.5 milligrams per liter of chloramine throughout the distribution system at all times; 30 TAC §290.46(f)(2), (3)(A)(i)(II) and (vii), by failing to maintain water works operation and maintenance records and make them available for review by commission personnel; 30 TAC §290.109(c)(1)(A), by failing to collect routine distribution coliform samples at active service connections which are representative of water quality throughout the distribution system; and 30 TAC §290.109(c)(4)(B), by failing to monitor the disinfectant residual at representative locations in the distribution system at least once per day; PENALTY: \$1,250; ENFORCEMENT COORDINATOR: Jim Fisher, (512) 239-2537; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(5) COMPANY: Baytown Energy Center, LLC; DOCKET NUMBER: 2014-1802-AIR-E; IDENTIFIER: RN100226067; LOCATION: Baytown, Chambers County; TYPE OF FACILITY: natural gas-fired cogeneration power plant; RULES VIOLATED: 30 TAC §122.143(4) and (15) and §122.165(a)(7), Texas Health and Safety Code (THSC), §382.085(b), and Federal Operating Permit (FOP) Number O2133, General Terms and Conditions, by failing to include a signed certification of accuracy and completeness with a report required by FOP Number O2133; and 30 TAC §§101.20(3), 116.115(c), and 122.143(4), THSC, §382.085(b), New Source Review Permit Numbers 41996, PSDTX953, and N020, Special Conditions Numbers 5 and 8, and FOP Number O2133, Special Terms and Conditions Number 7, by failing to operate within the permitted concentration limits for nitrogen oxides and ammonia from the Heat Recovery Steam Generating Stack, Emission Point Numbers CTG1, CTG2, and CTG3; PENALTY: \$66,188; Supplemental Environmental Project offset amount of \$33,094; ENFORCEMENT COORDINATOR: Rachel Bekowies, (512) 239-2608; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(6) COMPANY: BEACON BAY MARINA, LLC; DOCKET NUMBER: 2014-1801-PST-E; IDENTIFIER: RN102493970; LOCATION: Livingston, Polk County; TYPE OF FACILITY: gasoline dispensing facility; RULES VIOLATED: 30 TAC §§334.72(1), 334.76(1) and 334.129(b), by failing to report a suspected release to the TCEQ within 24 hours of discovery; 30 TAC §334.74 and §334.129(a), by failing to investigate a suspected release of a regulated substance within 30 days



of discovery; 30 TAC §334.127(d), by failing to provide an amended registration for any change or additional information regarding the aboveground storage tank (AST) system within 30 days from the date of the occurrence of the change or addition; and 30 TAC §334.125(b), by failing to make available to a common carrier a valid, current TCEQ registration certificate before accepting delivery of a regulated substance into the AST; PENALTY: \$14,975; ENFORCEMENT COORDINATOR: Allyson Plantz, (512) 239-4593; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(7) COMPANY: Bernardo Espinoza dba J B Stone Company; DOCKET NUMBER: 2014-1206-WQ-E; IDENTIFIER: RN107385940; LOCATION: Jarrell, Williamson County; TYPE OF FACILITY: aggregate production operation; RULES VIOLATED: 30 TAC §342.25(a), by failing to register the site as an aggregate production operation by October 31, 2012; and 30 TAC §281.25(a)(4) and 40 Code of Federal Regulations §122.26(c), by failing to maintain authorization under a Texas Pollutant Discharge Elimination System General Permit to discharge storm water associated with industrial activities; PENALTY: \$32,750; ENFORCEMENT COORDINATOR: Christopher Bost, (512) 239-4575; REGIONAL OFFICE: 12100 Park 35 Circle, Building A, Austin, Texas 78753, (512) 339-2929.

(8) COMPANY: City of Cleveland; DOCKET NUMBER: 2015-0209-MWD-E; IDENTIFIER: RN101613735; LOCATION: Cleveland, Liberty County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: TWC, §26.121(a)(1), 30 TAC §305.125(1), and Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0010766002, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limits; and 30 TAC §305.125(1) and §319.5(b), and TPDES Permit Number WQ0010766002, Monitoring and Reporting Requirements Numbers 1 and 3.a., by failing to monitor effluent at the intervals specified in the permit; PENALTY: \$5,250; ENFORCEMENT COORDINATOR: Christopher Bost, (512) 239-4575; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(9) COMPANY: City of Follett; DOCKET NUMBER: 2015-0025-PWS-E; IDENTIFIER: RN101409514; LOCATION: Follett, Lipscomb County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.122(c)(2)(A) and (f), by failing to provide public notification and submit a copy of the public notification to the executive director regarding the failure to submit a Disinfectant Level Quarterly Operating Report; 30 TAC §290.109(c)(2)(F) and Texas Health and Safety Code, §341.033(d), by failing to collect five routine distribution coliform samples the month following a total coliform-positive sample result; 30 TAC §290.117(c)(2)(C) and (i)(1), by failing to collect lead and copper tap samples at the required five sample sites, have the samples analyzed at a TCEQ approved laboratory, and submit the results to the executive director by the tenth day of the month following the end of the monitoring; and 30 TAC §290.271(b) and §290.274(a) and (c), by failing to mail or directly deliver one copy of the Consumer Confidence Report (CCR) to each bill paying customer by July 1st of each year and by failing to submit to the TCEQ by July 1st of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the facility and that the information in the CCR is correct and consistent with compliance monitoring data; PENALTY: \$1,202; ENFORCEMENT COORDINATOR: Jim Fisher, (512) 239-2537; REGIONAL OFFICE: 3918 Canyon Drive, Amarillo, Texas 79109-4933, (806) 353-9251.

(10) COMPANY: City of Gonzales; DOCKET NUMBER: 2015-0299-PWS-E; IDENTIFIER: RN101387140; LOCATION: Gonzales, Gon-

zales County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.115(f)(1) and Texas Health and Safety Code (THSC), §341.0315(c), by failing to comply with the maximum contaminant level (MCL) of 0.080 milligrams per liter (mg/L) for total trihalomethanes, based on a locational running annual average; and 30 TAC §290.115(f)(1) and THSC, §341.0315(c), by failing to comply with the MCL of 0.060 mg/L for haloacetic acids, based on a locational running annual average; PENALTY: \$1,320; ENFORCEMENT COORDINATOR: Farhaud Abbaszadeh, (512) 239-0779; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5503, (361) 825-3100.

(11) COMPANY: City of Justin; DOCKET NUMBER: 2015-0306-PWS-E; IDENTIFIER: RN101394476; LOCATION: Justin, Denton County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.46(q)(1) and (2), by failing to issue a boil water notification to customers of the facility within 24 hours of a water outage using the prescribed notification format as specified in 30 TAC §290.47(e); PENALTY: \$312; ENFORCEMENT COORDINATOR: Ryan Byer, (512) 239-2571; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(12) COMPANY: City of Lavon; DOCKET NUMBER: 2015-0071-MWD-E; IDENTIFIER: RN104491238; LOCATION: Lavon, Collin County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §30.350(n) and §305.125(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0014577001, Other Requirements Number 1, by failing to employ at least one licensed wastewater collection system operator who holds a license class equal to or higher than that category of system; PENALTY: \$488; ENFORCEMENT COORDINATOR: Gregory Zychowski, (512) 239-3158; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(13) COMPANY: City of Moulton; DOCKET NUMBER: 2015-0078-PWS-E; IDENTIFIER: RN101391787; LOCATION: Moulton, Lavaca County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.115(f)(1) and §290.122(b)(2)(A) and (f), and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level (MCL) of 0.080 milligrams per liter for total trihalomethanes (TTHM), based on the locational running annual average and by failing to timely provide public notification and submit a copy of the public notification to the executive director regarding the failure to comply with the MCL for TTHM; PENALTY: \$202; ENFORCEMENT COORDINATOR: Jim Fisher, (512) 239-2537; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5503, (361) 825-3100.

(14) COMPANY: City of Pearsall; DOCKET NUMBER: 2015-0130-MWD-E; IDENTIFIER: RN103016275; LOCATION: Pearsall, Frio County; TYPE OF FACILITY: wastewater treatment; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0010360001, Permit Conditions Number 2.g., by failing to prevent the unauthorized discharge of wastewater into or adjacent to any water in the state; and 30 TAC §305.125(1) and (9)(A), TWC, §26.039(b), and TPDES Permit Number WQ0010360001, Monitoring and Reporting Requirements Number 7.a., by failing to notify the TCEQ San Antonio Regional Office within 24 hours of becoming aware of any noncompliance; PENALTY: \$2,863; ENFORCEMENT COORDINATOR: Jason Fraley, (512) 239-2552; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(15) COMPANY: City of Wilmer; DOCKET NUMBER: 2014-1572-WQ-E; IDENTIFIER: RN101403483; LOCATION: Wilmer, Dallas County; TYPE OF FACILITY: wastewater collection system; RULES VIOLATED: TWC, §26.121(a)(1), by failing to prevent an unautho-

rized discharge of wastewater from the collection system into or adjacent to water in the state; TWC, §26.039(b), by failing to report unauthorized discharges to the TCEQ within 24 hours after their occurrence; and 30 TAC §30.331(b) and §30.350(n), by failing to employ at least one licensed operator holding the appropriate level wastewater collection license class or higher; PENALTY: \$6,876; Supplemental Environmental Project offset amount of \$6,876; ENFORCEMENT COORDINATOR: Jill Russell, (512) 239-4564; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(16) COMPANY: DIAMOND PACKAGE, INCORPORATED dba Taylor Mart; DOCKET NUMBER: 2015-0322-PST-E; IDENTIFIER: RN101435402; LOCATION: Taylor, Williamson County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.49(a)(1) and TWC, §26.3475(d), by failing to provide corrosion protection for the underground storage tank (UST) system; and 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the USTs for releases at a frequency of at least once every month; PENALTY: \$5,813; ENFORCEMENT COORDINATOR: Steven Van Landingham, (512) 239-5717; REGIONAL OFFICE: 12100 Park 35 Circle, Building A, Austin, Texas 78753, (512) 339-2929.

(17) COMPANY: DUBLIN STOP GROUP INCORPORATED dba Dublin Stop; DOCKET NUMBER: 2015-0053-PST-E; IDENTIFIER: RN102019536; LOCATION: Dublin, Erath County; TYPE OF FACILITY: 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 petroleum underground storage tanks (USTs); 30 TAC §334.50(b)(1)(A) and (2) and TWC, §26.3475(a) and (c)(1), by failing to monitor the USTs for releases at a frequency of at least once every month and by failing to provide release detection for the pressurized piping associated with the UST system; and 30 TAC §334.51(c), by failing to maintain UST records and make them immediately available for inspection upon request by agency personnel; PENALTY: \$9,147; ENFORCEMENT COORDINATOR: Allyson Plantz, (512) 239-4593; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(18) COMPANY: Equistar Chemicals, LP; DOCKET NUMBER: 2014-1876-AIR-E; IDENTIFIER: RN100210319; LOCATION: La Porte, Harris County; TYPE OF FACILITY: chemical manufacturing plant; RULES VIOLATED: 30 TAC §116.115(c), New Source Review Permit Numbers 18978, PSDTX752M5 and N162, Special Conditions Number 1, and Texas Health and Safety Code, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$6,563; ENFORCEMENT COORDINATOR: Carol McGrath, (210) 403-4063; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas, 77023-1486, (713) 767-3500.

