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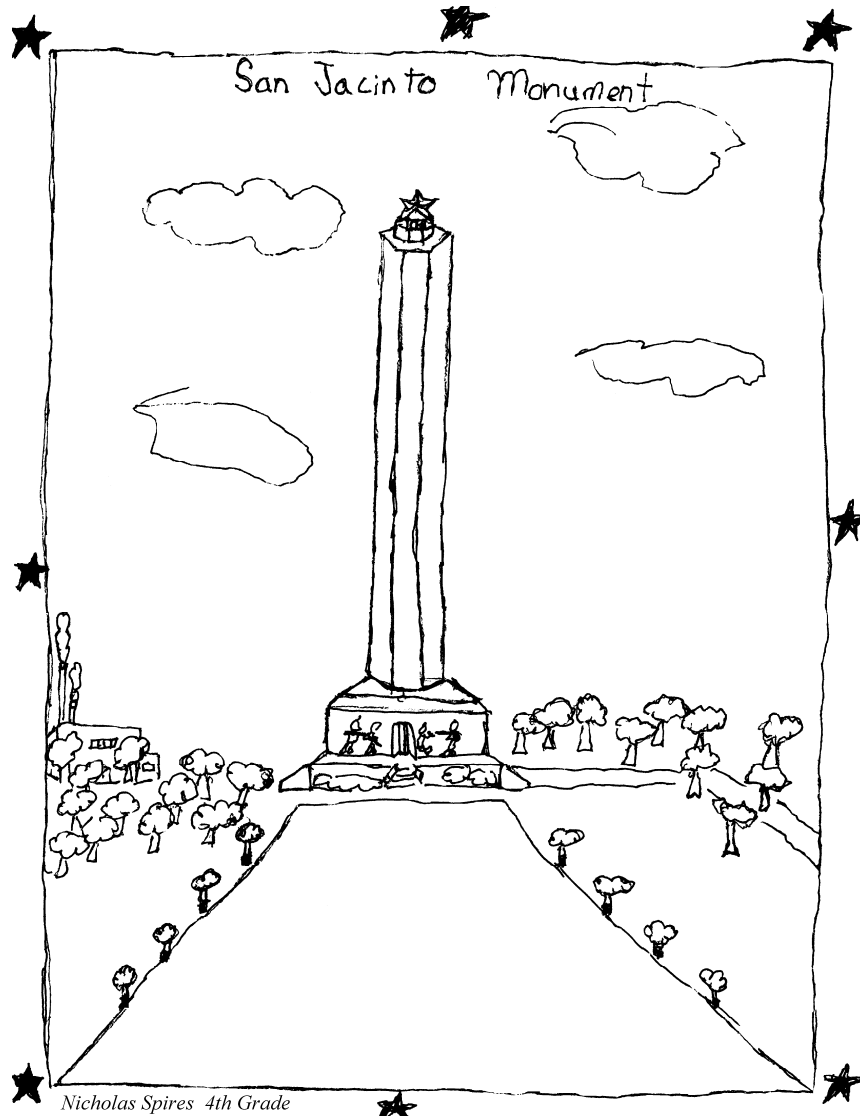
# TEXAS REGISTER

Volume 34 Number 17

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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.

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# THE GOVERNOR

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

## Appointments

### Appointments for April 2, 2009

Appointed to the Texas State Library and Archives Commission for a term to expire September 28, 2009, Larry Gene Holt of College Station. Mr. Holt is replacing Cruz Hernandez of Burleson who resigned.

Appointed to the Texas Council on Autism and Pervasive Developmental Disorders for a term to expire February 1, 2011, Rick L. Campbell of Center. Mr. Campbell is replacing Mirella Garcia of El Paso whose term expired.

Appointed to the Coastal Water Authority Board of Directors for a term to expire April 1, 2011, Zebulun Nash of Houston (reappointed).

Appointed to the Coastal Water Authority Board of Directors for a term to expire April 1, 2011, Alan Russell Senac of Beach City (reappointed).

Appointed to the Texas State Council for Interstate Adult Offender Supervision for a term to expire February 1, 2015, Linda L. White of Magnolia (Dr. White is being reappointed).

Rick Perry, Governor

TRD-200901416



### Proclamation 41-3180

TO ALL TO WHOM THESE PRESENTS SHALL COME:

I, RICK PERRY, Governor of the State of Texas, did issue an Emergency Disaster Proclamation on September 8, 2008, as Hurricane Ike posed a threat of imminent disaster along the Texas Coast and in specified counties in Texas. The disaster proclamation was subsequently renewed through April 5, 2009, in the wake of Hurricane Ike.

WHEREAS, Hurricane Ike struck the State of Texas on September 13, 2008, causing substantial destruction in South and East Texas.

WHEREAS, Hurricane Ike continues to create a state of disaster for the people in the State of Texas.

WHEREAS, the state of disaster includes the counties of Anderson, Angelina, Aransas, Archer, Austin, Bell, Bexar, Bowie, Brazoria, Brazos, Burleson, Calhoun, Cass, Chambers, Cherokee, Collin, Colorado, Comal, Coryell, Dallas, Denton, Ellis, El Paso, Fort Bend, Franklin, Freestone, Galveston, Grayson, Gregg, Grimes, Hardin, Harris, Harrison, Henderson, Hill, Hopkins, Houston, Hunt, Jackson, Jasper, Jefferson, Johnson, Kaufman, Lamar, Lavaca, Leon, Liberty, Limestone, Lubbock, Madison, Marion, Matagorda, McLennan, Milam, Montgomery, Morris, Nacogdoches, Navarro, Newton, Nueces, Orange, Panola, Parker, Polk, Potter, Randall, Robertson, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, Shelby, Smith, Tarrant, Titus, Tom Green, Travis, Trinity, Tyler, Upshur, Van Zandt, Victoria, Waller, Walker, Washington, Webb, Wharton, Williamson, Wise and Wood.

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

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

The renewal of the disaster proclamation becomes effective on April 6, 2009, and shall remain in effect until May 5, 2009, unless renewed or terminated.

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

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my Office in the City of Austin, Texas, this the 3rd day of April, 2009.

Rick Perry, Governor

Attested by: Esperanza "Hope" Andrade, Secretary of State

TRD-200901417



### Proclamation 41-3181

TO ALL TO WHOM THESE PRESENTS SHALL COME:

I, RICK PERRY, Governor of Texas, do hereby certify disasters have occurred and extreme fire hazard continues to pose a threat of imminent additional disasters in the counties of Clay, Cooke, Hamilton, Jack, Montague, and Wichita beginning April 9, 2009, and continuing.

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

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

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

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my Office in the City of Austin, Texas, this the 13th day of April, 2009.

Rick Perry, Governor

Attested by: Esperanza "Hope" Andrade, Secretary of State

TRD-200901437



# 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>.)

## Opinions

### Opinion No. GA-0702

The Honorable Elizabeth Murray-Kolb

Guadalupe County Attorney

101 East Court Street, Suite 104

Seguin, Texas 78155-5779

Re: Indexing certain real-property instruments under chapter 193 of the Local Government Code (RQ-0728-GA)

### S U M M A R Y

In the absence of legislative direction, a county clerk has discretion to index an instrument accepted for filing and recording under Property Code section 12.0011(b)(2) in a manner consistent with the purposes of the indexing statutes and within the constraints of the statutory framework set out in Local Government Code chapter 193.

### Opinion No. GA-0703

The Honorable G.A. Maffett, III

Wharton County Attorney

309 East Milam, Suite 500

Wharton, Texas 77488

Re: Authority of a commissioners court to remove fencing located within a county right-of-way (RQ-0749-GA)

### S U M M A R Y

A county commissioners court has authority, subject to judicial review, to remove from a county road right-of-way objects that create a safety hazard to the public.

### Opinion No. GA-0704

The Honorable H. Michael Bartley

Delta County Attorney

Post Office Box 462

Cooper, Texas 75432

Re: Whether a sheriff must provide information about funds in his custody to the county treasurer (RQ-0753-GA)

### S U M M A R Y

Pursuant to Local Government Code section 115.901, the county treasurer of Delta County is required to examine the accounts held by the county sheriff, including accounts containing forfeiture and commissary funds, and the sheriff must provide the treasurer with access to bank statements for such accounts.

### Opinion No. GA-0705

Mr. Robert Scott

Commissioner of Education

Texas Education Agency

1701 North Congress Avenue

Austin, Texas 78701-1494

Re: Authority of a school district to use a reverse auction conducted by a third party to purchase personal property valued at \$10,000 or more (RQ-0751-GA)

### S U M M A R Y

A school district's use of a third party reverse auction company as described is not an improper delegation of authority.

Whether any contractual requirement by the third party auctioneer impermissibly limits the number of potential bidders is a fact question not appropriately answered by the opinion process.

### Opinion No. GA-0706

The Honorable Bill Moore

Johnson County Attorney

Guinn Justice Center

204 South Buffalo Avenue, Suite 410

Cleburne, Texas 76033-5404

Re: Authority of a commissioners court to lease county property to a non-profit organization for less than fair market value (RQ-0756-GA)

### S U M M A R Y

A commissioners court's lease of county property for an amount less than fair market value does not violate the express terms of section 263.007, Local Government Code.

### Opinion No. GA-0707

The Honorable Don McLeroy

Chair, State Board of Education

1701 North Congress Avenue  
Austin, Texas 78701-1494

Re: Calculation of the "total return on all investment assets of the permanent school fund" for purposes of article VII, subsection 5(a)(2), Texas Constitution (RQ-0758-GA)

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

As the agency charged with determining the amount to be distributed from the permanent school fund ("PSF") to the available school fund ("ASF"), the State Board of Education must establish the appropriate methodology for calculating the total return on all investment assets of the PSF in the first instance.

The limitation in article VII, subsection 5(a)(2) of the Texas Constitution must be applied on an annual basis to determine whether the annual distribution for a given fiscal year complies with the requirements therein established.

Distributions made from the PSF to the ASF must comply with both subsection 5(a)(1) and subsection 5(a)(2). The constitutional provisions and related statutes are silent as to any remedies required for an overpayment under either provision.

The calculations in subsections 5(a)(1) and 5(a)(2) are independent. The plain language of subsection 5(a)(2) does not prevent the SBOE

from adopting a rate under subsection 5(a)(1). A distribution authorized under subsection 5(a)(1) must also satisfy subsection 5(a)(2).

The SBOE, as the entity charged with ensuring the perpetual existence of the PSF, is authorized to apply the limits of subsection 5(a)(2) to the amount it distributes from the PSF to the ASF.

Nothing in article VII, section 5 prohibits the SBOE from adopting a contingency plan for distributing the funds under article VII, section 5 provided the amounts distributed during each fiscal year do not exceed six percent of the average market value of the PSF as provided in subsection 5(a)(1) and the subsection 5(a)(2) limitations.

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

TRD-200901445

Stacey Napier

Deputy Attorney General

Office of the Attorney General

Filed: April 15, 2009



# 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). 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 19. QUARANTINES AND NOXIOUS AND INVASIVE PLANTS

##### SUBCHAPTER E. DATE PALM LETHAL DECLINE QUARANTINE

###### 4 TAC §§19.51 - 19.53

The Texas Department of Agriculture (the department) adopts, on an emergency basis, amendments to §§19.51 - 19.53, concerning the department's Date Palm Lethal Decline Quarantine regulations. The department adopted amendments to this quarantine on an emergency basis on December 3, 2008, as published in the December 19, 2008, issue of the *Texas Register* (33 TexReg 10263). The original emergency amendments to the quarantine have expired and the department is resubmitting revised amendments on an emergency basis.

The current Date Palm Lethal Quarantine was developed in 1976 and is out-dated and not based on current science and regulatory practice. Although the current quarantine has not been utilized broadly due to a low prevalence and rare occurrence of the disease in Texas, the department is updating the quarantine to conform to current information, science and regulatory practices.

The revised amendments establish a regulatory practice utilizing an immediate buffer area and an extended buffer area surrounding any infected trees in Texas. Similar to the current quarantine regulation, the immediate buffer area will be the area within one mile of the infected tree. The extended buffer area will be the area within two miles of the infected tree and outside the one-mile immediate buffer area. The revised amendments will operate as follows regarding each regulated area within the quarantine.

Regarding the immediate buffer area, no trees within this area will be allowed to move outside the area for at least six months following the removal of the infected tree. In order to be allowed to move trees outside the immediate buffer area following the six-month period, a treatment regiment extending for at least three months, during the six-month period, will be required. This treatment is added because the vectors, primarily leafhoppers, which are present in the vicinity of an infected tree, pose the greatest risk of spreading the disease.

Regarding the extended buffer area, shipment from the extended buffer area to outside the quarantine zone must be accompanied by a phytosanitary certificate. This requirement expires following the six-month period from the detection date assuming the

treatment practices in the immediate buffer area are conducted as described herein.

Regarding areas inside the quarantine zone but outside two buffer areas, shipments will be unrestricted.