(19) COMPANY: Ethos Pet Nutrition, Incorporated; DOCKET NUMBER: 2014-1772-AIR-E; IDENTIFIER: RN102203262; LOCATION: Brownwood, Brown County; TYPE OF FACILITY: feed mill; RULES VIOLATED: 30 TAC §116.110(a) and Texas Health and Safety Code, §382.0518(a) and §382.085(b), by failing to obtain authorization prior to operating a source of air emissions; PENALTY: \$3,937; ENFORCEMENT COORDINATOR: Farhaud Abbaszadeh, (512) 239-0779; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (325) 698-9674.

(20) COMPANY: Federal Aviation Administration Houston Tracon District 190; DOCKET NUMBER: 2015-0027-PST-E; IDENTIFIER: RN102267283; LOCATION: Houston, Harris County; TYPE OF FACILITY: emergency power generator with a petroleum underground

storage tank; RULES VIOLATED: 30 TAC §334.49(a)(2) and TWC, §26.3475(d), by failing to ensure the underground storage tank corrosion protection system was operated and maintained in a manner that will ensure continuous corrosion protection; PENALTY: \$4,125; ENFORCEMENT COORDINATOR: Danielle Porras, (713) 767-3682; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas, 77023-1486, (713) 767-3500.

(21) COMPANY: Gerald Gardner Maxwell; DOCKET NUMBER: 2014-1851-LII-E; IDENTIFIER: RN103404869; LOCATION: Allen and Plano, Collin County; TYPE OF FACILITY: landscape irrigation systems; RULES VIOLATED: 30 TAC §344.63(2), by failing to provide maintenance checklists to the owners of the irrigation systems at 4021 Waskom Drive, Plano, Texas and 1231 Waterford Way, Allen, Texas; 30 TAC §344.71(b), by failing to include in all written estimates, proposals, bids, and invoices relating to the installation or repair of irrigation systems, the irrigator's name, license number, and the required TCEQ statement; and 30 TAC §344.70(b), by failing to include in all advertisements for irrigation services, the irrigator's license number in the form of LI \_\_\_\_; PENALTY: \$1,412; ENFORCEMENT COORDINATOR: Farhaud Abbaszadeh, (512) 239-0779; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(22) COMPANY: Inhance Technologies LLC; DOCKET NUMBER: 2015-0124-AIR-E; IDENTIFIER: RN101995421; LOCATION: Houston, Harris County; TYPE OF FACILITY: plastic manufacturing and coating; RULES VIOLATED: 30 TAC §116.110(a) and Texas Health and Safety Code, §382.0518(a) and §382.085(b), by failing to obtain authorization prior to construction and operation; PENALTY: \$1,300; ENFORCEMENT COORDINATOR: Jennifer Nguyen, (512) 239-6160; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(23) COMPANY: Jasper County Water Control and Improvement District Number 1; DOCKET NUMBER: 2014-1823-MWD-E; IDENTIFIER: RN101610673; LOCATION: Buna, Jasper County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0010808001, Permit Conditions Number 2.d., by failing to prevent the unauthorized discharge of sewage sludge into or adjacent to any water in the state; PENALTY: \$21,300; ENFORCEMENT COORDINATOR: Jason Fraley, (512) 239-2552; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(24) COMPANY: JENA BUSINESS, INCORPORATED dba The Store of Florence; DOCKET NUMBER: 2015-0126-PST-E; IDENTIFIER: RN102283710; LOCATION: Florence, Williamson County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.49(a)(1) and TWC, §26.3475(d), by failing to provide corrosion protection for the underground storage tank (UST) system; 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the USTs for releases at a frequency of at least once every month; and 30 TAC §334.10(b)(1)(B), by failing to maintain UST records and make them immediately available for inspection upon request by agency personnel; PENALTY: \$10,500; ENFORCEMENT COORDINATOR: James Baldwin, 512-239-1337; REGIONAL OFFICE: 12100 Park 35 Circle, Building A, Austin, Texas 78753, (512) 339-2929.

(25) COMPANY: Jose G. Nieto dba Nietos Service Station 1; DOCKET NUMBER: 2015-0226-PST-E; IDENTIFIER: RN102887171; LOCATION: Donna, Hidalgo County; TYPE OF FACILITY: service station with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.49(a)(1) and TWC, §26.3475(d), by failing to provide corrosion protection for the underground storage tank (UST)

system; and 30 TAC §334.10(b)(1)(B), by failing to maintain UST records and make them immediately available for inspection upon request by agency personnel; PENALTY: \$9,105; ENFORCEMENT COORDINATOR: James Baldwin, (512) 239-1337; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(26) COMPANY: King Ready Mix Concrete, Incorporated; DOCKET NUMBER: 2015-0314-WQ-E; IDENTIFIER: RN104895446; LOCATION: Kerens, Navarro County; TYPE OF FACILITY: aggregate production operation; RULE VIOLATED: 30 TAC §342.25(d), by failing to renew the aggregate production operation registration annually as regulated activities continued; PENALTY: \$5,000; ENFORCEMENT COORDINATOR: Had Darling, (512) 239-2520; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(27) COMPANY: NAVASOTA OIL COMPANY, INCORPORATED; DOCKET NUMBER: 2015-0319-PST-E; IDENTIFIER: RN101672996; LOCATION: Navasota, Grimes County and Trinity, Trinity County; TYPE OF FACILITY: common carrier and a retail gasoline facility with an underground storage tank (UST); RULES VIOLATED: 30 TAC §334.5(b)(1)(A) and TWC, §26.3467(d), by failing to deposit a regulated substance into a regulated UST system that was covered by a valid, current TCEQ delivery certificate; PENALTY: \$4,606; ENFORCEMENT COORDINATOR: James Baldwin, (512) 239-1337; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(28) COMPANY: NEW BOSTON CONCRETE, INCORPORATED; DOCKET NUMBER: 2014-1894-IWD-E; IDENTIFIER: RN101771384; LOCATION: New Boston, Bowie County; TYPE OF FACILITY: ready-mixed concrete plant; RULES VIOLATED: 30 TAC §§305.125(1) and (17), 319.1 and 319.7(d) and Texas Pollutant Discharge Elimination System General Permit Number TXG111316, Part IV, Standard Permit Conditions Number 7.f., by failing to timely submit effluent monitoring results at the intervals specified in the permit; PENALTY: \$3,150; ENFORCEMENT COORDINATOR: Heather Brister, (817) 588-5825; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(29) COMPANY: OAKRIDGE AND OAKRIDGE GROUP LLC dba Borger Food Stop; DOCKET NUMBER: 2015-0356-PST-E; IDENTIFIER: RN102358785; LOCATION: Borger, Hutchinson County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and (2) and TWC, §26.3475(a) and (c)(1), by failing to monitor the underground storage tanks (USTs) for releases at a frequency of at least once per month and by failing to provide proper release detection for the pressurized piping associated with the UST system; and 30 TAC §334.602(a), by failing to designate at least one Class A, Class B, and Class C operator for the facility; PENALTY: \$4,629; ENFORCEMENT COORDINATOR: Keith Frank, (512) 239-1203; REGIONAL OFFICE: 3918 Canyon Drive, Amarillo, Texas 79109-4933, (806) 353-9251.

(30) COMPANY: One Stop Grocery and Grill LLC dba M and S Food Mart; DOCKET NUMBER: 2014-1799-PST-E; IDENTIFIER: RN102326642; LOCATION: Dallas, Dallas County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks (USTs) for releases at a frequency of at least once every month; and 30 TAC §334.10(b)(1)(B), by failing to maintain UST records and make them immediately available for inspection upon request by agency personnel; PENALTY: \$6,000; ENFORCEMENT COORDINATOR: Allyson Plantz, (512) 239-4593; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (806) 353-9251.

(31) COMPANY: ONKAR INCORPORATED dba Speedy Mart; DOCKET NUMBER: 2015-0084-PST-E; IDENTIFIER: RN101835825; LOCATION: Houston, Harris County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.49(a)(1) and TWC, §26.3475(d), by failing to provide corrosion protection for the underground storage tank system; PENALTY: \$2,438; ENFORCEMENT COORDINATOR: Tiffany Maurer, (512) 239-2696; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas, 77023-1486, (713) 767-3500.

(32) COMPANY: Owens Corning Insulating Systems, LLC; DOCKET NUMBER: 2015-0061-AIR-E; IDENTIFIER: RN100223585; LOCATION: Waxahachie, Ellis County; TYPE OF FACILITY: fiberglass insulation manufacturing; RULES VIOLATED: 30 TAC §116.115(b)(2)(F), and (c), and §122.143(4), Texas Health and Safety Code, §382.085(b), Federal Operating Permit Number O1094, Special Terms and Conditions Number 8, and New Source Review Permit Number 6093, Special Conditions Number 1, by failing to prevent unauthorized emissions; PENALTY: \$5,662; ENFORCEMENT COORDINATOR: Rajesh Acharya, (512) 239-0577; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(33) COMPANY: Richard Billings dba Oak Hills Ranch Water; DOCKET NUMBER: 2015-0098-PWS-E; IDENTIFIER: RN101209914; LOCATION: Seguin, Guadalupe County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.113(e) and §290.122(c)(2)(A) and (f), by failing to provide the results of triennial sampling for Stage 1 Disinfection Byproducts (DBP1) to the executive director and by failing to provide public notification and submit a copy of the public notification to the executive director regarding the failure to provide the results of DBP1 sampling for the January 1, 2010 - December 31, 2012 monitoring period; 30 TAC §290.109(c)(4)(B) and §290.122(c)(2)(A) and (f), by failing to collect a raw groundwater source *Escherichia coli* (*E. coli*) sample from the facility's two active sources within 24 hours of being notified of a distribution total coliform-positive result and by failing to provide public notification and submit a copy of the public notification to the executive director regarding the failure to collect raw groundwater source *E. coli* samples in December 2013; 30 TAC §290.271(b) and §290.274(a) and (c), by failing to mail or directly deliver one copy of the Consumer Confidence Report (CCR) to each bill paying customer by July 1st of each year and failed to submit to the TCEQ by July 1st of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the facility and that the information in the CCR is correct and consistent with compliance monitoring data; and 30 TAC §290.122(c)(2)(A) and (f), by failing to provide public notification and submit a copy of the public notification to the executive director regarding the failure to submit Disinfectant Level Quarterly Operating Reports for the first, second, and third quarters of 2013, the failure to conduct repeat coliform monitoring during the month of December 2013, and the failure to conduct increased coliform monitoring during the month of January 2014; PENALTY: \$1,303; ENFORCEMENT COORDINATOR: Michaelle Garza, (210) 403-4076; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(34) COMPANY: SAM RAYBURN WATER, INCORPORATED; DOCKET NUMBER: 2015-0079-PWS-E; IDENTIFIER: RN101249787; LOCATION: Pineland, San Augustine County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.110(e)(4)(A) and (f)(3), and §290.122(c)(2)(A) and (f), by failing to submit a Disinfectant Level Quarterly Operating Report (DLQOR) to the executive director each quarter by the tenth day of the month following the end of the quarter and by failing to provide public notification and submit a copy of the public notification to

the executive director regarding the failure to submit DLQORs; 30 TAC §290.110(e)(4)(A) and (f)(3), and §290.122(c)(2)(A) and (f), by failing to timely submit a DLQOR to the executive director each quarter by the tenth day of the month following the end of the quarter and by failing to provide public notification and submit a copy of the public notification to the executive director regarding the failure to timely submit a DLQOR for the first quarter of 2014; and 30 TAC §290.51(a)(6) and TWC, §5.702, by failing to pay all annual Public Health Service fees and associated late fees for TCEQ Financial Administration Account Number 92030010 for Fiscal Year 2015; PENALTY: \$702; ENFORCEMENT COORDINATOR: Jim Fisher, (512) 239-2537; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(35) COMPANY: SE Lake Conroe Marinas, L.P. dba Lakeview Marina; DOCKET NUMBER: 2015-0363-PST-E; IDENTIFIER: RN101844256; LOCATION: Conroe, Montgomery County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES 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; PENALTY: \$3,375; ENFORCEMENT COORDINATOR: Tiffany Maurer, (512) 239-2696; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas, 77023-1486, (713) 767-3500.