The proposed emergency amendments also add Nueces County of Texas and the entire State of Florida to the quarantined area and the requirements for quarantined palms entering Texas. Nueces County is added to the quarantine because the disease has been detected in that county. The State of Florida is added to the quarantine because scientists from the University of Florida, Institute of Food and Agricultural Sciences recently confirmed the phytoplasma, which causes the date palm lethal decline in Texas also occurs in five Florida counties. Furthermore, the State of Florida has not enacted an intra-state quarantine to restrict movement of the infected host plants and potential vectors from spreading to disease-free counties. Consequently, instead of quarantining just the infected counties, the Texas Department of Agriculture has opted to quarantine the entire State of Florida. In addition, the Florida Department of Agriculture and Consumer Services, Division of Plant Industry declined to implement the requirements Texas uses when an infected tree is found, such as removal of the infected tree, a six-month prohibition on movement of quarantined palms located within one mile of the infected tree and the use of the treatment methods mentioned above. Consequently, the entry requirements for the quarantined palms from Florida into Texas were developed in consultation with the Florida Division of Plant Industry. Silver date palm *Phoenix sylvestris*, queen palm *Syagrus romanzoffiana*, and cabbage palm or sabal palm *Sabal palmetto*, are added to the list of quarantined articles since Florida scientists recently confirmed the occurrence of date palm lethal decline in these species.

The emergency amendments add silver date palm, queen palm, and cabbage palm or sabal palm to the list of quarantined articles, add Nueces County of Texas and the State of Florida to the quarantined areas, and prescribe entry requirements for movement of the quarantined articles from Florida into Texas, as well as outlines requirements to move quarantined articles from a quarantined area of Texas to a free area of Texas.

The department believes it is necessary to take this immediate action to prevent the spread of the date palm lethal decline into non-infected areas of Texas, and adoption of the proposed emergency amendments to the date palm lethal decline quarantine is both necessary and appropriate. The palm nursery industry, landscapers, homeowners and others who use the quarantined palms are in peril because without the emergency amendments, chances of these palms becoming infected with the disease increase significantly. Treatment options to control the disease are very limited. Moreover, once the spear leaf has died due to the disease, scientists recommend removal of the tree as soon as possible.



Amended §19.51 adds Nueces County of Texas and the State of Florida to the quarantined areas. Amended §19.52 adds silver date palm, queen palm, and cabbage palm or sabal palm to the list of quarantined articles. Amended §19.53 deletes the option, which requires a treatment of quarantined palms located more than two miles from an infected tree and adds a treatment requirement for movement of quarantined palms located within one mile from an infected tree. The amendment replaces the special permit provision with a phytosanitary certificate. The amendment clarifies that a phytosanitary certificate is required over a six-month period for movement of the quarantined articles located more than one mile and less than two miles from an infected tree within quarantined area of Texas to a free area of Texas. The amendment prescribes entry requirements for quarantined palms from Florida into Texas. It prohibits quarantined palms within two miles of a known infected tree in Florida and requires the quarantined palms in Florida located more than two miles from a known infected tree to be treated within 48 hours of the shipment. The department will be proposing adoption of this rule amendment on a permanent basis in a separate submission.

The amended sections are adopted on an emergency basis under the Texas Agriculture Code, §71.004, which provides the Texas Department of Agriculture with the authority to establish emergency quarantines; §71.007 which authorizes the department to adopt rules as necessary to protect agricultural and horticultural interests, including rules to provide for specific treatment of a grove or orchard or of infested or infected plants, plant products, or substances; and the Texas Government Code, §2001.034, which provides for the adoption of administrative rules on an emergency basis, without notice and comment.

§19.51. *Quarantined Areas.*

The quarantined areas are Cameron, Hidalgo, Nueces, and Willacy counties ~~Counties~~ of Texas, and the State of Florida.

§19.52. *Quarantined Articles.*

(a) (No change.)

(b) All parts of the Canary Island date palm, *Phoenix canariensis*; silver date palm, *Phoenix sylvestris*; queen palm, *Syagrus romanzoffiana*; cabbage palm or sabal palm, *Sabal palmetto*; and ~~all parts of~~ the date palm, *Phoenix dactylifera* are quarantined.

(c) (No change.)

§19.53. *Restrictions.*

(a) (No change.)

(b) Exemptions.

(1) Palm seed are exempt from the provisions of this subchapter.

(2) Quarantined articles from quarantined areas of Texas are exempt from the requirements of treatment and a phytosanitary certificate after a six-month absence of an infected tree or when located more than 2 miles from an infected tree.

(c) Exceptions ~~[Exception]~~.

(1) When an infected tree has been detected, shipments ~~[Shipments]~~ of quarantined palms from quarantined areas of Texas specified in subparagraphs (A) or (B) of this paragraph may be allowed movement into the free areas of Texas ~~[under special permit from the department]~~ under the following conditions.

(A) Quarantined palms located within one mile of a known infected tree may:

(i) not move ~~[from the quarantined area]~~ for a period of six months following removal of an infected tree; and ~~[or]~~

(ii) have been treated, as approved by the department, for a minimum period of three months during the six-month period following the removal of an infected tree; and

(iii) ~~[(ii)]~~ be allowed to move after six months if no other infected trees are found within a mile radius ~~[and the conditions specified in subparagraphs (B) or (C) of this paragraph are met].~~

(B) Quarantined palms located more than one mile and less than two miles from known infected trees must:

(i) - (ii) (No change.)

(iii) must be treated within 48 hours prior to ~~[on the day of]~~ movement; and ~~[-]~~

(iv) be allowed to move when accompanied by a phytosanitary certificate over a three month period since completion of the treatment.

(C) A phytosanitary certificate is not required for shipments made beyond six months since detection of an infected tree.

~~[(C) Quarantined palms located more than two miles from known infected trees must:]~~

~~[(i) be inspected within 24 hours prior to shipment with no symptoms of lethal decline apparent; and]~~

~~[(ii) must be treated on the day of movement.]~~

(2) (No change.)

(3) Shipments of quarantined palms from Florida may be allowed movement into Texas when accompanied by a phytosanitary certificate issued by the Florida Department of Agriculture and Consumer Services, Division of Plant Industry, under the following conditions.

(A) Quarantined palms located within two miles of known infected trees are prohibited.

(B) Quarantined palms located more than two miles from known infected trees:

(i) must be inspected within 24 hours prior to shipment with no symptoms of date palm lethal decline apparent;

(ii) must be under a prescribed pest management program for six weeks prior to shipment and receive a final treatment within 48 hours prior to movement; and

(iii) tools used in pruning and handling of host plants must be disinfected with one part liquid household bleach (sodium hypochlorite) to four parts water or some other suitable disinfectant.

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

Filed with the Office of the Secretary of State on April 7, 2009.

TRD-200901364

Dolores Alvarado Hibbs

General Counsel

Texas Department of Agriculture

Effective Date: April 7, 2009

Expiration Date: August 4, 2009

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



# PROPOSED RULES

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

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

## TITLE 1. ADMINISTRATION

### PART 3. OFFICE OF THE ATTORNEY GENERAL

#### CHAPTER 52. ADMINISTRATION

##### SUBCHAPTER A. GENERAL PROVISIONS

###### 1 TAC §52.1

The Office of the Attorney General (OAG) proposes new Chapter 52, Subchapter A, §52.1 to Texas Administrative Code, Title 1 Administration, Part 3, Office of the Attorney General.

The proposal will establish a new chapter and subchapter relating to general agency administration, and include rules relating to the administration of the agency's sick leave pool. The proposed new Chapter 52 is entitled Administration and contains a proposed new Subchapter A, entitled General Provisions. Proposed new §52.1 describes the establishment of an employee sick leave pool in accordance with Texas Government Code §661.002. The new rule is necessary to comply with the requirement of Texas Government Code §661.002(c) to adopt rules and prescribe procedures relating to the administration of the agency sick leave pool. No other rules are proposed under the chapter at this time.

John Poole, Director, Human Resources Division, has determined that for each of the first five years following the adoption of §52.1, the public benefit expected as a result of the proposed new rule is that agency employees and the general public will be made aware of the agency's establishment of a program to allow its employees to voluntarily transfer accrued sick leave to a sick leave pool that may be used for the benefit of eligible employees who have exhausted all paid leave due to injury or illness.

Mr. Poole has also determined that during the first five-year period following the adoption of §52.1, there will be no foreseeable fiscal implications for state or local government as a result of the new rule. Further, he has determined that for each of the first five years following the new rule, there will be no economic cost to persons required to comply with the section, and therefore there is no need to consider less costly alternatives to the new rule. Finally, Mr. Poole has determined that the new rule will have no adverse effect on small business or micro-business or local employment.

Written comments on the proposal may be submitted for 30 days following the publication of this notice to John Poole, Director, Human Resources Division, Office of the Attorney General, P.O. Box 12528, Austin, Texas 78711-2528, (512) 475-2009, John.Poole@oag.state.tx.us.

The new rule is proposed in accordance with Texas Government Code §661.002(c), which requires state agencies to adopt rules and prescribe procedures relating to the administration of the agency sick leave pool.

The proposed new rule does not affect any other statutes.

###### §52.1. Sick Leave Pool.

A sick leave pool is established to alleviate hardship caused to an employee and the employee's immediate family if a catastrophic injury or illness forces the employee to exhaust all eligible leave time earned by that employee and to lose compensation time from the state.

(1) The Office of the Attorney General's Human Resources Director is designated as the pool administrator.

(2) The pool administrator will recommend a policy, operating procedures, and forms for the administration of this section for approval by the First Assistant Attorney General.

(3) Operation of the pool shall be consistent with Texas Government Code, Chapter 661.

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

Filed with the Office of the Secretary of State on April 9, 2009.

TRD-200901382

Stacey Napier

Deputy Attorney General

Office of the Attorney General

Earliest possible date of adoption: May 24, 2009

For more information regarding this publication, contact Cindy Hodges, Agency Liaison, at (512) 936-1841.



## TITLE 13. CULTURAL RESOURCES

### PART 1. TEXAS STATE LIBRARY AND ARCHIVES COMMISSION

#### CHAPTER 3. STATE PUBLICATIONS DEPOSITORY PROGRAM

##### 13 TAC §§3.2, 3.3, 3.6

The Texas State Library and Archives Commission proposes to amend §§3.2, 3.3 and 3.6 regarding the State Publications Depository Program. The proposed revision to §3.2 and §3.3 would require state agencies to print the date of issuance on their publications. For publications that are available on the agency's website as well as in print, agencies would be required to include the

publications' internet locations on the printed documents and on a form that is submitted to the program. The proposed revision to §3.6 adds clarification to the existing language of the rule that exempts certain items from deposit.

Division Director Beverley Shirley has determined that for the first five years the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the new rule.

Ms. Shirley also has determined that for each of the first five years the sections are in effect the public benefits anticipated as a result of enforcing the section will be to provide improved access to government publications by capturing and preserving the electronic version of printed documents.

Written comments on the amendments may be submitted to Beverley Shirley, Library Resource Sharing Division, Texas State Library and Archives Commission, Box 12927, Austin, Texas 78711-2927; fax: (512) 936-2306.

The amendments are proposed under Government Code §441.102, which authorizes the commission to establish procedures for distribution of state publications to depository libraries and to establish a system to provide access to publications in electronic format and §441.105, which authorizes the commission to exempt publications from the program.

The amended sections affect Government Code, §§441.101 - 441.106.

### §3.2. *Standard Requirements for State Publications in All Formats.*

(a) State agencies are required to deposit or make accessible copies of all state publications that have not been exempted from the State Publications Depository Program in §3.6 of this title (relating to Standard Exemptions for State Publications in All Formats) or under §3.7 of this title (relating to Special Exemptions).

(b) State agencies are required to display the date that each state publication is produced or distributed in a conspicuous location at or near the beginning of the publication.

(c) [(b)] When a state publication is distributed to the public in multiple formats simultaneously, state agencies are required to provide access to or copies of that publication to the commission in all formats in which the publication is publicly distributed. State agencies are not required to provide copies to the commission of publications on electronic external storage devices if the state publications are made available by an Internet connection.

(d) [(e)] When a state publication changes frequently, as in the case of an Internet publication that announces time-dependent information, state agencies are required to determine whether the alteration in the publication represents a substantive change or a transitory or inconsequential change. If the modification is a substantive change, the original version and the new version must be treated as separate publications and managed in accordance with §3.4 of this chapter (relating to Standard Deposit and Reporting Requirements for State Publications that are Internet Publications). If the modification is a transitory or inconsequential change, or if the modification is due only to changes to information that is exempt under §3.6 of this chapter (relating to Standard Exemptions for State Publications in All Formats), the two versions are not deemed to be separate publications.

(e) [(d)] Records retention. State agencies are reminded that compliance with this chapter does not constitute compliance with records retention rules for state government records. See Texas State Records Retention Schedule (second edition or subsequent edition

as applicable) and §§6.1 - 6.10 of this title for complete information about records retention requirements.

(f) [(e)] Archival publications. For those publications defined as archival (see §6.1 of this title), one copy must be submitted to the Texas State Archives in accordance with §§6.91 - 6.99 of this title.

### §3.3. *Standard Deposit and Reporting Requirements for State Publications in Physical Formats.*

(a) The standard number of copies of state publications in physical formats to be deposited is based on the number of copies produced, the type of publication or the medium in which it is made available.

(1) For most state publications in physical formats:

(A) If 300 or more copies are produced, 55 [~~fifty-five~~ (~~55~~)] copies must be deposited with the State Publications Depository Program.

(B) If fewer than 300 copies are produced, 4 [~~four~~ (4)] copies must be deposited with the State Publications Depository Program.

(2) (No change.)

(b) (No change.)

(c) For state publications available both in physical format and by Internet connection, the publishing agency shall prominently display the publication's specific and exact Internet address (the uniform resource locator on the agency's website) on the cover or title page of the publication.