(36) COMPANY: Sergio Pelaez; DOCKET NUMBER: 2015-0391-LII-E; IDENTIFIER: RN107988214; LOCATION: Plano, Collin County; TYPE OF FACILITY: landscape irrigation systems; RULES VIOLATED: 30 TAC §30.5(a), TWC, §37.003, and Texas Occupations Code §1903.251, by failing to hold an irrigator license prior to selling, designing, consulting, installing, maintaining, altering, repairing, or servicing an irrigation system; and 30 TAC §30.5(b) and TWC, §37.003, by failing to refrain from advertising or representing to the public that he can perform services for which a license is required unless he holds a current license, or unless he employs an individual who holds a current license; PENALTY: \$1,200; ENFORCEMENT COORDINATOR: Jennifer Nguyen, (512) 239-6160; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(37) COMPANY: Shallowater Independent School District; DOCKET NUMBER: 2015-0536-PST-E; IDENTIFIER: RN101883593; LOCATION: Shallowater, Lubbock County; TYPE OF FACILITY: school district; RULES VIOLATED: 30 TAC §334.50(a)(1)(A) by failing to provide release detection; PENALTY: \$2,625; ENFORCEMENT COORDINATOR: Keith Frank, (512) 239-1203; REGIONAL OFFICE: 5012 50th Street, Suite 100, Lubbock, Texas 79414-3426, (806) 796-7092.

(38) COMPANY: SOUTHWESTERN HOLDINGS, INCORPORATED; DOCKET NUMBER: 2014-1846-PWS-E; IDENTIFIER: RN101214336; LOCATION: Marfa, Presidio County; TYPE OF FACILITY: public water system; RULES VIOLATED: 30 TAC §290.109(f)(3) and §290.122(b)(2)(B), (c)(2)(A), and (f), and Texas Health and Safety Code, §341.031(a), by failing to comply with the maximum contaminant level (MCL) for total coliform and by failing to timely post public notification and submit a copy of the public notification to the executive director regarding the failure to comply with the MCL and to conduct routine coliform monitoring; PENALTY: \$607; ENFORCEMENT COORDINATOR: Gregory Zychowski, (512) 239-3158; REGIONAL OFFICE: 401 East Franklin Avenue, Suite 560, El Paso, Texas 79901-1206, (915) 834-4949.

(39) COMPANY: Texas Aero Engine Services, L.L.C.; DOCKET NUMBER: 2015-0060-AIR-E; IDENTIFIER: RN100216225; LOCATION: Fort Worth, Tarrant County; TYPE OF FACILITY: aircraft engine rebuilding plant; RULES VIOLATED: 30 TAC §122.143(4)

and §122.146(2), Texas Health and Safety Code, §382.085(b), and Federal Operating Permit Number O1468, General Terms and Conditions and Special Terms and Conditions Number 11, by failing to submit the Permit Compliance Certification no later than 30 days after the end of the certification period; PENALTY: \$2,438; ENFORCEMENT COORDINATOR: David Carney, (512) 239-2583; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(40) COMPANY: TEXAS RENAISSANCE FESTIVALS, INCORPORATED; DOCKET NUMBER: 2015-0230-MWD-E; IDENTIFIER: RN102860368; LOCATION: Plantersville, Grimes County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: TWC, §26.121(a)(1), 30 TAC §305.125(1) and (4), and TCEQ Permit Number WQ0014913001, Permit Conditions Number 2, g., by failing to prevent the unauthorized discharge of wastewater into or adjacent to water in the state; and 30 TAC §305.125(1) and (9)(A), and TCEQ Permit Number WQ0014913001, Monitoring Requirements Number 7(a), by failing to provide notification of any noncompliance which may endanger human health or safety, or the environment to the TCEQ in writing within five working days; PENALTY: \$10,525; ENFORCEMENT COORDINATOR: Katelyn Samples, (512) 239-4728; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(41) COMPANY: THERMO FLUIDS INCORPORATED; DOCKET NUMBER: 2015-0140-MSW-E; IDENTIFIER: RN101914240; LOCATION: Brownfield, Terry County; TYPE OF FACILITY: used oil processing facility; RULES VIOLATED: 30 TAC §324.12 and 40 Code of Federal Regulations §279.54(d)(2), by failing to maintain the secondary containment system sufficiently impervious to prevent migration of released used oil from the containment system to the soil, groundwater, or surface water; PENALTY: \$713; ENFORCEMENT COORDINATOR: Holly Kneisley, (817) 588-5856; REGIONAL OFFICE: 5012 50th Street, Suite 100, Lubbock, Texas 79414-3421, (806) 796-7092.

(42) COMPANY: Trevan S. Fluitt dba Hill Country Water Delivery; DOCKET NUMBER: 2015-0135-PWS-E; IDENTIFIER: RN106228315; LOCATION: Dripping Springs, Hays County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.44(i)(2), by failing to obtain approval from the executive director prior to using water hauling equipment; and 30 TAC §290.44(i)(2)(D), by failing to provide a vent on the water tank that faces downward and located to minimize the possibility of drawing contaminants into the stored water with a 16-mesh or finer corrosion-resistant screen; PENALTY: \$100; ENFORCEMENT COORDINATOR: Epifanio Villarreal, (361) 825-3425; REGIONAL OFFICE: 12100 Park 35 Circle, Building A, Austin, Texas 78753, (512) 339-2929.

(43) COMPANY: Tsigereda Mengesha dba Fina Food Mart 1; DOCKET NUMBER: 2014-1732-PST-E; IDENTIFIER: RN101377919; LOCATION: Dallas, Dallas County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.8(c)(4)(A)(vii) and (5)(B)(ii), by failing to 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 USTs; and 30 TAC §334.50(b)(1)(A) and (2) and TWC, §26.3475(a) and (c)(1), by failing to monitor the USTs for releases at a frequency of at least once every month and by failing to provide release detection for the pressurized piping associated with the UST system; PENALTY: \$10,579; ENFORCEMENT COORDINATOR: Keith Frank, (512)

239-1203; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(44) COMPANY: U.S. XPRESS, INCORPORATED; DOCKET NUMBER: 2015-0270-PST-E; IDENTIFIER: RN102790425; LOCATION: Irving, Dallas County; TYPE OF FACILITY: fleet refueling facility; RULES 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 (UST) system; and 30 TAC §334.10(b)(1)(B), by failing to maintain UST records and make them immediately available for inspection upon request by agency personnel; PENALTY: \$3,692; ENFORCEMENT COORDINATOR: Rebecca Boyett, (512) 239-2503; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(45) COMPANY: World Fuels Services, Incorporated dba Carter Energy; DOCKET NUMBER: 2015-0028-PST-E; IDENTIFIER: RN107867830; LOCATION: Dallas, Dallas County; TYPE OF FACILITY: common carrier; RULES VIOLATED: 30 TAC §334.5(b)(1)(A) and TWC, §26.3467(d), by failing to deposit a regulated substance into a regulated underground storage tank system that was covered by a valid, current TCEQ delivery certificate; PENALTY: \$1,225; ENFORCEMENT COORDINATOR: Mike Pace, (817) 588-5933; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

TRD-201501562

Kathleen C. Decker

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: May 5, 2015



#### Enforcement Orders

An agreed order was entered regarding Javier Moreno dba On Site Tire Disposal and dba Magnolia Truck Tire Service, Docket No. 2012-0367-MSW-E on May 1, 2015, assessing \$33,500 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Ryan Rutledge, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An order was entered regarding Wajih Omar and Ileana Omar dba Omar Family Limited Partnership, Docket No. 2012-2471-MLM-E on April 27, 2015, assessing \$13,400 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Ryan Rutledge, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding KAS INVESTMENTS, LTD., Docket No. 2013-0979-PWS-E on May 1, 2015, assessing \$4,932 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Jake Marx, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding HCC - HIGH CAPACITY COIL, LLC, Docket No. 2013-1573-MLM-E on May 1, 2015, assessing \$35,479 in administrative penalties with \$7,095 deferred.

Information concerning any aspect of this order may be obtained by contacting Danielle Porras, Enforcement Coordinator at (713) 767-

3682, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Fairfield, Docket No. 2013-1813-MWD-E on May 1, 2015, assessing \$10,125 in administrative penalties with \$2,025 deferred.

Information concerning any aspect of this order may be obtained by contacting Jill Russell, Enforcement Coordinator at (512) 239-4564, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding ALTOGA WATER SUPPLY CORPORATION, Docket No. 2014-0217-PWS-E on May 1, 2015, assessing \$160 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Jim Fisher, Enforcement Coordinator at (512) 239-2537, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding INVISTA S.a.r.l., Docket No. 2014-0285-AIR-E on May 1, 2015, assessing \$99,938 in administrative penalties with \$19,987 deferred.

Information concerning any aspect of this order may be obtained by contacting David Carney, Enforcement Coordinator at (512) 239-2583, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Moody, Docket No. 2014-0325-MWD-E on May 1, 2015, assessing \$15,500 in administrative penalties with \$3,100 deferred.

Information concerning any aspect of this order may be obtained by contacting Cheryl Thompson, Enforcement Coordinator at (817) 588-5886, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding FOREST OAKS WATER SUPPLY CORPORATION and Dennis Pavlicek, Docket No. 2014-0431-PWS-E on May 1, 2015, assessing \$575 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Meaghan M. Bailey, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding TPC Group LLC, Docket No. 2014-0563-AIR-E on May 1, 2015.

Information concerning any aspect of this order may be obtained by contacting Rachel Bekowies, Enforcement Coordinator at (512) 239-2608, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Chevron Phillips Chemical Company LP, Docket No. 2014-0572-AIR-E on May 1, 2015, assessing \$192,626 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rachel Bekowies, Enforcement Coordinator at (512) 239-2608, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Ropesville, Docket No. 2014-0574-MLM-E on May 1, 2015, assessing \$9,491 in administrative penalties with \$1,898 deferred.