(d) [(e)] Reporting

(1) Each state agency must submit a publication reporting form that lists and describes state publications in physical formats as they become available.

(2) At the time that a state publication is [State publications] submitted in physical format, the publication reporting form must be enclosed with the shipment [formats must be listed on a paper form that is enclosed with each shipment].

(3) For each state publication that is available both in physical format and by Internet connection, the publication reporting form must include the publication's specific and exact Internet address (the uniform resource locator on the agency's website).

### §3.6. *Standard Exemptions for State Publications in All Formats.*

The Director and Librarian has exempted from deposit requirements certain kinds of state publications. A state agency is not required to deposit or provide access to these state publications:

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

(5) artwork (graphical representations without textual information);

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

(11) curriculum catalogs (departmental only);

(12) - (13) (No change.)

(14) forms and instruction manuals for their completion;

(15) - (21) (No change.)

(22) news or press releases; [(exemption applies to physical formats only)]

(23) - (38) (No change.)

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

Filed with the Office of the Secretary of State on April 13, 2009.

TRD-200901407

Edward Seidenberg

Assistant State Librarian

Texas State Library and Archives Commission

Earliest possible date of adoption: May 24, 2009

For further information, please call: (512) 463-5459



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

### **PART 2. TEXAS PARKS AND WILDLIFE DEPARTMENT**

#### **CHAPTER 53. FINANCE**

##### **SUBCHAPTER A. FEES**

The Texas Parks and Wildlife Department proposes the repeal of §53.18 and amendments to §§53.2 - 53.17 and 53.30, concerning Fees.

The proposed repeal of §53.18 and the proposed amendments to §§53.10, 53.14 - 53.17 and 53.30 are either wholly or in part necessary as a result of the department's review of its regulations under the provisions of Government Code, §2001.039, which requires a state agency to review each of its regulations no less frequently than every four years and to readopt, adopt with changes, or repeal each rule as a result of the review. The remaining portions of this proposed rulemaking would increase fees for a number of commercial and recreational licenses and permits, as well as for boat registration and titling.

The proposed amendments that would implement fee increases are necessary because the department has determined additional funds are needed to maintain current levels of service to the public. Fees for the majority of the license and permits have not been increased since 2003. An analysis of operational expenses since the last fee increase indicates that aggregate major expenses (Salaries and Wages, Other Personnel Costs, Professional Fees and Services, Fuels and Lubricants, Consumable Supplies, Utilities, Travel, Building Rentals, Machine Rentals, Other Operating Expense, and Capital Expenditures) have increased at approximately 6.1% per year. Therefore, the department has determined that a fee increase is necessary. The proposed fees, except where noted, would be increased by 5%, rounded up to the nearest whole dollar. This calculation is intended to provide the department with the minimum amount of revenue necessary to maintain current operations.

The proposed repeal of §53.18, concerning Other Fees, is necessary because the contents of §53.18 are proposed for relocation to §53.16, concerning Vessel, Motor, and Marine Licensing Fees. The proposed repeal is nonsubstantive in nature and does not remove, create, alter, or increase any fees.

The proposed amendment to §53.2, concerning License Issuance Procedures, Fees, Possession, and Exemption Rules, would establish a fee of \$100 for reinstatement or re-issuance of a license or permit that has been denied or revoked by

the department. The amendment is necessary because the department incurs a cost in maintaining systems to document and track the status of persons who are not eligible for licensure or permit issuance because of criminal convictions, civil penalties, or failure to pay child support. At the current time there are 7,415 license and permit restrictions being tracked by the department. The proposed fee would help to offset the cost to the department of maintaining those systems and would have the additional benefit of encouraging people to avoid activities that could lead to license or permit denial or revocation.

The proposed amendment to §53.3, concerning Combination Hunting and Fishing License Packages, would increase the fee for the resident combination hunting and freshwater fishing package (from \$47 to \$50), the resident combination hunting and saltwater fishing package (from \$52 to \$55), the resident combination hunting and "all-water" fishing package (from \$57 to \$60), the resident senior combination hunting and freshwater fishing package (from \$15 to \$16), the resident senior combination hunting and saltwater fishing package (from \$20 to \$21), the resident senior combination hunting and "all-water" fishing package (from \$25 to \$26); the resident super combination hunting and "all-water" fishing package (from \$64 to \$68), and the resident senior super combination hunting and "all-water" fishing package (from \$30 to \$32).

The proposed amendment to §53.4, concerning Lifetime Licenses, would change the name of the license from the "lifetime resident hunting and fishing license" to the lifetime resident super combination hunting and all-water fishing license package." The proposed amendment would increase the fee for the lifetime resident combination hunting and fishing license (from \$1,000 to \$1,800), the lifetime resident hunting license (from \$600 to \$1,000), the lifetime resident fishing license (from \$600 to \$1,000), and the upgrade from a lifetime resident hunting or fishing license to the lifetime resident super combination hunting and all-water fishing license (from \$400 to \$800). The proposed fee increase is necessary because the department has determined that at current fee values, the sales of lifetime licenses result in long-term revenue loss for the department. For instance, the fees for a hunting license and all required stamps would currently total \$44. The lifetime hunting license (\$600) therefore represents approximately 13.6 years of license purchases. Thus, if a person purchases a lifetime hunting license, the department loses revenue beginning with the 14th year following purchase, since that person will never purchase another license or stamp. For the lifetime fishing license, this figure is 15.8 years, and for the lifetime combination license, the figure is 15.6 years. The proposed fee increases would delay revenue losses to the department by extending the average time period to approximately 25 years. Also, the fees for the lifetime licenses were not increased in 2003 during the last fee increase, and have not been increased since 1996. The proposed amendment would also implement eligibility requirements and a fee for entering a computerized drawing for a lifetime hunting and fishing super combination license package that includes a one-year subscription to the Texas Parks and Wildlife Magazine. Participation would be limited to persons 17 years of age or older at \$5 per entry. Winners could transfer the license to another person, who must be a Texas resident, within 30 days of being notified of winning. The proposed lifetime license drawing is intended to generate additional revenue to defray the operating expenses of the department.

The proposed amendment to §53.5, concerning Recreational Hunting Licenses, Stamps, and Tags, would increase the fee for

the resident hunting license (from \$23 to \$25), the senior resident hunting license (from \$6 to \$7), the youth hunting license (from \$6 to \$7), the general nonresident hunting license (from \$300 to \$315), the nonresident special hunting license (from \$125 to \$132), the nonresident five-day special hunting license (from \$45 to \$48), the nonresident spring turkey hunting license (from \$120 to \$126), and the nonresident banded bird hunting license (from \$25 to \$27).

The proposed amendment to §53.6, concerning Recreational Fishing Licenses, Stamps, and Tags, would increase the fee for the resident fishing license (from \$23 to \$25), the special resident "all-water" fishing license (from \$6 to \$7), the senior resident fishing license (from \$6 to \$7), the "year-from-purchase" resident fishing license (from \$30 to \$32), and the non-resident fishing license (from \$50 to \$53), the resident freshwater fishing package (from \$28 to \$30), the resident saltwater fishing package (from \$33 to \$35), the resident "all-water" fishing package (from \$38 to \$40), the senior resident freshwater fishing package (from \$11 to \$12), the senior resident saltwater fishing package (from \$16 to \$17), the senior resident "all-water" fishing package (from \$21 to \$22), the resident "year-from-purchase all-water" fishing package (from \$45 to \$47), the resident one-day "all-water" fishing license (from \$10 to \$11), the non-resident freshwater fishing package (from \$55 to \$58), the non-resident saltwater fishing package (from \$60 to \$63), the non-resident "all-water" fishing package (from \$65 to \$68), the non-resident one-day "all-water" fishing license (from \$15 to \$16), the individual bait-shrimp trawl tag (from \$35 to \$37) and the saltwater trotline tag (from \$4 to \$5).

Although the proposed amendment to §53.6 provides for an increase in the resident and non-resident fishing licenses, these licenses are only sold as part of freshwater, saltwater, or "all water" fishing license packages. The freshwater fishing packages include the fishing license and the \$5 freshwater stamp. The saltwater fishing packages include the fishing license and the \$10 saltwater stamp. "All-water" license packages consist of the fishing license, the freshwater stamp, and the saltwater stamp. The freshwater stamp and the saltwater stamp fees are not being increased by this proposal.

The proposed fees in §53.6 for the senior resident "all-water" fishing package, the resident "year-from-purchase all-water" fishing package, and the non-resident "all-water" fishing package represent an increase of 5%, but were rounded down to the nearest dollar rather than up to the nearest dollar. The price of a fishing license package must be the sum of the individual items in the package. Since the department is not raising the fees for stamps, the 5% proposed fee increase on the license portion of the package, rounded up to the next whole dollar amount, would yield a price in excess of the sum of the individual items; therefore, the fee amounts were rounded down.

The proposed amendment to §53.7, concerning Furbearing Animal Licenses and Permits, would increase the fee for the resident trapper's license (from \$18 to \$19), the non-resident trapper's license (from \$300 to \$315), the resident wholesale fur dealer's permit (from \$180 to \$189), the non-resident wholesale fur dealer's permit (from \$250 to \$263), and the furbearing animal propagation permit (from \$90 to \$95).

The proposed amendment to §53.8, concerning Alligator Licenses, Permits, Stamps, and Tags, would increase the fee for the wild-caught alligator hide tag (from \$20 to \$21), the alligator import permit (from \$100 to \$105), the alligator management tag (from \$5 to \$6), the alligator export fee (from \$4 to \$5), the

farm-raised alligator hide tag (from \$4 to \$5), the commercial WMA alligator hide tag (from \$120 to \$126), the alligator farmer's permit (from \$240 to \$252), the alligator nest stamp (from \$60 to \$63), the resident alligator retail dealer's permit (from \$120 to \$126), the non-resident alligator retail dealer's permit (from \$480 to \$504), the resident wholesale alligator dealer's permit (from \$240 to \$252), and the non-resident wholesale alligator dealer's permit (from \$960 to \$1,008).

The proposed amendment to §53.9, concerning Falconry Permits, would increase the fee for the apprentice falconer's permit and renewal (one-year: from \$20 to \$21; two-year: from \$40 to \$42; three-year: from \$60 to \$63); the general falconer's permit and renewal (from \$120 to \$126); master falconer's permit and renewal (from \$180 to \$189); the nonresident raptor trapper's permit (from \$360 to \$378); and the raptor propagator permit (from \$60 to \$63). Falconry permits may be issued on a one-year, two-year, or three-year basis. At the current time, only the apprentice falconry permits are issued on other than a three-year basis.

The proposed amendment to §53.10, concerning Public Hunting and Fishing Permits and Fees, would add new §53.10(a)(5) to relocate the fee for the mentored hunting permit from current §53.17(c). The amendment is necessary in order to ensure that all fees affecting public hunting permits are located in the same section. This change is nonsubstantive; however, the proposed amendment also would increase the fees for the special standard-period hunting permit (from \$75 to \$80), the daily (regular) hunting permit (from \$15 to \$20), the special extended period hunting permit (from \$125 to \$130), the competitive hunting dog field trial permit fees (10 or less participants: from \$100 per day to \$105 per day, 11-25 participants: from \$200 per day to \$210 per day, 26-50 participants: from \$300 per day to \$315 per day, 51-75 participants: from \$400 to \$420 per day, 76 or more participants: from \$500 per day to \$525 per day. The proposed fees for special standard-period hunting permit, the daily (regular) hunting permit and the special extended period hunting permit diverge from the 5% increase (rounded up to the nearest whole dollar) formula. Because many of these permits are issued manually at wildlife management areas and state parks, it is not always possible for department staff to make change, which is also a fiscal control issue. Therefore, the fees in question were rounded up or down to the nearest ten-dollar increment.

The proposed amendment to §53.11, concerning Commercial Hunting Licenses and Permits, would increase the fee for hunting lease licenses as follows: less than 500 acres (from \$75 to \$79), more than 500 acres but less than 1,000 acres (from \$140 to \$147), and 1,000 acres or more (from \$240 to \$252). The proposed amendment also would increase the fee for the wildlife management association area hunting lease licenses as follows: less 10,000 acres (from \$36 plus \$5 per participating landowner to \$38 plus \$6 per participating landowner), between 10,000 and 50,000 acres (from \$72 plus \$5 per participating landowner to \$76 plus \$6 per participating landowner), over 50,000 acres (from \$144 plus \$5 per participating landowner to \$152 plus \$6 per participating landowner). The proposed amendment also would increase the fee for the private bird hunting area license (from \$80 to \$84) and the field trial permit (from \$60 to \$63).

The proposed amendment to §53.12, concerning Commercial Fishing Licenses and Tags, would increase the fees in §53.12(b)(1) for the resident commercial oyster boat license (from \$420 to \$441), the resident sport oyster boat license (from \$12 to \$13), the resident commercial oyster boat captain's

license (from \$30 to \$32), the resident commercial oyster fisherman's license (from \$120 to \$126), the non-resident commercial oyster boat license (from \$1,680 to \$1,764), the non-resident sport oyster boat license (from \$48 to \$51), the non-resident commercial oyster boat captain's license (from \$120 to \$126), and the non-resident commercial oyster fisherman's license (from \$300 to \$315).