Information concerning any aspect of this order may be obtained by contacting Jennifer Graves, Enforcement Coordinator at (956) 430-

6023, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Sherwin Alumina Company, LLC, Docket No. 2014-0639-AIR-E on May 1, 2015, assessing \$73,125 in administrative penalties with \$14,625 deferred.

Information concerning any aspect of this order may be obtained by contacting Amancio R. Gutierrez, Enforcement Coordinator at (512) 239-3921, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding MKSN Investments, LLC dba Maxey Gas & Food Mart, Docket No. 2014-0658-PST-E on May 1, 2015, assessing \$22,600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Elizabeth Lieberknecht, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding MCCRAW TRANSPORT, INC., Docket No. 2014-0715-PST-E on May 1, 2015, assessing \$15,109 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Jess Robinson, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding ANJIA GOLDEN, INC. dba Onion Creek Food Mart, Docket No. 2014-0762-PST-E on May 1, 2015, assessing \$12,475 in administrative penalties with \$2,495 deferred.

Information concerning any aspect of this order may be obtained by contacting John Fennell, Enforcement Coordinator at (512) 239-2616, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of De Leon, Docket No. 2014-0959-MWD-E on May 1, 2015, assessing \$15,001 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Had Darling, Enforcement Coordinator at (512) 239-2520, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Synagro of Texas-CDR, Inc., Docket No. 2014-1032-SLG-E on May 1, 2015, assessing \$9,907 in administrative penalties with \$1,980 deferred.

Information concerning any aspect of this order may be obtained by contacting Alex Laje, Enforcement Coordinator at (512) 239-2547, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding REEMA D CORPORATION dba Snappy Mart, Docket No. 2014-1089-PST-E on May 1, 2015, assessing \$6,606 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Meaghan M. Bailey, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Pettus Municipal Utility District, Docket No. 2014-1120-PWS-E on May 1, 2015, assessing \$753 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Lisa Westbrook, Enforcement Coordinator at (512) 239-1160, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Dumas, Docket No. 2014-1157-PWS-E on May 1, 2015, assessing \$1,378 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Epifanio Villareal, Enforcement Coordinator at (361) 825-3425, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding RANCHO LA FUENTE PARTNERS, LLC dba Willow Manor Mobile Home Park, Docket No. 2014-1211-PWS-E on May 1, 2015, assessing \$1,915 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Katelyn Samples, Enforcement Coordinator at (512) 239-4728, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Jerry G. Carpenter dba B & C Oil, Docket No. 2014-1234-PST-E on May 1, 2015, assessing \$19,164 in administrative penalties with \$3,832 deferred.

Information concerning any aspect of this order may be obtained by contacting Steven Van Landingham, Enforcement Coordinator at (512) 239-5717, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding H2O TECH, INC., Docket No. 2014-1251-PWS-E on May 1, 2015, assessing \$2,203 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Jim Fisher, Enforcement Coordinator at (512) 239-2537, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Acme Brick Company, Docket No. 2014-1331-AIR-E on May 1, 2015, assessing \$23,668 in administrative penalties with \$4,733 deferred.

Information concerning any aspect of this order may be obtained by contacting David Carney, Enforcement Coordinator at (512) 239-2583, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Continental Carbon Company, Docket No. 2014-1333-AIR-E on May 1, 2015, assessing \$40,500 in administrative penalties with \$8,100 deferred.

Information concerning any aspect of this order may be obtained by contacting Jessica Schildwachter, Enforcement Coordinator at (512) 239-2617, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Regency Field Services LLC, Docket No. 2014-1334-AIR-E on May 1, 2015, assessing \$8,250 in administrative penalties with \$1,650 deferred.

Information concerning any aspect of this order may be obtained by contacting Carol McGrath, Enforcement Coordinator at (210) 403-4063, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Brookeland Fresh Water Supply District, Docket No. 2014-1365-MWD-E on May 1, 2015, assessing \$17,875 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Katelyn Samples, Enforcement Coordinator at (512) 239-4728, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Laguna Madre Water District, Docket No. 2014-1367-PWS-E on May 1, 2015, assessing \$1,170 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Ryan Byer, Enforcement Coordinator at (512) 239-2571, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding ARGUINDEGUI OIL CO. II, LTD., Docket No. 2014-1425-PST-E on May 1, 2015, assessing \$10,109 in administrative penalties with \$2,021 deferred.

Information concerning any aspect of this order may be obtained by contacting Allyson Plantz, Enforcement Coordinator at (512) 239-4593, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding DCP Midstream, LP, Docket No. 2014-1481-AIR-E on May 1, 2015, assessing \$33,188 in administrative penalties with \$6,637 deferred.

Information concerning any aspect of this order may be obtained by contacting David Carney, Enforcement Coordinator at (512) 239-2583, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Grand Prairie, Docket No. 2014-1513-WQ-E on May 1, 2015, assessing \$6,750 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Heather Brister, Enforcement Coordinator at (817) 588-5825, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding New Jerusalem Whole Truth Church Of Houston, Inc., Docket No. 2014-1515-PWS-E on May 1, 2015, assessing \$780 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David Carney, Enforcement Coordinator at (512) 239-2583, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Hafiz & Emal LLC dba H & E Shell, Docket No. 2014-1587-PST-E on May 1, 2015, assessing \$9,118 in administrative penalties with \$1,823 deferred.

Information concerning any aspect of this order may be obtained by contacting Keith Frank, Enforcement Coordinator at (512) 239-1203, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-201501582  
Bridget C. Bohac  
Chief Clerk  
Texas Commission on Environmental Quality  
Filed: May 6, 2015



Notice of Receipt of Application and Intent to Obtain  
Municipal Solid Waste Permit

Major Amendment Proposed Permit Number 1604c

APPLICATION. City of Haskell, P.O. Box 1003, Haskell, Haskell County, Texas 79521-1003, owner/operator of the City of Haskell Solid Waste Landfill, has applied to the Texas Commission on Environmental Quality (TCEQ) for a permit major amendment for the City of Haskell Type I and IV Arid Exempt (AE) Landfill. The major amendment requests authorization to expand the south portion of the landfill an extra 59 acres within the permitted area. The Landfill is located at 5412 Highway 380 E., Haskell, Haskell County, Texas 79521. The application was submitted on October 30, 2014, and was received by TCEQ on January 5, 2015. The permit application is available for viewing and copying at the Haskell City Hall, 301 South 1st Street, Haskell, Haskell County, Texas 79521-5918. The following web address to an electronic map of the site or facility's general location is provided as a public courtesy and is not part of the application or notice: <http://www.tceq.texas.gov/assets/public/hb610/index.html?lat=33.17&lng=-99.64&zoom=13&type=r>. For exact location, refer to application.

ADDITIONAL NOTICE. TCEQ's Executive Director has determined the application is administratively complete and will conduct a technical review of the application. After technical review of the application is complete, the Executive Director may prepare a draft permit and will issue a preliminary decision on the application. Notice of the Application and Preliminary Decision will be published and mailed to those who are on the county-wide mailing list and to those who are on the mailing list for this application. That notice will contain the deadline for submitting public comments.

PUBLIC COMMENT/PUBLIC MEETING. You may submit public comments or request a public meeting on this application. The purpose of a public meeting is to provide the opportunity to submit comments or to ask questions about the application. TCEQ will hold a public meeting if the Executive Director determines that there is a significant degree of public interest in the application or if requested by a local legislator. A public meeting is not a contested case hearing.

OPPORTUNITY FOR A CONTESTED CASE HEARING. After the deadline for submitting public comments, the Executive Director will consider all timely comments and prepare a response to all relevant and material, or significant public comments.

Unless the application is directly referred for a contested case hearing, the response to comments, and the Executive Director's decision on the application, will be mailed to everyone who submitted public comments and to those persons who are on the mailing list for this application. If comments are received, the mailing will also provide instructions for requesting reconsideration of the Executive Director's decision and for requesting a contested case hearing. A person who may be affected by the facility is entitled to request a contested case hearing from the commission. A contested case hearing is a legal proceeding similar to a civil trial in state district court.

TO REQUEST A CONTESTED CASE HEARING, YOU MUST INCLUDE THE FOLLOWING ITEMS IN YOUR REQUEST: your name, address, phone number; applicant's name and permit number; the location and distance of your property/activities relative to the facility; a specific description of how you would be adversely affected by the facility in a way not common to the general public; and, the statement "I/we request a contested case hearing." If the request for contested case hearing is filed on behalf of a group or association, the request must designate the group's representative for receiving future correspondence; identify an individual member of the group who would be adversely affected by the facility or activity; provide the information discussed above regarding the affected member's location and distance from the facility or activity; explain how and why the member would be affected; and explain how the interests the group seeks to protect are relevant to the group's purpose.

Following the close of all applicable comment and request periods, the Executive Director will forward the application and any requests for reconsideration or for a contested case hearing to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

The Commission will only grant a contested case hearing on disputed issues of fact that are relevant and material to the Commission's decision on the application. Further, the Commission will only grant a hearing on issues that were raised in timely filed comments that were not subsequently withdrawn.

MAILING LIST. If you submit public comments, a request for a contested case hearing or a reconsideration of the Executive Director's decision, you will be added to the mailing list for this application to receive future public notices mailed by the Office of the Chief Clerk. In addition, you may request to be placed on: (1) the permanent mailing list for a specific applicant name and permit number; and/or (2) the mailing list for a specific county. To be placed on the permanent and/or the county mailing list, clearly specify which list(s) and send your request to TCEQ Office of the Chief Clerk at the address below.

AGENCY CONTACTS AND INFORMATION. All public comments and requests must be submitted either electronically at [www.tceq.texas.gov/about/comments.html](http://www.tceq.texas.gov/about/comments.html) or in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087.

If you choose to communicate with the TCEQ electronically, please be aware that your email address, like your physical mailing address, will become part of the agency's public record.

For more information about this permit application or the permitting process, please call the TCEQ's Public Education Program, toll free, at (800) 687-4040. Si desea información en español, puede llamar al (800) 687-4040.

Further information may also be obtained from the City of Haskell at the address stated above or by calling Mr. Brandon Anderson, City Administrator, at (940) 864-2333.

TRD-201501581  
Bridget C. Bohac  
Chief Clerk  
Texas Commission on Environmental Quality  
Filed: May 6, 2015



## Texas Facilities Commission

### Request for Proposals #303-6-20493

The Texas Facilities Commission (TFC), on behalf of the Texas Soil and Water Conservation Board (SWCB), announces the issuance of Request for Proposals (RFP) #303-6-20493. TFC seeks a five (5) or ten (10) year lease of approximately 7,969 square feet of office space in Temple, Bell County, Texas.

The deadline for questions is May 27, 2015, and the deadline for proposals is June 3, 2015, at 3:00 p.m. The award date is July 15, 2015. TFC reserves the right to accept or reject any or all proposals submitted. TFC is under no legal or other obligation to execute a lease on the basis of this notice or the distribution of an RFP. Neither this notice nor the RFP commits TFC to pay for any costs incurred prior to the award of a grant.