The proposed amendment to §53.12 would alter subsection (a)(1) and (3) to increase the fees for the resident commercial bait-shrimp boat license/transfer (from \$348 to \$366), the nonresident commercial bait-shrimp boat license/transfer (from \$750 to \$788), the resident commercial shrimp boat captain's license (from \$30 to \$50), and the non-resident commercial shrimp boat captain's license (from \$120 to \$126). The proposed amendment to §53.12 also would alter subsection (c)(1) to increase the resident commercial fishing boat license (from \$25 to \$27), the nonresident commercial fishing boat license (from \$25 to \$100), the resident general commercial fisherman's license (from \$24 to \$26), the resident commercial mussel and clam fisherman's license (from \$36 to \$38), the resident shell buyer's license (from \$120 to \$126), the non-resident general commercial fisherman's license (from \$180 to \$189), the non-resident commercial mussel and clam fisherman's license (from \$960 to 1,008), the non-resident shell buyer's license (from \$1,800 to \$1,890). The proposed amendment to §53.12 would alter subsection (d) to increase the resident commercial crab fisherman's license/transfer (from \$600 to \$630), and the non-resident commercial crab fisherman's license/transfer (from \$2,400 to \$2,520).

The proposed fee increases in §53.12(c)(1)(A) for the resident commercial fishing boat license and the nonresident commercial fishing boat licenses are greater than 5% (rounded upward to the nearest whole dollar). In the case of the nonresident commercial fishing boat license, Parks and Wildlife Code, §47.007(e), requires a fee of not less than \$60 for the nonresident commercial fishing boat license; however the commercial fishing boat license was inadvertently eliminated in 2007 as a result of a license simplification initiative. At the time, the nonresident commercial fishing boat license was \$72. Because the fee is required by statute, the license and the fee are being reinstated. The fee amount, however, is being increased to \$100 rather than at a 5% increase (rounded upward to the nearest whole dollar) because the department has determined that this license is underpriced in comparison to other, similar commercial vessel fees.

The proposed fee increase in §53.12(a)(1)(D) for the resident commercial shrimp boat captain's license is also greater than 5%. Prior to 1995, deckhands on commercial shrimp boats were required to possess a general commercial fisherman's license. Senate Bill 814, enacted by the 74th Texas Legislature in 1995, created the commercial shrimp boat captain's license in Parks and Wildlife Code §77.0351 and amended Parks and Wildlife Code §47.002 to remove the requirement that deckhands possess a commercial fisherman's license. This change resulted in a loss of revenue for the department because multiple people could work under a single license. At that time, the fee for the resident commercial shrimp boat captain's license was \$25. The current fee of \$30 was implemented in 2002. Under Parks and Wildlife Code, §77.0351, the department may not establish a fee of greater than \$50 for the resident commercial shrimp boat captain's license. The proposed amendment to §53.12(a)(1)(D) would implement the statutory maximum fee, and is necessary to replace a portion of the revenue lost since 1995 as a result of

the removal of the requirement that deckhands possess a commercial fisherman's license.

The proposed amendment to §53.12 does not increase the fee amounts for the resident and nonresident commercial gulf shrimp boat licenses in §53.12(a)(1)(A) and (B), or the resident and nonresident commercial bay shrimp boat licenses in §53.12(a)(1)(E) and (F), but does adjust those fees to reflect the total price paid by the purchaser. Purchasers of resident and nonresident commercial gulf shrimp boat licenses and resident and nonresident commercial bay shrimp boat licenses are required to pay a shrimp marketing account surcharge imposed by Parks and Wildlife Code, §77.002(c). The shrimp marketing account surcharge is 10% of the fee amounts in effect for those licenses in 1995. The shrimp marketing account surcharge, which is set out for informational purposes in §53.12(a)(2), is not being increased by this proposed rulemaking. Although the proposed amendment would not alter the fees for the resident and nonresident commercial gulf shrimp boat licenses or the resident and nonresident commercial bay shrimp boat licenses, the amendment does reflect the total fee paid by license purchasers, which includes the shrimp marketing account surcharge.

The proposed amendment to §53.13, concerning Business Licenses and Permits (Fishing), would increase the fee for the wholesale fish dealer's truck license (from \$510 to \$590), the individual bait dealer's license (from \$36 to \$38), the bait dealer's place of business/building license (from \$36 to \$38), the bait dealer's place of business/vehicle license (from \$36 to \$38), the bait shrimp dealer's license (from \$204 to \$215), the finfish import permit (from \$90 to \$95), the freshwater fishing guide license (from \$125 to \$132), the resident all-water fishing guide license (from \$200 to \$210), and the non-resident all-water fishing guide license (from \$1,000 to \$1,050). The retail fish dealer, retail fish dealer's truck, wholesale fish dealer, and the wholesale fish dealer's truck licenses are required to include the shrimp marketing account surcharge, discussed previously in connection with the proposed amendments to §53.12(a)(1). The shrimp marketing account surcharge for these licenses, which is set out for informational purposes in §53.13(b), is not being increased by this proposed rulemaking. The proposed amendment would increase the fee for the wholesale fish dealer's truck license, but \$51 of that increase is for the shrimp marketing account surcharge. The proposed amendment would not increase the base fee amounts for the retail fish dealer's, the retail fish dealer's truck, and wholesale fish dealer's licenses, but would adjust the retail fish dealer, retail fish dealer's truck, wholesale fish dealer, and the wholesale fish dealer's truck licenses to reflect the current total price paid by the purchaser, including the shrimp marketing account surcharge imposed by Parks and Wildlife Code, §77.002(c).

The proposed amendment to §53.14, concerning Deer Management and Removal Permits, would eliminate subsection (b) because the Trap, Transport, and Transplant permit is not restricted to deer. The contents of subsection (b) are being relocated to §53.15, concerning Miscellaneous Fisheries and Wildlife Licenses and Permits. The proposed amendment also updates terminology to reflect legislative changes. House Bill 1308, enacted by the 80th Texas Legislature, amended Parks and Wildlife Code, Chapter 43, Subchapter L, to change the term "scientific breeder" to "deer breeder." These changes are nonsubstantive; however, the proposed amendment also would increase the antlerless and spike buck deer control permit application processing fee (from \$360 to \$378).

The proposed amendment to §53.15, concerning Miscellaneous Fisheries and Wildlife Licenses and Permits, would add a new subsection (a) to contain the fees associated with the Trap, Transport, and Transplant Permit, which is being relocated from §53.14, concerning Deer Management and Removal Permits. The amendment is necessary because the Trap, Transport, and Transplant permit is not restricted to deer. These changes are nonsubstantive. However, the proposed amendment to §53.15 also would increase the fees for the game animal breeder's license (from \$75 to \$79), the Class 1 commercial game bird breeder's license (from \$180 to \$189), and the Class 2 commercial game bird breeder's license (from \$25 to \$27), the resident nongame permit (from \$18 to \$19), the nonresident nongame permit (from \$60 to \$63), the resident nongame dealer permit (from \$60 to \$63); the nonresident nongame dealer permit (from \$240 to \$252), the nongame species sales permit (from \$200 to \$210); the nongame species sales permit renewal (from \$200 to \$210), the zoological collection permit application (from \$150 to \$158), the scientific research permit application (from \$50 to \$53), the educational display permit application (from \$50 to \$53), the exotic species permit fee for new, renewed or amended application requiring facility inspection (from \$250 to \$263), the exotic species permit fee for renewed or amended application not requiring facility inspection (from \$25 to \$27), the exotic species permit fee for renewal application received more than one year after renewal date (from \$250 to \$263), the triploid grass carp permit application (from \$15 to \$16, but does not alter the \$2 fee per triploid grass carp requested), the exotic species interstate transport permit application fee--individual (from \$25 to \$27), the exotic species interstate transport permit application fee--annual (from \$100 to \$105), the aerial management permit (from \$200 to \$210), the offshore aquaculture permit or renewal--from 1,500 to \$1,575, and the double-crested cormorant control permit (from \$12 to \$13).

The proposed amendment to §53.16, concerning Vessel, Motor, and Marine Licensing Fees, would incorporate the contents of current §53.18, which is being proposed for repeal. The proposed amendment also would eliminate current §53.16(d)(1) which has expired on its own terms and is no longer necessary. These changes are nonsubstantive; however, the proposed amendment also would increase the registration fee for a Class A livery vessel (from \$30 to \$32), a Class A vessel (from \$30 to \$32), a Class 1 vessel (from \$50 to \$53), a Class 2 vessel (from \$70 to \$110) and a Class 3 vessel (from \$90 to \$200). The proposed amendment also would increase the titling fee for a certificate of title (from \$25 to \$27), a bonded certificate of title (from \$35 to \$37), an expedited certificate of title for a vessel or motor (from \$35 to \$37), a certified ownership history report for a vessel or motor (from \$10 to \$11), a party boat annual inspection (from \$125 to \$132), a party boat operator's license (from \$125 to \$132), the party boat operator's license renewal (from \$50 to \$53), the party boat operator's replacement/update license (from \$50 to \$53), the marine dealer, distributor or manufacturer's license/license transfer (from \$500 to \$525), an additional marine dealer, distributor or manufacturer's decal/card (from \$120 to \$126), a marine, dealer or manufacturer's change of location transfer (from \$10 to \$11), an update or correction to current license information (from \$3 to \$4), and duplicate/transfer fees for vessel transfer of ownership, vessel duplicate certificate of number, and vessel duplicate decals (from \$10 to \$11). The proposed increase for registration fees (two-year period of validity) would implement a 5% (rounded upward to the nearest whole dollar) increase for Class A and Class 1 vessels, which is consistent with other fee increases in

this rulemaking; however, the fee increases for registering Class 2 and Class 3 vessels would implement larger fee increases. The proposed fee for registering a Class 2 vessel (a vessel 26-40 feet in length) would increase from \$70 to \$110 (57%), and the fee for registering a Class 3 vessel (a vessel of greater than 40 feet in length) would increase from \$90 to \$200 (122%). The proposed fee increases for Class 2 and Class 3 vessels are necessary because although Class 2 and Class 3 vessels constitute 3.2% of the vessels registered in Texas, the department has determined that registration fees for larger vessels in Texas have been underpriced compared to the registration fees paid in the other states on the Gulf of Mexico (all of which are similar to Texas in terms of the type of boating opportunity available) for similar smaller vessels. For instance, in Florida the two-year registration fee for the equivalent of a Class 2 vessel is \$166. In Louisiana, the fee for an equivalent vessel is \$128. In Alabama, the fee is \$150. For the equivalent of a Class 3 vessel, these fees are \$325, \$192, and \$200, respectively.

The proposed amendment to §53.17, concerning Miscellaneous Fees, would remove current subsection (c), which is being relocated to §53.10, concerning Public Hunting and Fishing Permits and Fees. The proposed amendment is necessary to locate all fees for public hunting permits in a single section.

The proposed amendment to §53.30, concerning Facility Admissions and Use Fees, would nonsubstantively redesignate the fees listed in paragraph (1) in order to make the structure of the rule consistent with other rules.

Ms. Julie Horsley, Director of Planning and Analysis, has determined that for each of the first five years the rules as proposed are in effect, there will be fiscal implications to state government as a result of enforcing or administering the rules. For each of the first five years the rules are in effect, the department estimates a total increase of \$6,398,823 in net revenues will be realized from increased license, permit, application, boat titling and boat registration fees. This total consists of \$3,488,731 in estimated revenue from the sale of all licenses and permits other than lifetime licenses, plus \$1,082,864 in estimated additional fee revenue from the sale of lifetime licenses, \$67,511 in estimated revenue from the sale of entries to participate in a drawing for a free resident lifetime super combination hunting and fishing license package, and \$1,712,717 in revenue from boat titling and registration fees, miscellaneous report fees, inspection fees, party boat fees and marine licensing fees.

The estimated revenue from hunting and fishing licenses and other permit and application fees was derived by multiplying the proposed new fee for each item by the estimated number of transactions for each item, then adjusting to reflect the 4% average commission retained by license deputies. The number of anticipated transactions was based on FY2008 figures, adjusted down by 2% to reflect the probable but not certain decrease in volumes due to the price increases.

The estimated revenue from lifetime license fees was derived by multiplying the proposed new fee for each item by the estimated number of transactions for each item. The amount was not adjusted to reflect the 4% average commission retained by license deputies because lifetime licenses are not available at retail outlets.

The estimated revenue from boat registration and titling related fee increases was derived by multiplying the proposed new fee for each item by the estimated number of transactions for each item. The number of anticipated transactions was based on a

four-year average of transactions (FY2004-2007), to reflect two boat registration cycles. (Boat registration validity is two years.)

The department expects to realize revenue from fees paid for entering a computerized drawing for lifetime hunting and fishing super combination license package; however, this is a new fee and there is no historical data upon which to base an estimate of potential participation. A response rate of 1% is considered to be an industry standard for participation in activities such as the lifetime license lottery. The department estimates a net increase in revenue of \$67,511 per year as a result of the sale of opportunities to participate in a drawing for a lifetime resident super combination hunting and fishing license package. This figure was determined by adding the current sales volume of resident hunting and youth-hunting (399,317), combo and super-combo (479,613) and resident fishing package sales (792,140), taking 1% of that figure (16,711), and multiplying it by the proposed cost of one drawing opportunity (\$5), which yields a gross revenue of \$83,544. This figure was adjusted to reflect the 4% average commission paid to license vendors and the \$.76 per transaction fee paid to the operator of the department's electronic point-of-sale licensing system. The department did not include senior license purchasers, nonresidents, or purchasers of one-day licenses in this calculation. Senior license purchasers and one-day license purchasers are unlikely to purchase lifetime licenses in appreciable numbers, and nonresidents are ineligible to hold lifetime licenses.

The department expects to realize additional revenue from the imposition of a \$100 for application for reinstatement of denied or revoked licenses and permits. Over the last three fiscal years (2005-06, 2006-07, 2007-08), an average of 1,435 license and permit restrictions have been documented and tracked by the department, with an average of 470 reinstatements per year over the same period. The department estimates that three hours per applicant for reinstatement is spent on administrative activity related to verifying compliance with court orders and criminal and civil restrictions. The anticipated annual revenue from the \$100 fee for application for reinstatement of denied or revoked licenses and permits, based on the last three years of data, is expected to be \$47,000. This total was obtained by multiplying the average number of licenses and permits reinstated per year (470) by the fee (\$100). The current cost to the department of maintaining and operating a program to track persons who are not legally permitted to buy a given license or permit is approximately \$50,000 per year; therefore, the estimated net revenue to the department will approximately offset the current cost to the department of administering the program.

Mr. Robert Macdonald, regulations coordinator, has determined that for each of the first five years the rules as proposed are in effect, the public benefit anticipated as a result of enforcing or administering the rules as proposed will be the department's ability to maintain current levels of service to its customers and constituents, and the continued ability of the department to adequately discharge its statutory obligations.

Under the provisions of Government Code, Chapter 2006, a state agency must prepare an economic impact statement and a regulatory flexibility analysis for a rule that may have an adverse economic affect on small businesses and micro-businesses. As required by Government Code, §2006.002(g), the Office of the Attorney General has prepared guidelines to assist state agencies in determining a proposed rule's potential adverse economic impact on small businesses. Those guidelines state that an agency need only consider a proposed rule's "direct adverse

economic impacts" to small businesses and micro-businesses to determine if any further analysis is required. For that purpose, the department considers "direct economic impact" to mean a requirement that would directly impose recordkeeping or reporting requirements; impose taxes or fees; result in lost sales or profits; adversely affect market competition; or require the purchase or modification of equipment or services.

The department has determined that the licenses, permits, and tags affected by the proposed amendments to §§53.2 - 53.6, 53.9, 53.10, 53.14, and 53.30 regulate various aspects of recreational license privileges that allow individual persons to pursue and harvest wildlife resources in this state and therefore do not directly affect small businesses or micro-businesses. Therefore, neither the economic impact statement nor the regulatory flexibility analysis described in Government Code, Chapter 2006, is required for the proposed amendments to those sections.

The department has determined that 71 licenses and permits affected by the proposed amendments to §§53.7, 53.8, 53.12, 53.13, 53.15, and 53.16 are or may be used as commercial licenses and that therefore the proposed amendments to those sections would or might result in direct negative economic impacts on small businesses or microbusinesses. For purposes of this analysis, the department assumes that every business affected by the proposed amendments is a small business or microbusiness.

In FY 2008, the department issued 40,222 licenses and/or permits that the department has determined are or can be used by small businesses or microbusinesses. Although in some cases a single business might need several licenses, in order to ensure that the analysis captured the maximum number of businesses that might be directly affected by the proposed rules, the department treated each license or permit as a separate business. Therefore, the department estimates that 40,222 businesses would incur a direct adverse economic impact as a result of the fee increases that affect commercial licenses. For purposes of this analysis, the department assumes that all businesses affected by the proposed rules are small- or microbusinesses. In all cases, the direct adverse economic impact consists solely of the proposed fee increase for each license or permit. Other than the fee increase, the proposed rules would not add new reporting or recordkeeping requirements; require any new professional expertise, capital costs, or costs for modification of existing processes or procedures; lead to loss of sales or profits; change market competition; or increase taxes.

The purpose of the proposed amendments is to generate additional revenue sufficient to allow the department to continue maintain current levels of service to the public. The department considered several alternatives to achieve the purpose of the rules while minimizing adverse impacts on small- and microbusinesses. The department considered leaving current fee amounts as they are; however, the department would be unable to maintain current levels of service and would be forced to reduce or eliminate programs and personnel. The department also considered the possibility of additional revenue sources, such as the proposed fee to enter a drawing for a free resident lifetime super combination hunting and fishing license package proposed in this rulemaking, but concluded that such approaches do not come close to achieving the purpose of the rule, and in fact produce additional revenue at a very modest level. Although the proposed amendment includes a proposed fee to enter a drawing for a free resident lifetime super combination hunting and fishing license package, that revenue source alone would



be insufficient to maintain current levels of service to the public. Another alternative the department considered was to restrict fee increases to recreational licenses only, but since all users--including commercial licensees and permittees--benefit from the resource management and enforcement activities provided by the department, the department concluded that not only would restricting fee increases to recreational licenses not produce the desired result of the rulemaking, which is to generate revenue sufficient to maintain current operations and services, but it would also be unfair to other users who also pay for department services.

The department has not drafted a local employment impact statement under the Administrative Procedure Act, Government Code, §2001.022, as the agency has determined that the rules as proposed will not impact local economies.

The department has determined that Government Code, §2001.0225 (Regulatory Analysis of Major Environmental Rules), does not apply to the proposed rules.

The department has determined that there will not be a taking of private real property, as defined in Government Code, Chapter 2007, as a result of the proposed rules.

Comments on the proposed rules may be submitted to Robert Macdonald, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; (512) 389-4775 (e-mail: robert.macdonald@tpwd.state.tx.us).

## **DIVISION 1. LICENSE, PERMIT, AND BOAT AND MOTOR FEES**

### **31 TAC §§53.2 - 53.17**

The amendments are proposed under the authority of Parks and Wildlife Code:

Chapter 11: §11.027, which authorizes the commission to establish a fee to cover costs associated with the review of an application for a permit required by the code; to sell any item in the possession of the department in which the state has title, or acquire and resell items if a profit can be made, to charge a fee for the use of a credit card to pay a fee assessed by the department in an amount reasonable and necessary to reimburse the department for the costs involved in the use of the card, and a fee for entering, reserving, or using a facility or property owned or managed by the department; §11.0271, which authorizes the department to establish participation fees, not to exceed \$25 per species for each participant on an application, in drawings for special hunting programs, packages, or events that exceed the costs of operating the drawing only if the fees charged are designated for use in the management and restoration efforts of the specific wildlife program implementing each special hunting program, package, or event; §11.0272, which authorizes the commission to approve participation fees, not to exceed \$25 per species or event for each participant on an application, in drawings for special fishing or other special programs, packages, or events the costs of which exceed the costs of operating the drawing only if the receipts from fees charged are designated for use in the management and restoration efforts of the specific fishery or resource program implementing each special fishing or other special program, package, or event;

Chapter 31: §31.006, which authorizes the commission to adopt rules regarding dealer's, distributor's, and manufacturer's licenses and §31.039 which authorizes the commission to charge a fee for access to ownership and other records;

Chapter 42: §42.012, which authorizes the commission to establish a fee for a resident hunting license; §42.0121, which authorizes the commission to establish a fee for a lifetime resident hunting license; §42.014, which authorizes the commission to establish a fee for a nonresident special hunting license; §42.0141, which authorizes the commission to establish a fee for a general nonresident hunting license; §42.0142, which authorizes the commission to establish a fee for banded bird hunting licenses; §42.0143, which authorizes the commission to establish a fee for a nonresident five-day special hunting license; and §42.0144, which authorizes the commission to establish a fee for a nonresident spring turkey hunting license;

Chapter 43: §43.022, which authorizes the commission to establish a fee for permits for scientific, educational, and zoological permits; §43.044, which authorizes the commission to establish a fee for hunting lease licenses; §43.0721, which authorizes the commission to establish a fee for a private bird hunting area license; §43.0722, which authorizes the commission to establish a fee for a private bird hunting area license; §43.0764, which authorizes the commission to establish a fee for a field trial permit; §43.110, which authorizes the commission to establish a fee for a permit that authorizes the management of wildlife or exotic animals by the use of aircraft; §43.554, which authorizes the commission to establish a fee for a permit to allow a licensed fish farmer to take a specified quantity of fish brood stock from specified public water; and §43.003, which authorizes the commission to establish a fee for a game breeder's license;

Chapter 45: §45.003, which authorizes the commission to establish a fee for commercial game bird breeder's licenses;

Chapter 46: §46.004, which authorizes the commission to establish fees for a resident fishing license, a nonresident fishing license, and a lifetime resident fishing license; §46.005, which authorizes the commission to establish the period of validity and a fee for resident and nonresident temporary sportfishing licenses; §46.006, which authorizes the commission to establish a fee for duplicate fishing licenses and tags; §46.007, which authorizes the commission to establish a period of validity for fishing licenses and tags; and §46.0085, which authorizes the commission to issue tags for finfish;

Chapter 47: §47.002, which authorizes the commission to establish a fee for a resident or nonresident general commercial fisherman's license; §47.003, which authorizes the commission to establish a fee for a resident or nonresident commercial finfish fisherman's license; §47.004, which authorizes the commission to establish a fee for a fishing guide license; §47.007, which authorizes the commission to establish a fee for a commercial fishing boat license; §47.009, which authorizes the commission to establish a fee for a retail fish dealer's truck license; §47.014, which authorizes the commission to establish a fee for bait dealer's licenses; and §47.075, which authorizes the commission to establish a fee for a commercial finfish fisherman's license;

Chapter 49: §49.014, which authorizes the commission to establish a fee for any falconry, raptor propagation, or nonresident trapping permit;

Chapter 50: §50.001, which authorizes the commission to establish combination licenses and packages and the fees for each;

Chapter 65: §65.003, which authorizes the commission to establish a fee for permits that govern the taking, possession, propagation, transportation, exportation, importation, sale, and offering for sale of alligators, alligator eggs, or any part of an alligator; §65.004, which authorizes the commission to establish a fee for

a resident or nonresident alligator hunter's license, a nonresident alligator hunter's license;

Chapter 66: §66.007, which authorizes the commission to establish rules governing permits to import, possess, sell, or place into water of this state exotic harmful or potentially harmful fish, shellfish, or aquatic plants; §66.017, which authorizes the commission to establish the period of validity for licenses, permits, and tags issued under the authority of Chapter 66; §66.018, which authorizes the commission to establish a fee for a crab trap tag; §66.020, which authorizes the commission to establish a fee for permits authorizing the sale and purchase of protected fish; §66.206, which authorizes the commission to establish a fee for tags for trotlines used in public salt water;

Chapter 67: §67.0041, which authorizes the commission to establish a fee for permits for the taking, possession, propagation, transportation, sale, importation, or exportation of a nongame species of fish or wildlife;

Chapter 71: §71.002, which authorizes the commission to establish a fee for a resident or nonresident trapper's license, a resident or nonresident wholesale fur dealer's license, and a fur-bearing animal propagation permit;

Chapter 76: §76.006, which authorizes the commission to establish a fee for a certificate authorizing the applicant to plant oysters and make a private oyster bed in the public water of the state; §76.017, which authorizes the commission to establish a fee for a certificate of location for a private oyster bed; §76.018, which authorizes the commission to establish the period of validity for licenses issued under authority of Chapter 76; §76.104, which authorizes the commission to establish a fee for a commercial oyster boat license, a sport oyster boat license, a commercial oyster fisherman's license, a commercial oyster boat captain's license, a commercial oyster boat license for a boat that is not numbered under Chapter 31 or does not have a certificate of documentation issued by the United States Coast Guard that lists an address in Texas for the boat owner, a sport oyster boat license for a boat that is not numbered under Chapter 31 or does not have a certificate of documentation issued by the United States Coast Guard that lists an address in Texas for the boat owner, a fee for a nonresident commercial oyster fisherman's license, and a nonresident commercial oyster boat captain's license; §76.1041, which authorizes the commission to establish requirements for the design and display of a commercial oyster boat license;

Chapter 77: which authorizes the commission to establish a fee for a resident or nonresident commercial shrimp boat captain's license issued by the department; §77.043, which authorizes the commission to establish a fee for a bait-shrimp dealer's license; and §77.048, which authorizes the commission to establish a fee for an individual bait-shrimp trawl;

Chapter 78: §78.002, which authorizes the commission to establish a fee for a resident or nonresident commercial mussel and clam fisherman's license; §78.003, which authorizes the commission to establish a fee for a resident or nonresident shell buyer's license; §78.004, which authorizes the commission to establish a fee for the export of mussels or clams or mussel or clam shells; and §78.105, which authorizes the commission to establish a fee for a crab boat license; and

Chapter 81: §81.403, which authorizes the commission to establish a fee for a permit for the hunting of wildlife or for any other use in wildlife management areas; and

Penal Code, §47.02, which provides a defense to prosecution for actions consisting entirely of participation in a drawing for the opportunity to participate in a hunting, fishing, or other recreational event conducted by the department.

The proposed amendments affect Parks and Wildlife Code, Chapters 11, 31, 42, 43, 45, 46, 47, 50, 65, 66, 67, 71, 76, 77, 78, and 81, and Penal Code, Chapter 47.