Parties interested in submitting a proposal may obtain information by contacting the Program Specialist, Evelyn Esquivel, at (512) 463-6494. A copy of the RFP may be downloaded from the Electronic State Business Daily at [http://esbd.cpa.state.tx.us/bid\\_show.cfm?bidid=117256](http://esbd.cpa.state.tx.us/bid_show.cfm?bidid=117256).

TRD-201501561  
Kay Molina  
General Counsel  
Texas Facilities Commission  
Filed: May 4, 2015



### Request for Proposals #303-6-20494

The Texas Facilities Commission (TFC), on behalf of the Texas Animal Health Commission (TAHC), announces the issuance of Request for Proposals (RFP) #303-6-20494. TFC seeks a five (5) or ten (10) year lease of approximately 3,813 square feet of office space in Fort Worth, Aledo, Weatherford or Granbury, Texas.

The deadline for questions is May 26, 2015, and the deadline for proposals is June 2, 2015, at 3:00 p.m. The award date is August 19, 2015. TFC reserves the right to accept or reject any or all proposals submitted. TFC is under no legal or other obligation to execute a lease on the basis of this notice or the distribution of an RFP. Neither this notice nor the RFP commits TFC to pay for any costs incurred prior to the award of a grant.

Parties interested in submitting a proposal may obtain information by contacting the Program Specialist, Evelyn Esquivel, at (512) 463-6494. A copy of the RFP may be downloaded from the Electronic State Business Daily at [http://esbd.cpa.state.tx.us/bid\\_show.cfm?bidid=117234](http://esbd.cpa.state.tx.us/bid_show.cfm?bidid=117234).

TRD-201501532  
Kay Molina  
General Counsel  
Texas Facilities Commission  
Filed: May 1, 2015



## Department of State Health Services

### Licensing Actions for Radioactive Materials



The Department of State Health Services (Department) has taken actions regarding Licenses for the possession and use of radioactive materials as listed in the tables (in alphabetical order by location). The subheading "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout Texas" indicates that the radioactive material may be used on a temporary basis at locations throughout the state.

In issuing new licenses, amending and renewing existing licenses, or approving license exemptions, the Department's Radiation Safety Licensing Branch has determined that the applicant has complied with the licensing requirements in Title 25 Texas Administrative Code (TAC), Chapter 289 for the noted action. 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 – MC 2835, PO Box 149347, Austin, Texas 78714-9347. For information call (512) 834-6688.

#### NEW LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
Longview	Flint Hills Resources Longview L.L.C.	L06708	Longview	00	04/09/15
Throughout Tx	FTS International L.L.C.	L06706	Fort Worth	00	04/14/15
Throughout Tx	Element Materials Technology St. Paul Inc.	L06711	Houston	00	04/15/15
Throughout Tx	RTX Wireline L.L.C.	L06707	Midland	00	04/07/15
Throughout Tx	Calfrac Well Services Corp.	L06710	San Antonio	00	04/15/15

#### AMENDMENTS TO EXISTING LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
Abilene	Cardinal Health	L04781	Abilene	35	04/07/15
Amarillo	Cardinal Health	L03398	Amarillo	43	04/07/15
Amarillo	BSA Hospital L.L.C. dba Baptist St. Anthony's Hospital	L06573	Amarillo	03	04/09/15
Austin	Cardinal Health	L02117	Austin	89	04/07/15
Austin	Austin Heart P.L.L.C. dba Austin Heart	L04623	Austin	83	04/02/15
Beaumont	The Chemours Company F.C., L.L.C.	L06704	Beaumont	01	04/08/15
Brenham	Scott and White Hospital Brenham	L03419	Brenham	31	04/06/15
Childress	Childress County Hospital District dba Childress Regional Medical Center	L02784	Childress	30	04/02/15
Conroe	Adnan Afzal M.D., P.A. dba Healing Hearts	L06071	Conroe	09	04/13/15
Corpus Christi	Spohn Hospital	L02495	Corpus Christi	125	04/07/15
Corpus Christi	Cardinal Health	L04043	Corpus Christi	48	04/07/15
Corpus Christi	Radiology Associates L.L.P.	L04169	Corpus Christi	56	04/07/15
Corpus Christi	Samuel Duro Oloyo M.D. dba South Texas Medical Associates	L05881	Corpus Christi	05	04/01/15
Dallas	Cardinal Health	L02048	Dallas	150	04/07/15

AMENDMENTS TO EXISTING LICENSES ISSUED (continued):

Dallas	The Center for Molecular Imaging L.P. dba Southwest Diagnostic Center for Molecular Imaging	L05715	Dallas	10	04/08/15
Dallas	Dallas Medical Center L.L.C.	L06584	Dallas	04	04/13/15
Denton	University of North Texas	L00101	Denton	100	04/07/15
El Paso	Cardinal Health	L01999	El Paso	123	04/07/15
El Paso	Country Club Medical Center L.L.C.	L06709	El Paso	00	04/13/15
Fort Worth	Weaver Consultants Group L.L.C.	L06395	Fort Worth	05	04/10/15
Freeport	BASF Corporation	L01021	Freeport	60	04/13/15
Garland	Baylor Medical Center at Garland	L01565	Garland	51	04/08/15
Helotes	Medicine and Radiation Oncology P.A.	L06503	Helotes	04	04/09/15
Houston	The Methodist Hospital dba Houston Methodist	L00457	Houston	199	04/09/15
Houston	Rice University	L01772	Houston	26	04/08/15
Houston	Cardinal Health	L01911	Houston	152	04/07/15
Houston	Memorial Hermann Health System dba Memorial Hermann Hospital The Woodlands	L03772	Houston	117	04/03/15
Houston	Texas Childrens Hospital	L04612	Houston	66	04/15/15
Houston	NIS Holdings Inc. dba Nuclear Imaging Services	L05775	Houston	99	04/03/15
Houston	St. Lukes Hospital at the Vintage	L06612	Houston	02	04/15/15
Katy	Cardiology Center of Houston P.A.	L05400	Katy	11	04/14/15
Kingsville	Texas A&M University Kingsville	L01821	Kingsville	53	04/01/15
League City	Gulf Coast Heart Clinic P.L.L.C.	L06286	League City	04	04/03/15
Lubbock	Texas Tech University	L01869	Lubbock	97	04/13/15
Lubbock	University Medical Center	L04719	Lubbock	139	04/01/15
McKinney	Baylor Medical Centers at Garland and McKinney dba Baylor Medical Center at McKinney	L06470	McKinney	06	04/13/15
Midland	West Texas Nuclear Pharmacy Partners	L04573	Midland	26	04/07/15
Nacogdoches	Memorial Hospital	L01071	Nacogdoches	53	04/08/15
Orange	Invista Sarl	L05777	Orange	15	04/14/15
Plano	Health Texas Provider Network dba Legacy Heart Center	L06582	Plano	01	04/01/15
Port Arthur	The Medical Center of Southeast Texas L.P.	L01707	Port Arthur	73	04/02/15
Round Rock	Scott & White Hospital Round Rock	L06085	Round Rock	18	04/02/15
Round Rock	Texas Oncology P.A.	L06349	Round Rock	13	04/01/15
San Antonio	South Texas Radiology Imaging Centers	L00325	San Antonio	223	04/07/15
San Antonio	VHS San Antonio Partners L.L.C. dba Baptist Health System	L00455	San Antonio	231	04/08/15
San Antonio	Methodist Healthcare System of San Antonio Ltd., L.L.P.	L00594	San Antonio	337	04/07/15
San Antonio	Cardinal Health	L02033	San Antonio	109	04/07/15
San Antonio	VHS San Antonio Imaging Partners L.P. dba Baptist M&S Imaging Centers	L04506	San Antonio	91	04/15/15
San Antonio	Petnet Solutions Inc.	L05569	San Antonio	29	04/14/15
Texarkana	Christus Health Ark-La-Tex dba Christus Saint Michael Health System	L04805	Texarkana	30	04/13/15
Texarkana	Collom & Carney Clinic Association	L05524	Texarkana	08	04/08/15
The Woodlands	St. Lukes Lakeside Hospital L.L.C.	L06279	The Woodlands	02	04/09/15
Throughout Tx	City of Amarillo Dept. of Engineering	L02320	Amarillo	24	04/07/15
Throughout Tx	Ramming Paving Co., Ltd.	L04666	Austin	13	04/02/15
Throughout Tx	Weatherford International L.L.C.	L04286	Benbrook	108	04/02/15
Throughout Tx	Weatherford International L.L.C.	L04286	Benbrook	109	04/08/15
Throughout Tx	Weatherford International L.L.C.	L04286	Benbrook	110	04/14/15
Throughout Tx	Spectrum Tracer Services L.L.C.	L06361	Corpus Christi	06	04/14/15

AMENDMENTS TO EXISTING LICENSES ISSUED (continued):

Throughout Tx	Rone Engineering Services Ltd.	L02356	Dallas	48	04/08/15
Throughout Tx	Fugro Consultants Inc.	L00058	Houston	60	04/14/15
Throughout Tx	Team Industrial Services Inc.	L00087	Houston	231	04/01/15
Throughout Tx	Halliburton Energy Services Inc.	L00442	Houston	132	04/14/15
Throughout Tx	Baker Hughes Oilfield Operations Inc.	L00446	Houston	177	04/02/15
Throughout Tx	GE Oil & Gas Logging Services Inc.	L05262	Houston	52	04/14/15
Throughout Tx	Enviroklean Product Development Inc.	L06350	Houston	06	04/08/15
Throughout Tx	Allied Wireline Services L.L.C.	L06374	Houston	11	04/02/15
Throughout Tx	Furmanite America Inc.	L06554	Houston	15	04/14/15
Throughout Tx	UT Quality Inc.	L06698	Houston	01	04/10/15
Throughout Tx	Acuren Inspection Inc.	L01774	La Porte	287	04/15/15
Throughout Tx	Effective Environmental Inc.	L06322	Lancaster	07	04/14/15
Throughout Tx	RITX Wireline L.L.C.	L06707	Midland	01	04/09/15
Throughout Tx	Texas Gamma Ray L.L.C.	L05561	Pasadena	109	04/15/15
Throughout Tx	Schlumberger Technology Corporation	L00109	Sugar Land	68	04/01/15
Throughout Tx	Schlumberger Technology Corporation	L00109	Sugar Land	69	04/15/15
Throughout Tx	Schlumberger Technology Corporation	L01833	Sugar Land	188	04/01/15
Throughout Tx	Schlumberger Technology Corporation	L01833	Sugar Land	189	04/03/15
Throughout Tx	Schlumberger Technology Corporation	L01833	Sugar Land	190	04/14/15
Throughout Tx	Pumpco Energy Services Inc.	L06507	Valley View	09	04/09/15
Tyler	Cardiac Imaging Inc.	L06565	Tyler	05	04/13/15

RENEWAL OF LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
Cypress	Northwest Cardiology Consultants P.A.	L05795	Cypress	12	04/13/15
El Paso	Western Refining Company L.P.	L02669	El Paso	22	04/02/15
Harlingen	Texas Oncology P.A. dba South Texas Cancer Center Harlingen	L00154	Harlingen	44	04/14/15
Mesquite	Texas Health Physicians Group dba Mesquite Heart Center P.A.	L05132	Mesquite	19	04/09/15
San Antonio	Alamo Feline Health Center P.C.	L05752	San Antonio	08	04/13/15
Throughout Tx	Frontera Materials Inc.	L04830	Elsa	20	04/08/15
Throughout Tx	Kenneth E. Tand and Associates Inc.	L05137	Houston	08	04/07/15
Weslaco	Knapp Medical Center	L03290	Weslaco	50	04/15/15

TERMINATIONS OF LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
Beaumont	E. I. Dupont De Nemours & Co., Inc.	L00517	Beaumont	83	04/15/15
El Paso	Cardinal Health 200 Inc.	L02407	El Paso	35	04/10/15
Lubbock	Texas Tech University Health Sciences Center	L06567	Lubbock	03	04/01/15
Nacogdoches	Nacogdoches Heart Clinic	L04382	Nacogdoches	18	04/15/15
Throughout Tx	J-W Wireline Company	L06132	Fort Worth	28	04/10/15

TRD-201501569  
 Lisa Hernandez  
 General Counsel  
 Department of State Health Services  
 Filed: May 5, 2014

◆ ◆ ◆

Notice of Public Hearings Schedule for Development and  
 Review of Block Grant Funds

Under the authority of the Preventive Health Amendments of 1992 (see 42 United States Code, §§300w, *et seq.*) the Department of State Health Services (department) is making application to the U.S. Public Health Service for funds to continue the Preventive Health and Health Services Block Grant (PHHSBG) during federal fiscal year (FFY) 2015. Provisions in the Act require the chief executive officer of each state to annually furnish a description (a work plan) of the intended use of block grant funds in advance of each FFY. Each state is required to hold hearings and to make proposals of these descriptions public within each state in such a manner as to facilitate comments.

In FFY 2015, four activities are proposed to be funded under the block grant. These include sexual assault prevention and crisis services, local health departments, Community and Clinical Preventive Services and the Texas Health Communities Recognition Program. The PHHS Block Grant award for FFY 2015 is \$6,166,855. Of this amount, \$562,234 was required to be used for sexual assault prevention and crisis services. The department has prepared the following schedule for the development and review of the 2015 Work Plan for the PHHSBG.

In May of 2015, the department will hold public hearings in four Health Service Regions (HSRs):

*May 19, 2015, 3:30 p.m. - 5:30 p.m. - Texas Department of State Health Services Health Service Region 1 - Lubbock, 6302 Iola Avenue, Conference Room 201, Lubbock, Texas 79424.*

*May 19, 2015, 9:00 a.m. - 11:00 a.m. - Texas Department of State Health Services Health Service Region 4/5- Tyler, 2521 West Front Street, Conference Room 131, Tyler, Texas 75702.*

*May 20, 2015, 1:00 p.m. - 3:00 p.m. - Texas Department of State Health Service, Health Service Region 7 - Temple, 2408 South 37th Street, Temple, Texas 76504.*

*May 20, 2015, 3:30 p.m. - 5:30 p.m. - Texas Department of State Health Services, Health Service Region 11 - Harlingen, 601 West Sesame Drive, The Rockport Room, Harlingen, Texas 78550.*

Following these hearings, the department will summarize and consider the impact of the public comments received. The department will then notify the public of the availability of a published summary of these hearings. Please note that the department will continuously conduct activities to inform recipients of the availability of services/benefits, the rules and eligibility requirements, and complaint procedures.

Written comments regarding the PHHSBG may be submitted through May 22, 2015, to Amy Pearson, Block Grant Coordinator, Division for Regional and Local Health Services, Mail Code 1908, Department of State Health Services, P.O. Box 149347, Austin, Texas 78714-9347 or via email at [amy.pearson@dshs.state.tx.us](mailto:amy.pearson@dshs.state.tx.us). For further information, please contact Ms. Pearson at (512) 776-2028.

TRD-201501570

Lisa Hernandez

General Counsel

Department of State Health Services

Filed: May 5, 2015

◆ ◆ ◆

## Texas Department of Housing and Community Affairs

### Request for Proposal

The Texas Department of Housing and Community Affairs has posted a Request for Proposal #332-RFP15-1003 for *Service-Enriched Housing Training, Technical Assistance, and Evaluation*. If you are interested in providing a response to this proposal, please view the Request

for Proposal posting on the Electronic State Business Daily ("ESBD"). The website for the ESBD is: <http://esbd.cpa.state.tx.us/> and you can search by the proposal number listed above.

You may also go to the following web address to directly access the ESBD without having to search:

[http://esbd.cpa.state.tx.us/bid\\_show.cfm?bidid=117081](http://esbd.cpa.state.tx.us/bid_show.cfm?bidid=117081)

-or-

View our Department website at [www.tdhca.state.tx.us](http://www.tdhca.state.tx.us) under "What's New" on our homepage. Should you have any difficulty accessing either website, please contact Julie M. Dumbeck CTP, CTPM, CTCM at (512) 475-3991 or [julie.dumbeck@tdhca.state.tx.us](mailto:julie.dumbeck@tdhca.state.tx.us) for further information.

### Request for Proposal

The Texas Department of Housing and Community Affairs ("TDHCA" or the "Department") announces a Request for Proposal ("RFP") for Service-Enriched Housing ("SEH") training, technical assistance, and evaluation pursuant to Texas Government Code §2306.1091. The Department will administer the contract. The RFP was released on Friday, April 24, 2015.

**Purpose:** TDHCA is requesting proposals to procure a qualified vendor ("Vendor") to provide training and technical assistance to community teams whose goal is to increase SEH in their local community. In addition, the Vendor will evaluate the effectiveness of the training and technical assistance in accomplishing team goals.

**Eligible Applicants:** A qualified Vendor is an organization that meets the minimum requirements of the RFP and is ultimately selected under this RFP. The successful Vendor for the SEH, Technical Assistance, and Evaluation must meet the required experience, knowledge, skills, and abilities and provide documentation supporting that these requirements have been met.

**Program Goal:** This RFP requires the Vendor to work closely with TDHCA staff to fulfill the Housing and Health Services Coordination Council ("HHSCC") statutory duties by building on the activities of the HHSCC, Real Choice Systems Change Grant, and the Section 811 Project Rental Assistance. This RFP aims to procure a Vendor to replicate the Housing and Services Partnership Academy ("Academy") that was held by the Department in May 2013, provide ongoing technical assistance to the teams who attend the Academy, and conduct a formative and summative evaluation for the project.

**Review and Award Criteria:** Each application will first be screened for completeness and timeliness. Proposals that are deemed incomplete or arrive after the deadline will not be reviewed. A team of reviewers from the department will evaluate the proposals as to the experience, qualifications, organization, and approach and as to the reasonableness of the proposed fee for the services. The criteria and review process are further described in the RFP.

**Deadlines:** The Department must receive proposals prepared according to instructions in the RFP package on or before Friday, May 22, 2015, at 2:00 p.m.

**To Obtain a Copy of the RFP:** Requests for a copy of the RFP should be submitted to Julie Dumbeck, P.O. Box 13941, Capitol Station, Austin, Texas 78711. Email: [julie.dumbeck@tdhca.state.tx.us](mailto:julie.dumbeck@tdhca.state.tx.us), telephone number (512) 475-3991, and fax (512) 475-2672. Copies are also available on the Electronic State Business Daily (ESBD) at <http://esbd.cpa.state.tx.us/>.

TRD-201501531

Timothy K. Irvine  
Executive Director  
Texas Department of Housing and Community Affairs  
Filed: May 1, 2015



## Texas Department of Insurance

### Company Licensing

Application to change the name of PERICO LIFE INSURANCE COMPANY to MAPFRE LIFE INSURANCE COMPANY, a foreign life, accident and/or health company. The home office is in Dover, Delaware.

Application to change the name of FIRST INVESTORS LIFE INSURANCE COMPANY to FORESTERS LIFE INSURANCE AND ANNUITY COMPANY, a foreign life, accident and/or health company. The home office is in New York, New York.

Application to do business in the state of Texas by WALDEN DENTAL PLANS INC., a domestic health maintenance organization. The home office is in Houston, 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-201501586  
Sara Waitt  
General Counsel  
Texas Department of Insurance  
Filed: May 6, 2015



## Texas Lottery Commission

### Instant Game Number 1708 "Queen of Spades"

#### 1.0 Name and Style of Game.

A. The name of Instant Game No. 1708 is "QUEEN OF SPADES." The play style is "key symbol match."

#### 1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 1708 shall be \$2.00 per Ticket.

#### 1.2 Definitions in Instant Game No. 1708.

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: 2 CARD SYMBOL, 3 CARD SYMBOL, 4 CARD SYMBOL, 5 CARD SYMBOL, 6 CARD SYMBOL, 7 CARD SYMBOL, 8 CARD SYMBOL, 9 CARD SYMBOL, 10 CARD SYMBOL, J CARD SYMBOL, K CARD SYMBOL, A CARD SYMBOL, QUEEN PLAY SYMBOL, \$2.00, \$4.00, \$5.00, \$10.00, \$20.00, \$50.00, \$100, \$250, \$1,000 and \$25,000.

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

Figure 1: GAME NO. 1708 - 1.2D

PLAY SYMBOL	CAPTION
2 CARD SYMBOL	TWO
3 CARD SYMBOL	THR
4 CARD SYMBOL	FOR
5 CARD SYMBOL	FIV
6 CARD SYMBOL	SIX
7 CARD SYMBOL	SVN
8 CARD SYMBOL	EGT
9 CARD SYMBOL	NIN
10 CARD SYMBOL	TEN
J CARD SYMBOL	JCK
K CARD SYMBOL	KNG
A CARD SYMBOL	ACE
QUEEN PLAY SYMBOL	DBL
\$2.00	TWO\$
\$4.00	FOUR\$
\$5.00	FIVE\$
\$10.00	TEN\$
\$20.00	TWENTY
\$50.00	FIFTY
\$100	ONE HUND
\$250	TWO FTY
\$1,000	ONE THOU
\$25,000	25 THOU

E. Serial Number - A unique 13 (thirteen) digit number appearing under the latex scratch-off covering on the front of the Ticket. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

F. Low-Tier Prize - A prize of \$2.00, \$4.00, \$5.00, \$10.00 or \$20.00.

G. Mid-Tier Prize - A prize of \$50.00 or \$100.

H. High-Tier Prize - A prize of \$1,000 or \$25,000.

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 (1708), 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: 1708-0000001-001.

K. Pack - A Pack of "QUEEN OF SPADES" Instant Game Tickets contains 125 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of two (2). One Ticket will be folded over to expose a front and back of one Ticket on each Pack. Please note the books will be in an A, B, C and D configuration.