*§53.2. License Issuance Procedures, Fees, Possession, and Exemption Rules.*

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

(f) A license or permit issued under the Parks and Wildlife Code or this title that has been denied or revoked by the department may not be re-issued or reinstated unless the person applying for re-issuance or reinstatement applies to the department for re-issuance or reinstatement and pays to the department an application review fee of \$100, in addition to any other fees or penalties required by law.

*§53.3. Combination Hunting and Fishing License Packages.*

Combination hunting and fishing license packages may be priced at an amount less than the sum of the license and stamp prices of the individual licenses and stamps included in the package.

(1) Resident combination hunting and freshwater fishing package--~~\$50~~ [\$47]. Package consists of a resident hunting license, a resident fishing license and a freshwater fish stamp;

(2) Resident combination hunting and saltwater fishing package--~~\$55~~ [\$52]. Package consists of a resident hunting license, a resident fishing license, a saltwater sportfishing stamp, and a red drum tag;

(3) Resident combination hunting and "all water" fishing package--~~\$60~~ [\$57]. Package consists of a resident hunting license, a resident fishing license, a freshwater fish stamp, a saltwater sportfishing stamp, and a red drum tag;

(4) Resident senior combination hunting and freshwater fishing package--~~\$16~~ [\$15]. Package consists of a resident hunting license, a resident fishing license and a freshwater fish stamp;

(5) Resident senior combination hunting and saltwater fishing package--~~\$21~~ [\$20]. Package consists of a resident hunting license, a resident fishing license, a saltwater sportfishing stamp, and a red drum tag;

(6) Resident senior combination hunting and "all water" fishing package--~~\$26~~ [\$25]. Package consists of a resident hunting license, a resident fishing license, a freshwater fish stamp, a saltwater sportfishing stamp, and a red drum tag;

(7) Resident super combination hunting and "all water" fishing package--~~\$68~~ [\$64]. Package consists of a resident hunting license, a migratory game bird stamp, an upland game bird stamp, an archery stamp, a resident fishing license, a freshwater fish stamp, and a saltwater sportfishing stamp with a red drum tag;

(8) Resident senior super combination hunting and "all water" fishing package--~~\$32~~ [\$30]. Package consists of a resident hunting license, a migratory game bird stamp, an upland game bird stamp, an archery stamp, a resident fishing license, a freshwater fish stamp, and a saltwater sportfishing stamp with a red drum tag;

(9) Resident disabled veteran super combination hunting and "all water" fishing package--\$0. Package consists of a resident hunting license, a migratory game bird stamp, an upland game bird stamp, an archery stamp, a resident fishing license, a freshwater fish stamp, and a saltwater sportfishing stamp with a red drum tag; ~~and~~

(10) - (11) (No change.)

§53.4. *Lifetime Licenses.*

(a) Fees.

(1) lifetime resident super combination hunting and "all water" fishing package--\$1,800 [~~\$1,000~~];

(2) lifetime resident hunting--\$1,000 [~~\$600~~];

(3) lifetime resident fishing--\$1,000 [~~\$600~~];

(4) upgrade of lifetime resident hunting/fishing license to resident lifetime super [~~resident~~] combination hunting and "all-water" fishing package--\$800 [~~\$400~~]; and

(5) (No change.)

(b) (No change.)

(c) Special resident lifetime super combination hunting and "all water" fishing license package with one-year subscription to Texas Parks and Wildlife Magazine. The non-refundable application fee for an individual applying for a computer-selected drawing for a special resident lifetime super combination hunting and "all water" fishing package with one-year subscription to Texas Parks and Wildlife Magazine is \$5 per entry in the drawing. Persons 16 years of age or younger are not eligible to purchase entries in the drawing created by this subsection. A person who wins a special resident lifetime super combination hunting and "all water" fishing package may transfer the license to another person within 30 days of being notified by the department of winning. A license under this subsection is transferrable only to a Texas resident and such a transfer is permanent and final.

§53.5. *Recreational Hunting Licenses, Stamps, and Tags*

(a) Hunting licenses:

(1) resident hunting--\$25 [~~\$23~~];

(2) senior resident hunting--\$7 [~~\$6~~]. Valid for residents who are 65 years of age or older on the date of license purchase;

(3) youth hunting--\$7 [~~\$6~~]. Valid for any person under 17 years of age on the date of license purchase;

(4) (No change.)

(5) general nonresident hunting--\$315 [~~\$300~~];

(6) nonresident special hunting--\$132 [~~\$125~~];

(7) nonresident five-day special hunting--\$48 [~~\$45~~];

(8) nonresident spring turkey hunting--\$126 [~~\$120~~]; and

(9) nonresident banded bird hunting--\$27 [~~\$25~~].

(b) (No change.)

§53.6. *Recreational Fishing Licenses, Stamps, and Tags.*

(a) The items listed in this subsection are sold only as part of a package. The price and terms of these items are as follows:

(1) resident fishing license--\$25 [~~\$23~~];

(2) special resident fishing license (valid for residents who are legally blind as described in Parks and Wildlife Code, §46.004)--\$7 [~~\$6~~] (one red drum tag shall be available at no additional charge with the purchase of a special resident fishing license);

(3) senior resident fishing license (valid for residents who are 65 years of age or older on the date of license purchase)--\$7 [~~\$6~~];

(4) "year-from-purchase" resident fishing license--\$32 [~~\$30~~]. The "Year-from-purchase" resident fishing license is valid from

the date of purchase through the end of the purchase month of the subsequent year; and

(5) non-resident fishing license--\$53 [~~\$50~~].

(b) (No change.)

(c) Fishing packages and licenses. The price of any fishing package shall be the sum of the price of the individual items included in the package.

(1) resident freshwater fishing package--\$30 [~~\$28~~]. Package consists of a resident fishing license and a freshwater fish stamp;

(2) resident saltwater fishing package--\$35 [~~\$33~~]. Package consists of a resident fishing license and a saltwater sportfishing stamp with a red drum tag;

(3) resident "all water" fishing package--\$40 [~~\$38~~]. Package consists of a resident fishing license, a freshwater fishing stamp, and a saltwater sportfishing stamp with a red drum tag;

(4) senior resident freshwater fishing package--\$12 [~~\$11~~]. Package consists of a senior resident fishing license and a freshwater fishing stamp;

(5) senior resident saltwater fishing package--\$17 [~~\$16~~]. Package consists of a senior resident fishing license and a saltwater sportfishing stamp with a red drum tag;

(6) senior resident "all water" fishing package--\$22 [~~\$21~~]. Package consists of a senior resident fishing license, a freshwater fishing stamp, and a saltwater sportfishing stamp with a red drum tag;

(7) "year-from-purchase" resident "all water" fishing package--\$47 [~~\$45~~]. Package consists of a "year-from-purchase" resident fishing license, a freshwater stamp, and a saltwater sportfishing stamp with a red drum tag;

(8) resident one-day "all water" [~~all water~~] fishing license--\$11 [~~\$10~~]. One red drum tag shall be available at no additional charge with the purchase of the first one-day license only;[-]

(9) non-resident freshwater fishing package--\$58 [~~\$55~~]. Package consists of a non-resident fishing license and a freshwater fish stamp;[-]

(10) non-resident saltwater fishing package--\$63 [~~\$60~~]. Package consists of a non-resident fishing license and a saltwater sportfishing stamp with a red drum tag;[-]

(11) non-resident "all water" fishing package--\$68 [~~\$65~~]. Package consists of a non-resident fishing license, a freshwater fishing stamp, and a saltwater sportfishing stamp with a red drum tag;[-]

(12) non-resident one-day "all water" [~~all water~~] fishing license--\$16 [~~\$15~~]. One red drum tag shall be available at no additional charge with the purchase of the first one-day license only;[-]

(13) - (14) (No change.)

(d) Fishing tags:

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

(3) individual bait-shrimp trawl tag--\$37 [~~\$35~~]; and

(4) saltwater trotline tag--\$5 [~~\$4~~].

§53.7. *Furbearing Animal Licenses and Permits.*

(a) resident trapper's--\$19 [~~\$18~~];

(b) nonresident trapper's--\$315 [~~\$300~~];

(c) resident wholesale fur dealer's--\$189 [~~\$180~~];

(d) furbearing animal propagation permit--~~\$95~~ [\$90];

(e) nonresident wholesale fur dealer's--~~\$263~~ [\$250].

§53.8. *Alligator Licenses, Permits, Stamps, and Tags.*

(a) resident retail alligator dealer's permit--~~\$126~~ [\$120];

(b) nonresident retail alligator dealer's permit--~~\$504~~ [\$480];

(c) resident wholesale alligator dealer's permit--~~\$252~~ [\$240];

(d) nonresident wholesale alligator dealer's permit--~~\$1,008~~ [\$960];

(e) alligator import permit--~~\$105~~ [\$100];

(f) alligator farmer permit--~~\$252~~ [\$240];

(g) alligator nest stamp--~~\$63~~ [\$60];

(h) wild caught alligator hide tag--~~\$21~~ [\$20];

(i) farm raised alligator hide tag--~~\$5~~ [\$4];

(j) commercial wildlife management area alligator hide tag--~~\$126~~ [\$120];

(k) alligator export fee--~~\$5~~ [\$4] per alligator, except for alligators accompanied by a valid department issued hide tag; and

(l) alligator management tag--~~\$6~~ [\$5].

§53.9. *Falconry Permits.*

(a) apprentice falconer's:

(1) one-year--~~\$21~~ [\$20];

(2) two-year--~~\$42~~ [\$40]; and

(3) three-year--~~\$63~~ [\$60];

(b) general falconer's--~~\$126~~ [\$120];

(c) master falconer's--~~\$189~~ [\$180];

(d) falconer's renewal:

(1) one-year--~~\$21~~ [\$20];

(2) two-year--~~\$42~~ [\$40]; and

(3) three-year--~~\$63~~ [\$60];

(e) nonresident raptor trapper's--~~\$378~~ [\$360]; and

(f) raptor propagator permit--~~\$63~~ [\$60].

§53.10. *Public Hunting and Fishing Permits and Fees.*

(a) Hunting and access permits:

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

(3) limited public use--\$12; ~~and~~

(4) replacement limited public use--\$10; ~~and~~[-]

(5) mentored hunting permit--\$25.

(b) Special and regular permits. The following permit fee amounts apply only to persons 17 years of age and older:

(1) special permits.

(A) standard period for deer, exotic mammal, pronghorn antelope, javelina, turkey, coyote, alligator--~~\$80~~ [\$75];

(B) extended period for deer, exotic mammal, alligator, and management deer hunts on private lands leased by the department--~~\$130~~ [\$125]; and

(C) (No change.)

(2) regular (daily) permit. For squirrel, game birds (other than turkey), feral hogs, rabbits and hares--~~\$20~~ [\$15];

(c) (No change.)

(d) Competitive hunting dog field trial permit fees:

(1) 10 or less participants--~~\$105~~ [\$100] per day;

(2) 11-25 participants--~~\$210~~ [\$200] per day;

(3) 26-50 participants--~~\$315~~ [\$300] per day;

(4) 51-75 participants--~~\$420~~ [\$400] per day; and

(5) 76 or more participants--~~\$525~~ [\$500] per day.

§53.11. *Commercial Hunting Licenses and Permits.*

(a) hunting lease (less than 500 acres)--~~\$79~~ [\$75];

(b) hunting lease (more than 500 acres and less than 1,000 acres)--~~\$147~~ [\$140];

(c) hunting lease (1,000 acres or more)--~~\$252~~ [\$240];

(d) private bird hunting area--~~\$84~~ [\$80];

(e) field trial permit--~~\$63~~ [\$60];

(f) wildlife management association area hunting lease license (less than 10,000 acres)--~~\$38~~ [\$36] plus ~~\$6~~ [\$5] per participating landowner;

(g) wildlife management association area hunting lease license (between 10,000 and 50,000 acres)--~~\$76~~ [\$72] plus ~~\$6~~ [\$5] per participating landowner;

(h) wildlife management association area hunting lease license (over 50,000 acres)--~~\$152~~ [\$144] plus ~~\$6~~ [\$5] per participating landowner.

§53.12. *Commercial Fishing Licenses and Tags.*

(a) Shrimping licenses. The fee amounts prescribed in paragraph (1) of this subsection reflect the total fee paid by the purchaser and include the surcharges established in paragraph (2) of this subsection, if applicable.[-]

(1) Licenses:

(A) resident commercial gulf shrimp boat--~~\$495~~ [\$450];

(B) resident commercial bay shrimp boat--~~\$382.80~~ [\$348];

(C) resident commercial bait-shrimp boat--~~\$366~~ [\$348];

(D) resident commercial shrimp boat captain's--~~\$50~~ [\$30];

(E) nonresident commercial gulf shrimp boat--~~\$1,485~~ [\$1,350];

(F) nonresident commercial bay shrimp boat--~~\$825~~ [\$750];

(G) nonresident commercial bait-shrimp boat--~~\$788~~ [\$750]; and

(H) nonresident commercial shrimp boat captain's--~~\$126~~ [\$120].

(2) (No change.)

(3) License transfers:

(A) Transfers between living persons.