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 "QUEEN OF SPADES" Instant Game No. 1708 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 "QUEEN OF SPADES" Instant Game is determined once the latex on the Ticket is scratched off to expose 22 (twenty-two) Play Symbols. If a player matches any of YOUR CARDS Play Symbols to either of the WINNING CARDS Play Symbols, the player wins the prize for that card. If a player reveals a "QUEEN (doubler)" Play Symbol, the player wins DOUBLE the prize for that symbol. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game Ticket, all of the following requirements must be met:

1. Exactly 22 (twenty-two) 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 22 (twenty-two) 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 22 (twenty-two) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;
  17. Each of the 22 (twenty-two) 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 Texas Lottery Instant Game) or refund the retail sales price of the Ticket, solely at the Executive Director's discretion.

## 2.2 Programmed Game Parameters.

- A. Consecutive Non-Winning Tickets in a Pack will not have matching play data, spot for spot.
- B. The top Prize Symbol will appear on every Ticket unless restricted by other parameters, play action or prize structure.
- C. No matching non-winning YOUR CARDS Play Symbols on a Ticket.
- D. No matching WINNING CARDS Play Symbols on a Ticket.
- E. A Ticket may have up to three matching non-winning Prize Symbols unless restricted by other parameters, play action or prize structure.
- F. A non-winning Prize Symbol will never be the same as a winning Prize Symbol.
- G. The "QUEEN" (doubler) Play Symbol will only appear as dictated by the prize structure.

## 2.3 Procedure for Claiming Prizes.

A. To claim a "QUEEN OF SPADES" Instant Game prize of \$2.00, \$4.00, \$5.00, \$10.00, \$20.00, \$50.00 or \$100, a claimant shall sign the back of the Ticket in the space designated on the Ticket and present the winning Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$50.00 or \$100 Ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "QUEEN OF SPADES" Instant Game prize of \$1,000 or \$25,000, 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 "QUEEN OF SPADES" 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 "QUEEN OF SPADES" 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 "QUEEN OF SPADES" 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 7,080,000 Tickets in the Instant Game No. 1708. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 1708 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$2	679,680	10.42
\$4	623,040	11.36
\$5	84,960	83.33
\$10	99,120	71.43
\$20	56,640	125.00
\$50	34,220	206.90
\$100	8,850	800.00
\$1,000	56	126,428.57
\$25,000	6	1,180,000.00

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

\*\*The overall odds of winning a prize are 1 in 4.46. 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. 1708 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. 1708, 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-201501572

Bob Biard

General Counsel

Texas Lottery Commission

Filed: May 5, 2015



Instant Game Number 1710 "Neon 9's"

1.0 Name and Style of Game.

A. The name of Instant Game No. 1710 is "NEON 9'S." The play style is "key number match."

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 1710 shall be \$2.00 per Ticket.

1.2 Definitions in Instant Game No. 1710.

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: 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, 30, 9 SYMBOL, 99 SYMBOL, \$2.00, \$4.00, \$5.00, \$10.00, \$20.00, \$50.00, \$100, \$1,000 and \$25,000.

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

Figure 1: GAME NO. 1710 - 1.2D

PLAY SYMBOL	CAPTION
1	ONE
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
7	SVN
8	EGT
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
20	TWY
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWV
26	TWSX
27	TWSV
28	TWET
30	TRTY
9 SYMBOL	WIN
99 SYMBOL	DOUBLE
\$2.00	TWOS
\$4.00	FOUR\$
\$5.00	FIVE\$
\$10.00	TEN\$
\$20.00	TWENTY
\$50.00	FIFTY
\$100	ONE HUND
\$1,000	ONE THOU
\$25,000	25 THOU

E. Serial Number - A unique 13 (thirteen) digit number appearing under the latex scratch-off covering on the front of the Ticket. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

F. Low-Tier Prize - A prize of \$2.00, \$4.00, \$5.00, \$10.00 or \$20.00.

G. Mid-Tier Prize - A prize of \$50.00 or \$100.

H. High-Tier Prize - A prize of \$1,000 or \$25,000.

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 (1710), 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: 1710-0000001-001.

K. Pack - A Pack of "NEON 9'S" Instant Game Tickets contains 125 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of two (2). One Ticket will be folded over to expose a front and back of one ticket on each pack. Please note the books will be in an A, B, C and D configuration.

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 "NEON 9'S" Instant Game No. 1710 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 "NEON 9'S" Instant Game is determined once the latex on the Ticket is scratched off to expose 23 (twenty-three) Play Symbols. If the player matches any of YOUR NUMBERS Play Symbols to any of the WINNING NUMBERS Play Symbols, the player wins prize for that number. If the player reveals a "9" Play Symbol, the player wins prize for that symbol instantly. If the player reveals a "99" Play Symbol, the player wins DOUBLE the prize for that symbol. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

#### 2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game Ticket, all of the following requirements must be met:

1. Exactly 23 (twenty-three) 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 23 (twenty-three) 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 23 (twenty-three) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 23 (twenty-three) 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 Texas Lottery Instant Game) or refund the retail sales price of the Ticket, solely at the Executive Director's discretion.

#### 2.2 Programmed Game Parameters.

A. Players can win up to ten (10) times on a Ticket in accordance with the approved prize structure.

B. Adjacent Non-Winning Tickets within a Pack will not have matching Play and Prize Symbol patterns. Two (2) Tickets have matching Play and Prize Symbol patterns if they have the same Play and Prize Symbols in the same positions.

C. The top Prize Symbol will appear on every Ticket unless restricted by other parameters, play action or prize structure.

D. Each Ticket will have three (3) different "WINNING NUMBERS" Play Symbols.

E. Non-winning "YOUR NUMBERS" Play Symbols will all be different.

F. Non-winning Prize Symbols will never appear more than two (2) times.

G. The "9" (win) and "99" (doubler) Play Symbols will never appear in the "WINNING NUMBERS" Play Symbol spots.

H. The "99" (doubler) Play Symbol will only appear as dictated by the prize structure.

I. Non-winning Prize Symbols will never be the same as the winning Prize Symbol(s).

J. No prize amount in a non-winning spot will correspond with the "YOUR NUMBERS" Play Symbol (i.e., 5 and \$5).

### 2.3 Procedure for Claiming Prizes.

A. To claim a "NEON 9'S" Instant Game prize of \$2.00, \$4.00, \$5.00, \$10.00, \$20.00, \$50.00 or \$100, a claimant shall sign the back of the Ticket in the space designated on the Ticket and present the winning Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$50.00 or \$100 Ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "NEON 9'S" Instant Game prize of \$1,000 or \$25,000, 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 "NEON 9'S" Instant Game prize, the claimant must sign the winning Ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The 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 "NEON 9'S" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of \$600 or more from the "NEON 9'S" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game 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 9,120,000 Tickets in the Instant Game No. 1710. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 1710 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$2	802,560	11.36
\$4	802,560	11.36
\$5	218,880	41.67
\$10	109,440	83.33
\$20	72,960	125.00
\$50	54,796	166.44
\$100	3,800	2,400.00
\$1,000	48	190,000.00
\$25,000	9	1,013,333.33

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

\*\*The overall odds of winning a prize are 1 in 4.42. 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. 1710 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. 1710, 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-201501573  
 Bob Biard  
 General Counsel  
 Texas Lottery Commission  
 Filed: May 5, 2015



**Public Utility Commission of Texas**

**Announcement of Application for Amendment to a State-Issued Certificate of Franchise Authority**

The Public Utility Commission of Texas (commission) received an application on April 30, 2015, to amend a state-issued certificate of franchise authority, pursuant to Public Utility Regulatory Act (PURA) §§66.001 - 66.016.

Project Title and Number: Application of Grande Communications Networks LLC for Amendment to its State-Issued Certificate of Franchise Authority, Project Number 44685.

The requested amendment is to expand the service area footprint to include the municipal boundaries of the City of Hollywood Park, 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 telephones (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All inquiries should reference Project Number 44685.

TRD-201501575  
 Adriana Gonzales  
 Rules Coordinator  
 Public Utility Commission of Texas  
 Filed: May 5, 2015



**Notice of Application for Amendment to a Service Provider Certificate of Operating Authority**

On May 1, 2015, Teleport Communications America, LLC filed an application with the Public Utility Commission of Texas (Commission) to amend its service provider certificate of operating authority (SPCOA) Number 50027. Applicant requests approval of an internal corporate restructure.

The Application: Application of Teleport Communications America, LLC for an Amendment to its Service Provider Certificate of Operating Authority, Docket Number 44697.

Persons wishing to comment on the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326 or by phone at (512) 936-7120 or toll-free at 1-888-782-8477 no later than May 22, 2015. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 44697.

TRD-201501574

Adriana Gonzales  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: May 5, 2015



### Notice of Application for Approval of a New Depreciation Rate

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) of an application on May 1, 2015, for approval of an accelerated depreciation rate pursuant to §52.252 and §53.056, of the Public Utility Regulatory Act, Texas Utilities Code Annotated (West 2007 and Supp. 2014).

Docket Title and Number: Application of Eastex Telephone Cooperative, Inc. for Approval of Accelerated Depreciation Rate, Docket Number 44700.

The Application: Eastex Telephone Cooperative, Inc. (Eastex) filed an application to establish an accelerated depreciation rate for certain equipment currently in Account 2232.1361 - Packet Circuit Equipment, effective January 1, 2015. Eastex proposed a depreciation rate change from 8.5% to 16% to reflect retirement of Cisco routers, software, and other supporting equipment including cards and power equipment at the end of 2017.

Persons who wish to intervene in the proceeding or comment upon the action sought should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326 or by phone at (512) 936-7120 or toll-free at (888) 782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All correspondence should refer to Docket Number 44700.

TRD-201501577  
Adriana Gonzales  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: May 5, 2015



### Notice of Application for Service Area Exception

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) of an application on May 1, 2015, to amend a certificated service area for a service area exception within Collin County, Texas.

Docket Title and Number: Application of Denton County Electric Cooperative, Inc. dba CoServ Electric to Amend a Certificate of Convenience and Necessity for a Service Area Exception within Collin County. Docket Number 44699.

The Application: Denton County Electric Cooperative, Inc. dba CoServ Electric (CoServ) filed an application for a service area exception to allow CoServ to provide service to approximately 50 lots in the Creeks of Legacy development that are located within the certificated service area of Grayson-Collin Electric Cooperative, Inc. This service area exception will allow CoServ to provide service to the entire Creeks of Legacy development in which approximately 800 lots are planned. Grayson-Collin provided an affidavit of relinquishment for the proposed change.

Persons wishing to comment on the action sought or intervene should contact the commission no later than May 22, 2015, by mail at Public Utility Commission of Texas, 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 telephones (TTY)

may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 44699.

TRD-201501576  
Adriana Gonzales  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: May 5, 2015



## Region F Regional Water Planning Group

### Public Notice of the Initially Prepared Plan

Notice is hereby given that the Region F Regional Water Planning Group (RFRWPG) is taking comment on the adopted Region F Initially Prepared Plan (IPP) Water Plan. The comments will be used in developing an approved regional water plan by RFRWPG. The RFRWPG area, also known as Region F, includes the following counties: Andrews, Borden, Brown, Coke, Coleman, Concho, Crane, Crockett, Ector, Glasscock, Howard, Irion, Kimble, Loving, Martin, Mason, McCulloch, Menard, Midland, Mitchell, Pecos, Reagan, Reeves, Runnels, Schleicher, Scurry, Sterling, Sutton, Tom Green, Upton, Ward and Winkler. The RFRWPG will accept written comments from the date of this notice through August 10, 2015, and will accept written and oral comments on the IPP at the public hearing.