- (i) - (ii) (No change.)
- (iii) resident commercial bait-shrimp boat license transfer--\$366 [~~\$348~~];
- (iv) - (v) (No change.)
- (vi) nonresident commercial bait-shrimp boat license transfer--\$788 [~~\$750~~].
- (B) (No change.)
- (4) (No change.)
- (b) Oystering licenses.
  - (1) Licenses:
    - (A) resident commercial oyster boat--\$441 [~~\$420~~];
    - (B) resident sport oyster boat--\$13 [~~\$12~~];
    - (C) resident commercial oyster boat captain's--\$32 [~~\$30~~];
    - (D) resident commercial oyster fisherman's--\$126 [~~\$120~~];
    - (E) nonresident commercial oyster boat--\$1,764 [~~\$1,680~~];
    - (F) nonresident sport oyster boat--\$51 [~~\$48~~];
    - (G) nonresident commercial oyster boat captain's--\$126 [~~\$120~~]; and
    - (H) nonresident commercial oyster fisherman's--\$315 [~~\$300~~].
  - (2) - (3) (No change.)
  - (c) General, finfish, menhaden, mussel, clam, and miscellaneous licenses.
    - (1) Licenses and permits.
      - (A) commercial fishing boat (required for any boat used in taking aquatic products (except menhaden, oysters, crabs and shrimp) from state waters or unloading aquatic products in Texas taken from outside state waters for commercial purposes); [~~\$25~~];
        - (i) resident--\$27; and
        - (ii) nonresident--\$100.
      - (B) - (C) (No change.)
      - (D) resident general commercial fisherman's--\$26 [~~\$24~~];
      - (E) resident commercial mussel and clam fisherman's--\$38 [~~\$36~~];
      - (F) resident shell buyer's--\$126 [~~\$120~~];
      - (G) nonresident general commercial fisherman's--\$189 [~~\$180~~];
      - (H) nonresident commercial mussel and clam fisherman's--\$1,008 [~~\$960~~];
        - (I) nonresident shell buyer's--\$1,890 [~~\$1,800~~];
        - (J) - (L) (No change.)
    - (2) - (3) (No change.)
  - (d) Crab licenses.
    - (1) Licenses and permits.

- (A) resident commercial crab fisherman's--\$630 [~~\$600~~]; and
  - (B) nonresident commercial crab fisherman's--\$2,520 [~~\$2,400~~].
  - (2) License transfers.
    - (A) Transfers between living persons.
      - (i) resident commercial crab fisherman's--\$630 [~~\$600~~]; and
      - (ii) nonresident commercial crab fisherman's--\$2,520 [~~\$2,400~~].
    - (B) (No change.)
    - (3) (No change.)
    - (e) (No change.)
- §53.13. *Business Licenses [License] and Permits (Fishing).*
- (a) Licenses. The fee amounts prescribed in paragraphs (1) - (4) of this subsection reflect the total fee paid by the purchaser and include the surcharges established in subsection (b) of this section.
    - (1) retail fish dealer's--\$92.40 [~~\$84~~];
    - (2) retail fish dealer's truck--\$171.60 [~~\$156~~];
    - (3) wholesale fish dealer's--\$825 [~~\$750~~];
    - (4) wholesale fish dealer's truck--\$590 [~~\$510~~];
    - (5) bait dealer's--individual--\$38 [~~\$36~~];
    - (6) bait dealer-place of business/building--\$38 [~~\$36~~];
    - (7) bait dealer-place of business/motor vehicle--\$38 [~~\$36~~];
    - (8) bait shrimp dealer's--\$215 [~~\$204~~];
    - (9) finfish import--\$95 [~~\$90~~];
    - (10) freshwater fishing guide (required for residents or nonresidents who operate a boat for anything of value in transporting or accompanying anyone who is fishing in freshwater of this state)--\$132 [~~\$125~~];
    - (11) resident all-water fishing guide--\$210 [~~\$200~~]; and
    - (12) non-resident all-water fishing guide--\$1,050 [~~\$1,000~~].
  - (b) - (c) (No change.)
- §53.14. *Deer Management and Removal Permits.*
- (a) Deer breeding and related permits. ~~Deer [Scientific] breeder's and deer [scientific] breeder's renewal--\$400.~~
  - ~~{(b) Trap, transport and transplant permit application fees:}~~
    - ~~{(1) nonrefundable application processing fee--\$750 per release site; and}~~
    - ~~{(2) nonrefundable application processing fee for amendment to existing permit--\$30. If the amendment includes additional release sites, the fee prescribed by paragraph (1) of this subsection shall be imposed for each additional release site.}~~
  - (b) ~~{(e)}~~ Urban white-tailed deer removal permit:
    - (1) nonrefundable application processing fee--\$750; and
    - (2) nonrefundable application processing fee for amendment to existing permit--\$30. If the amendment includes additional release sites, the fee prescribed by paragraph (1) of this subsection shall be imposed for each additional release site.

(c) ~~[(d)]~~ Deer management permit and renewal--\$1,000.

(d) ~~[(e)]~~ Antlerless and spike buck deer control permit application processing fee--\$378 [~~\$360~~].

§53.15. *Miscellaneous Fisheries and Wildlife Licenses and Permits.*

(a) Trap, transport and transplant permit application fees:

(1) nonrefundable application processing fee--\$750 per release site; and

(2) nonrefundable application processing fee for amendment to existing permit--\$30. If the amendment includes additional release sites, the fee prescribed by paragraph (1) of this subsection shall be imposed for each additional release site.

(b) ~~[(a)]~~ Game bird and animal breeding licenses:

(1) game animal breeder's--\$79 [~~\$75~~];

(2) class 1 commercial game bird breeder's--\$189 [~~\$180~~];

and

(3) class 2 commercial game bird breeder's--\$27 [~~\$25~~].

(c) ~~[(b)]~~ Commercial nongame permits:

(1) resident nongame permit--\$19 [~~\$18~~];

(2) nonresident nongame permit--\$63 [~~\$60~~];

(3) resident nongame dealer permit--\$63 [~~\$60~~];

(4) nonresident nongame dealer permit--\$252 [~~\$240~~];

(5) nongame species sales permit--\$210 [~~\$200~~]; and

(6) nongame species sales permit renewal--\$210 [~~\$200~~].

(d) ~~[(e)]~~ Zoological collection permit application--\$158 [~~\$150~~];

(e) ~~[(d)]~~ Scientific research permit application--\$53 [~~\$50~~];

(f) ~~[(e)]~~ Educational display permit application--\$53; [~~\$50~~]

(g) ~~[(f)]~~ Exotic Species (fish, shellfish and aquatic plants):

(1) exotic species permit fee for new, renewed or amended application requiring facility inspection--\$263 [~~\$250~~];

(2) exotic species permit fee for renewed or amended application not requiring facility inspection--\$27 [~~\$25~~];

(3) exotic species permit fee for renewal application received more than one year after renewal date--\$263; [~~\$250~~]

(4) triploid grass carp permit application fee--\$16 [~~\$15~~], plus \$2 per triploid grass carp requested;

(5) exotic species interstate transport permit application fee--individual--\$27 [~~\$25~~];

(6) exotic species interstate transport permit application fee--annual--\$105 [~~\$100~~].

(h) ~~[(g)]~~ Miscellaneous fees:

(1) commercial plant permit--\$50;

(2) aerial management permit--\$210 [~~\$200~~];

(3) broodfish permit application--\$25;

(4) permit to introduce fish, shellfish, or aquatic plants--no fee;

(5) offshore aquaculture permit or renewal--\$1,575 [~~\$1,500~~];

(6) oyster lease application--\$200;

(7) oyster lease rental--\$6 per acre of location per year;

(8) oyster lease renewal/transfer/sale--\$200; and

(9) double-crested cormorant control permit--\$13 [~~\$12~~].

§53.16. *Vessel, Motor, and Marine Licensing Fees.*

(a) Registration fees. After the initial registration of a vessel, the vessel may be registered electronically by credit card by agreeing to pay an applicable credit card handling or convenience fee in addition to the normal registration fee.[:]

(1) livery vessel-Class A--\$32 [~~\$30~~];

(2) vessel-Class A--\$32 [~~\$30~~];

(3) vessel-Class 1--\$53 [~~\$50~~];

(4) vessel-Class 2--\$110 [~~\$70~~];

(5) vessel-Class 3--\$200. [~~\$90~~]

(b) Titling fees:

(1) certificate of title--\$27 [~~\$25~~];

(2) administrative surcharge for expedited title to a vessel (in addition to applicable fee)--\$37 [~~\$35~~];

(3) administrative surcharge for expedited title to a motor (in addition to applicable fee)--\$37 [~~\$35~~]; and

(4) bonded certificate of title--\$37 [~~\$35~~].

(c) Duplicate/transfer fees:

(1) vessel-transfer of ownership--\$11 [~~\$10~~];

(2) vessel-duplicate certificate of number--\$11 [~~\$10~~];

(3) vessel-duplicate decals--\$11 [~~\$10~~].

(d) Marine dealer/distributor/manufacture fees:

~~[(1) marine dealer manufacturer number (effective until February 29, 2004)--\$130;]~~

(1) ~~[(2)]~~ marine dealer, distributor or manufacturer license (includes licensee validation card (with decal) for recreational purposes or participation in contests or events)--\$525 [~~\$500~~];

(2) ~~[(3)]~~ marine dealer, distributor or manufacturer ownership transfer of license--\$525 [~~\$500~~];

(3) ~~[(4)]~~ marine dealer, distributor or manufacturer location transfer--\$11 [~~\$10~~];

(4) ~~[(5)]~~ marine dealer, distributor or manufacturer information update/license correction--\$4; [~~\$3~~]

(5) additional marine dealer, manufacturer, or distributor's licensee validation card (with decal) for recreational purposes or participation in contests or events--\$126; and

(6) replacement card marine dealer, manufacturer, or distributor's licensee validation card (with decal)--\$11.

(e) Report fees:

(1) certified history report of ownership for vessel or outboard motor--\$11 [~~\$10~~];

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

(f) Party boat fees:

(1) annual party boat inspection--~~\$132~~ [~~\$125~~] (if the inspection is performed by a department-approved entity, \$60 may be retained by the inspecting entity);

(2) initial application for party boat operator license--~~\$132~~ [~~\$125~~];

(3) party boat operator license renewal application--~~\$53~~ [~~\$50~~];

(4) replacement party boat operator license to for lost, damaged, destroyed, or stolen license--~~\$53~~ [~~\$50~~].

§53.17. *Miscellaneous Fees.*

(a) (No change.)

(b) Controlled exotic snake permits:

(1) recreational--\$20; and

(2) commercial--\$60. [~~and~~]

~~[(c) mentored hunting permit--\$25.]~~

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

Filed with the Office of the Secretary of State on April 13, 2009.

TRD-200901401

Ann Bright

General Counsel

Texas Parks and Wildlife Department

Earliest possible date of adoption: May 24, 2009

For further information, please call: (512) 389-4775



**31 TAC §53.18**

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

The repeal is proposed under Parks and Wildlife Code, Parks and Wildlife Code, §11.027, which authorizes the commission to establish and provide for the collection of a fee to cover costs associated with the review of an application for a permit required by the code, and to set and charge a fee for the use of a credit card to pay a fee assessed by the department in an amount reasonable and necessary to reimburse the department for the costs involved in the use of the card; and under Parks and Wildlife Code, §31.0412, which authorizes the commission to establish rules concerning the issuance and price of validation cards permitting the limited and temporary use of vessels for recreational purposes or participation in contests or events and to adopt rules regarding dealer's, distributor's, and manufacturer's licenses, including application forms, application and renewal procedures, and reporting and recordkeeping requirements.

The proposed repeal affects Parks and Wildlife Code, Chapters 11 and 31.

§53.18. *Other Fees.*

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

Filed with the Office of the Secretary of State on April 13, 2009.

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Ann Bright

General Counsel

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For further information, please call: (512) 389-4775



**DIVISION 2. FACILITY ADMISSION AND USE FEES**

**31 TAC §53.30**

The amendment is proposed under Parks and Wildlife Code, §11.027, which authorizes the commission to establish and provide for the collection of a fee for entering, reserving, or using a facility or property owned or managed by the department.

The proposed amendment affects Parks and Wildlife Code, Chapter 11.

§53.30. *Facility Admission and Use Fees.*

As determined and authorized by the executive director, the department may charge entrance and facility use fees within the ranges established or the amounts specified in this section.

(1) Texas Freshwater Fisheries Center.

(A) Entry fees. [~~The department may charge entrance fees, not to exceed \$6 for daily entrance, and \$15 for an annual pass.~~]

(i) daily entrance fee--\$0 to \$6; and

(ii) annual pass--\$0 to \$15.

(B) - (C) (No change.)

(2) - (5) (No change.)

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

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**CHAPTER 65. WILDLIFE  
SUBCHAPTER A. STATEWIDE HUNTING  
AND FISHING PROCLAMATION  
DIVISION 1. GENERAL PROVISIONS**

**31 TAC §65.10**

The Texas Parks and Wildlife Department proposes an amendment to §65.10, concerning Possession of Wildlife Resources. The proposed amendment would modify the current tagging and documentation requirements for deer and antelope. Under Parks and Wildlife Code, §42.018, a deer or antelope carcass must remain tagged until it reaches a final destination and is finally processed; however, this provision may be modified or

eliminated by commission rule. Under Parks and Wildlife Code, §42.0177, the commission may modify or eliminate the tagging requirements established in Parks and Wildlife Code, §42.018.

Parks and Wildlife Code, §42.001 defines "carcass" as "the body of a dead deer or antelope . . . that has not been processed more than by quartering;" "final destination" as a person's permanent residence or a cold storage or processing facility; "final processing" as the processing of a carcass more than by quartering; and "quartering" as "the processing of an animal into not more than two hindquarters each having the leg bone attached to the hock and two forequarters each having the leg portion to the knee attached to the shoulder blade. The term also includes removal of two back straps and trimmings from the neck and rib cage."