Prior to taking action on the regional water plan based on the IPP, a public hearing will be held and there will be a public comment period. The deadline for submission of public written comments is August 10, 2015.

*The date, time, and location of the public hearing is as follows:*

**Notice is given that a public hearing on the IPP will be held on June 11, 2015, at 1:30 p.m. at the Administrative Offices of the Colorado River Municipal Water District in Howard County, located at 400 E. 24th Street, Big Spring, Texas 79721.**

*A summary of the proposed action to be taken is as follows:*

The proposed action is taking public comment on the adopted IPP and development of a regional water plan by the RFRWPG.

A copy of the IPP is available for viewing at the RFRWPG Administrative Office, Colorado River Municipal Water District (CRMWD), 400 E. 24th Street, Big Spring, Texas. Beginning on May 12, 2015, a copy of the IPP will also be accessible at the website address of [www.region-fwater.org](http://www.region-fwater.org).

A copy of the IPP will be available for viewing at the office of the County Clerk and Public Libraries (if one exists) for each county located within Region F by May 12, 2015.

*The name, telephone number, and address of the person to whom questions or requests for additional information may be submitted is as follows:*

John W. Grant, telephone number (432) 267-6341, Colorado River Municipal Water District, P.O. Box 869, Big Spring, Texas 79721. The CRMWD is the Administrator for the RFRWPG.

*How the public may submit comments is as follows:*

The RFRWPG will accept written and oral comments at the public hearing. The RFRWPG will accept written comments after the posting of this notice until the deadline. Written comments may be sent directly to the RFRWPG by delivery to the CRMWD, P.O. Box 869, 400 E. 24th Street, Big Spring, Texas 79721. The deadline for submission of public written comments is August 10, 2015.

◆ ◆ ◆  
**Supreme Court of Texas**

In the Supreme Court of Texas

Misc. Docket No. 15-9077

**ORDER APPROVING AMENDMENTS TO ARTICLE XII OF  
THE STATE BAR RULES**

**ORDERED** that:

1. Article XII, Section 4 of the State Bar Rules is amended as follows. The amendments remove the MCLE exemption for an emeritus member. Emeritus member is defined in Texas Government Code section 81.052(e).
2. For compliance years that begin on or after June 1, 2016, an emeritus member must fulfill the MCLE requirements applicable to all members of the State Bar, unless the member is eligible for another exemption. Accredited continuing legal education and self-study completed within the 12 months immediately preceding the first compliance year for an emeritus member that begins on or after June 1, 2016, may be used to meet the MCLE requirements for that initial compliance year.
3. These amendments may be changed in response to public comments received by July 31, 2015. Any interested party may submit written comments to Rules Attorney Martha Newton at [rulescomments@tx-courts.gov](mailto:rulescomments@tx-courts.gov).
4. The Clerk is directed to:
  - a. file a copy of this order with the Secretary of State;
  - b. cause a copy of this order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
  - c. send a copy of this order to each elected member of the Legislature; and
  - d. submit a copy of the order for publication in the *Texas Register*.

Dated: April 28, 2015.

\_\_\_\_\_  
Nathan L. Hecht, Chief Justice

\_\_\_\_\_  
Paul W. Green, Justice

\_\_\_\_\_  
Phil Johnson, Justice

\_\_\_\_\_  
Don R. Willett, Justice

\_\_\_\_\_  
Eva M. Guzman, Justice

\_\_\_\_\_  
Debra H. Lehrmann, Justice

\_\_\_\_\_  
Jeffrey S. Boyd, Justice

\_\_\_\_\_  
John P. Devine, Justice

\_\_\_\_\_  
Jeffrey V. Brown, Justice

**TEXAS MINIMUM CONTINUING LEGAL EDUCATION  
RULES**

**(Article XII, State Bar Rules)**

...

**Section 4. Accreditation**

(A) The Committee shall develop criteria for the accreditation of continuing legal education activities and shall designate the number of hours to be earned by participation in such activities, as approved by the Committee. In order for an activity to be accredited, the subject matter must directly relate to legal subjects and the legal profession, including professional responsibility, legal ethics, or law practice management. The Committee may, in appropriate cases, extend accreditation to qualified activities that have already occurred. The Committee shall not extend credit to activities completed in the ordinary course of the practice of law, in the performance of regular employment, as a volunteer service to clients or the general public, as a volunteer service to government entities, or in a member's regular duties on a committee, section or division of any bar related organization. The Committee may extend accredited status, subject to periodic review, to a qualified sponsor for its overall continuing legal education curriculum. No examinations shall be required.

(B) Self-study credit may be given for individual viewing or listening to audio, video, or digital media; reading written material; attending organized in-office educational programs; or other activities approved by the Committee. No more than three hours of credit may be given during a compliance year for self-study activities. Time spent viewing or listening to audio, video, or digital media as part of an organized CLE activity approved by the Committee counts as conventional continuing legal education and is not subject to the self-study limitation.

(C) Credit may be earned through teaching or participating in an accredited CLE activity. Credit shall be granted for preparation time and presentation time, including preparation credit for repeated presentations.

(D) Credit may be earned through legal research-based writing upon application to the Committee provided the activity (1) produced material published or to be published in the form of an article, chapter, or book written, in whole or in part, by the applicant; (2) contributed substantially to the continuing legal education of the applicant and other attorneys; and (3) is not done in the ordinary course of the practice of law, the performance of regular employment, or as a service to clients.

(E) The Committee may, in appropriate cases charge a reasonable fee to the sponsor for accrediting CLE activities.

(F) A member who holds a full-time faculty position in any law school which is approved by the American Bar Association may be credited as fulfilling the requirements of this article, except as to the minimum requirements for CLE in legal ethics and professional responsibility. A member who holds a part-time faculty position in any such law school may claim participatory credit for the actual hours of class instruction time not to exceed 12 hours per compliance year, except as to the minimum requirements for CLE in legal ethics and professional responsibility.

(G) The Committee shall grant exemption from this Article to any emeritus member of the State Bar of Texas. (Emeritus as defined by the State Bar Act, Section 81.052 (e)).

(HG) Credit to meet the minimum educational requirement shall be extended to attorneys who are members of the Senate and House of Representatives of present and future United States and Texas Legislatures for each regular session in which the attorney member shall serve.

(HI) No credit shall be given for activities directed primarily to persons preparing for admission to practice law.

(HJ) Credit, not to exceed 30 hours in any compliance year, may be earned for attending a law school class after admission to practice in Texas provided (1) that the member officially registered for the class with the law school; and (2) that the member completed the course as required by the terms of registration. Credit for approved attendance at law school classes shall be for the actual number of hours of class instruction time the member is in attendance at the law school course.

...

TRD-201501555  
Martha Newton  
Rules Attorney  
Supreme Court of Texas  
Filed: May 4, 2015

## Texas Department of Transportation

Notice of Availability: Record of Decision US 69/Loop 49  
North Lindale Reliever Route in Smith County, Texas

Pursuant to Texas Administrative Code, Title 43, §2.108, the Texas Department of Transportation (TxDOT) is advising the public of the availability of the Record of Decision (ROD) for the proposed construction of the US 69/Loop 49 North Lindale Reliever Route in Smith County, Texas. The project would construct on new location a full control of access reliever route around the City of Lindale in Smith County, Texas, referred to as US 69/Loop 49 North Lindale Reliever Route. The proposed action is intended to provide relief to the existing US 69 through the City of Lindale and extend a proposed toll facility (Loop 49 West) from I-20 southwest of Lindale to US 69 north of Lindale, a distance of approximately seven miles.

The ROD explains the selection of the recommended alternative and signifies the completion of the environmental review process.

A digital version of the ROD may be downloaded from the project website at <http://www.txdot.gov/inside-txdot/projects/studies/tyler/us69-loop49.html>. The ROD is also available at the TxDOT Tyler District, 2709 West Front Street, Tyler, Texas 75702. Additional information about the project can be obtained by contacting Vernon Webb, Director of Transportation Planning and Development - Tyler District at (903) 510-9296 or by email at [Vernon.Webb@txdot.gov](mailto:Vernon.Webb@txdot.gov).

The environmental review, consultation, and other actions required by applicable Federal environmental laws for this project are being, or have been, carried out by TxDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 16, 2014, and executed by FHWA and TxDOT.

TRD-201501526  
Joanne Wright  
Deputy General Counsel  
Texas Department of Transportation  
Filed: May 1, 2015

## 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 Texas Administrative Code, Title 43, 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, and provide for the issuance of a request for qualifications (RFQ) that sets 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.

The commission has authorized the issuance of an RFQ to design and construct the SH 249 Extension from FM 1774 near Pinehurst in Montgomery County to SH 105 near Navasota in Grimes County, through a design-build contract. The SH 249 Extension to be constructed under the agreement consists of new toll lanes, access and street connections and grade separations at major intersections, and grade separations at existing railroad crossings, and has an estimated design-build cost of approximately \$400 million.

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

**RFQ Evaluation Criteria.** QSs will be evaluated by the department for shortlisting purposes using the following general criteria: qualifications and experience, statement of technical approach, and safety qualifications. The specific criteria under the forgoing 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 May 15, 2015. Copies of the RFQ will be available at the Texas Department of Transportation, 7600 Washington Avenue, Houston, Texas 77007 or at the following website:

<http://www.txdot.gov/business/partnerships/current-cda/sh-249.html>.

QSs will be due by 12:00 p.m. CST on July 10, 2015, at the address specified in the RFQ.

TRD-201501533  
Joanne Wright  
Deputy General Counsel  
Texas Department of Transportation  
Filed: May 1, 2015



## 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.

**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.

**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 40 (2015) is cited as follows: 40 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 "40 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 40 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, 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 *Texas Register* is available in an .html version as well as a .pdf 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 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

1 TAC §91.1.....950 (P)

## SALES AND CUSTOMER SUPPORT

**Sales** - To purchase additional subscriptions or back issues (beginning with Volume 30, Number 36 – Issued September 9, 2005), you may contact LexisNexis Sales at 1-800-223-1940 from 7am to 7pm, Central Time, Monday through Friday.

**\*Note:** Back issues of the *Texas Register*, published before September 9, 2005, must be ordered through the Texas Register Section of the Office of the Secretary of State at (512) 463-5561.

**Customer Support** - For questions concerning your subscription or account information, you may contact LexisNexis Matthew Bender Customer Support from 7am to 7pm, Central Time, Monday through Friday.

Phone: (800) 833-9844

Fax: (518) 487-3584

E-mail: [customer.support@lexisnexis.com](mailto:customer.support@lexisnexis.com)

Website: [www.lexisnexis.com/printcdsc](http://www.lexisnexis.com/printcdsc)



**LexisNexis**<sup>®</sup>

It's how you know<sup>™</sup>