The department has become aware that the practice of freezing an entire bone-in quarter for later consumption is technically problematic, because under the current law, tagging requirements remain in effect until the carcass has been processed "beyond quartering," which means, among other things, the removal of bones. Therefore, a quarter with the bone still in it must remain tagged. Also problematic is the requirement to maintain tagging or documentation after a deer has reached a cold storage or processing facility where the pertinent information is recorded in a cold-storage record book. In order to remedy these anomalies the proposed amendment would modify the statutory tagging requirements to provide that the tagging and documentation requirements for a carcass cease when the carcass is at a final destination other than a cold storage or processing facility that is required to maintain a record book under the provisions of Parks and Wildlife Code, §62.029 and the forequarters, hindquarters, and back straps have been completely severed from the carcass. For a cold storage or processing facility required to maintain a record book under the provisions of Parks and Wildlife Code, §62.029, tagging requirements would cease when the forequarters, hindquarters, and back straps have been completely severed from the carcass and the information required by Parks and Wildlife Code, §62.029 has been entered into the required record book.

Mr. Clayton Wolf, Big Game Program Director, has determined that for each of the first five years that the rule as proposed is in effect, there will be no fiscal implications to state or local government as a result of enforcement or administration of the rule.

Mr. Wolf also has determined that for each of the first five years the rule as proposed is in effect, the public benefit anticipated as a result of enforcing or administering the rule as proposed will be rules that facilitate compliance and enforcement.

Under the provisions of Government Code, Chapter 2006, a state agency must prepare an economic impact statement and a regulatory flexibility analysis for a rule that may have an adverse economic effect on small businesses and micro-businesses. The department has determined that there will be no direct economic effect on small or micro-businesses or persons required to comply as a result of the proposed rule. The rule would not compel or mandate any action on the part of any entity, including small businesses or microbusinesses. In particular, the proposed rule would not add new reporting or recordkeeping requirements; require any new professional expertise, capital costs, or costs for modification of existing processes or procedures; lead to loss of sales or profits; change market competition; or increase taxes or fees. Accordingly, the department has not prepared a regulatory flexibility analysis under Government Code, Chapter 2006.

The department has not drafted a local employment impact statement under the Administrative Procedures Act, §2001.022, as the agency has determined that the rule as proposed will not impact local economies.

The department has determined that Government Code, §2001.0225 (Regulatory Analysis of Major Environmental Rules), does not apply to the proposed rule.

The department has determined that there will not be a taking of private real property, as defined by Government Code, Chapter 2007, as a result of the proposed rules.

Comments on the proposed rule may be submitted to Clayton Wolf, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; (512) 389-4568 (e-mail: clayton.wolf@tpwd.state.tx.us).

The amendment is proposed under the authority of Parks and Wildlife Code, §42.0188, which authorizes the commission to modify or eliminate the tagging requirements of Parks and Wildlife Code, §42.018.

The proposed amendment affects Parks and Wildlife Code, Chapter 42.

*§65.10. Possession of Wildlife Resources.*

(a) For all wildlife resources taken for personal consumption and for which there is a possession limit, the possession limit shall not apply after the wildlife resource has reached the possessor's permanent residence and is finally processed.

(b) Under authority of Parks and Wildlife Code, §42.0177, the tagging requirements of Parks and Wildlife Code, §42.018, are modified as follows.

(1) At a final destination other than a cold storage or processing facility required to maintain a cold storage record book under the provisions of Parks and Wildlife Code, §62.029, tagging requirements for a carcass cease when the forequarters, hindquarters, and back straps have been completely severed from the carcass.

(2) At a cold storage or processing facility required to maintain a cold storage record book under the provisions of Parks and Wildlife Code, §62.029, tagging requirements for a carcass cease when:

(A) the forequarters, hindquarters, and back straps have been completely severed from the carcass; and

(B) the information required under Parks and Wildlife Code, §62.029, has been entered into the cold storage record book that the cold storage or processing facility is required to maintain.

(3) The provisions of this subsection do not modify or eliminate any requirement of this subchapter or the Parks and Wildlife Code applicable to a carcass before it is at a final destination.

(c) ~~[(b)]~~ A person who lawfully takes a deer is exempt from the tagging requirements of Parks and Wildlife Code, §42.018 if the deer is taken:

(1) under the provisions of §65.26 of this title (relating to Managed Lands Deer Permits (MLDP)--White-tailed Deer);

(2) under the provisions of §65.34 of this title (relating to Managed Lands Deer Permits (MLDP)--Mule Deer);

(3) under the provisions of §65.28 of this title (relating to Landowner Assisted Management Permits (LAMPS));

(4) under an antlerless mule deer permit issued under §65.32 of this title (relating to Antlerless Mule Deer Permits);



(5) by special permit under the provisions of Subchapter H of this chapter (relating to Public Lands Proclamation);

(6) on department-leased lands under the provisions of Parks and Wildlife Code, §11.0271;

(7) by special antlerless permit issued by the U.S. Forest Service (USFS) for use on USFS lands that are part of the department's public hunting program; or

(8) under the provisions of §65.27 of this title (relating to Antlerless and Spike-Buck Deer Control Permits).

(d) [(e)] A person who kills a bird or animal under circumstances that require the bird or animal to be tagged with a tag from the person's hunting license shall immediately attach a properly executed tag to the bird or animal.

(e) Proof of sex for deer and antelope must remain with the carcass until tagging requirements cease.

(1) Proof of sex for deer consists of:

(A) buck: the head, with antlers still attached; and

(B) antlerless: the head.

(2) Proof of sex for antelope consists of the unskinned head.

(f) [(d)] In a county where the bag composition for turkey is restricted to gobblers and/or bearded hens, proof [Proof] of sex must remain with a turkey until it [certain wildlife resources until the wildlife resource] reaches either the possessor's permanent residence or a cold storage/processing facility and is finally processed. Proof of sex for turkey is as follows:

[(1) turkey (in a county where the bag composition is restricted to gobblers and/or bearded hens):]

(1) [(A)] male turkey:

(A) [(i)] one leg, including the spur, attached to the bird; or

(B) [(ii)] the bird, accompanied by a patch of skin with breast feathers and beard attached.

(2) [(B)] female turkey taken during the fall season: the bird, accompanied by a patch of skin with breast feathers and beard attached.

[(2) deer:]

[(A) buck: the head, with antlers still attached;]

[(B) antlerless: the head;]

[(3) antelope: the unskinned head; and]

(g) [(4)] Proof of sex for pheasant consists of: one leg, including the spur, attached to the bird or the entire plumage attached to the bird.

(h) [(e)] No additional proof of sex is required for a deer that is lawfully tagged in accordance with:

(1) the provisions of §65.26 of this title;

(2) the provisions of §65.34 of this title;

(3) the provisions of §65.28 of this title;

(4) the provisions of §65.32 of this title;

(5) on department-leased lands under the provisions of Parks and Wildlife Code, §11.0271; or

(6) under the provisions of §65.27 of this title [(relating to Antlerless and Spike-Buck Deer Control Permits)].

(i) [(f)] In lieu of proof of sex, the person who killed the wildlife resource may:

(1) obtain a receipt from a taxidermist or a signed statement from the landowner, containing the following information:

(A) the name of person who killed the wildlife resource;

(B) the date the wildlife resource was killed;

(C) one of the following, as applicable:

(i) whether the deer was antlered or antlerless;

(ii) the sex of the antelope;

(iii) the sex of the turkey and whether a beard was attached; or

(iv) the sex of the pheasant; or

(2) if the deer is to be tested by the department for chronic wasting disease, obtain a department-issued receipt (PWD 905).

(j) [(g)] A person may give, leave, receive, or possess any species of legally taken wildlife resource, or a part of the resource, that is required to have a tag or permit attached or is protected by a bag or possession limit, if the wildlife resource is accompanied by a wildlife resource document from the person who killed or caught the wildlife resource. A wildlife resource may be possessed without a WRD by the person who took the wildlife resource, provided the person is in compliance with all other applicable provisions of this subchapter and the Parks and Wildlife Code.

(1) For deer and antelope, a properly executed wildlife resource document shall accompany the carcass or part of a carcass until tagging requirements cease.

(2) [(1)] For [deer,] turkey[, or antelope], a properly executed wildlife resource document shall accompany the wildlife resource until it reaches either the possessor's permanent residence or a cold storage/processing facility and is finally processed.

(3) [(2)] For all other wildlife resources, a properly executed wildlife resource document shall accompany the wildlife resource until it reaches the possessor's permanent residence and is finally processed.

(4) [(3)] The wildlife resource document must contain the following information:

(A) the name, signature, address, and hunting or fishing license number, as required, of the person who killed or caught the wildlife resource;

(B) the name of the person receiving the wildlife resource;

(C) a description of the wildlife resource (number and type of species or parts);

(D) the date the wildlife resource was killed or caught; and

(E) the location where the wildlife resource was killed or caught (name of ranch; area; lake, bay or stream; and county).

(5) [(4)] A taxidermist who accepts a deer or turkey shall retain the wildlife resource document or tag accompanying each deer or turkey for a period of two years following the return of the resource to the owner or the sale of the resource under the provisions of Parks and Wildlife Code, §62.023.

(k) [(H)] It is a defense to prosecution if the person receiving the wildlife resource does not exceed any possession limit or possesses a wildlife resource or a part of a wildlife resource that is required to be tagged if the wildlife resource or part of the wildlife resource is tagged.

(l) [(I)] The identification requirements for desert bighorn sheep skulls are as follows.

(1) No person may possess the skull of a desert bighorn ram in this state unless:

(A) one horn has been marked with a department identification plug by a department representative; or

(B) the person also possesses evidence of lawful take in the state or country where the ram was killed.

(2) A person may possess the skull and horns of a desert bighorn ram found dead in the wild, provided:

(A) the person did not cause or participate in the death of the ram;

(B) the person notifies a department biologist or game warden within 48 hours of discovering the dead ram and arranges for marking with a department identification plug by a department representative; and

(C) the landowner on whose property the skull was found signs an affidavit prior to the time the skull is marked that attests the place and date that the person discovered the ram.

(3) Individual horns may be possessed without any identification or documentation.

(4) This subsection does not apply to skulls possessed prior to July 11, 2004.

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

Filed with the Office of the Secretary of State on April 13, 2009.

TRD-200901404

Ann Bright

General Counsel

Texas Parks and Wildlife Department

Earliest possible date of adoption: May 24, 2009

For further information, please call: (512) 389-4775



## SUBCHAPTER N. MIGRATORY GAME BIRD PROCLAMATION

### 31 TAC §§65.314, 65.315, 65.319

The Texas Parks and Wildlife Department (the department) proposes amendments to §§65.314, 65.315, and 65.319, concerning the Early Season Migratory Game Bird Proclamation.

The proposed amendment to §65.314, concerning Zones and Boundaries for Early Season Species, would alter the boundary of the Special White-Winged Dove Area (SWWDA) by removing portions of Jim Hogg and Starr counties. The area proposed for removal from the SWWDA is characterized by low-quality white-winged dove habitat and the department believes that under the standard South Zone season dates there would be increased opportunity for dove hunting. Although the SWWDA is part of the South Zone, the season within the SWWDA ends

four days earlier than the rest of the South Zone because of the four-day special white-winged season the first two weekends of September.

The proposed amendment to §65.315, concerning Open Seasons and Bag and Possession Limits--Early Season, would implement a statewide 70-day season with a 15-bird bag limit, pending approval by the U.S. Fish and Wildlife Service (Service), and would allow for a Friday opening day every year, but no earlier than September 17th, no matter which day of the week September 20 (the earliest the federal frameworks allow hunting in the South Zone, except for four half-days of hunting in the SWWDA) falls on.

Texas is divided into three dove zones (North, Central, and South). Historically the Service has offered Texas the option of a 70-day season with a 12-bird bag limit or a 60-day season with a 15-bird bag limit in each zone, to begin no earlier than September 1 in the North and Central zones, and no earlier than September 20 in the South Zone. The Service is implementing the Adaptive Harvest Management (AHM) model for dove management. AHM was originally developed for waterfowl populations, and is a systematic process for dealing objectively with inherent uncertainties in measuring, evaluating, and predicting the additive effect of such variables as environmental variation, harvest strategies and success, and the limited ability to detect total population impacts from year to year. One of the conclusions made by waterfowl managers was that regulatory alternatives within each flyway should be limited and specific. Thus, the Service is contemplating the implementation of a single season length and a single bag limit in Texas, with the department retaining the ability to allocate those days within the frameworks established by the Service (September 1 and January 25 in the north and central zones, and between the Saturday closest to September 17 and January 25 in the South Zone).

The proposed amendment to §65.315 also would adjust the season dates for early-season species of migratory game birds to account for calendar-shift (i.e., to ensure that seasons open on the desired day of the week, since dates from a previous year do not fall on the same days in following years). The proposed amendment retains the basic season structure from previous years, except that the North Zone, which has historically had a continuous 60-day season, would have a 70-day season split into two segments, identical to the proposed season structure in the Central Zone. Although the department has the authority to adjust the lengths of the fall and winter segments in each zone (within the current federal frameworks), the department believes that it is prudent this year to establish season structures that are consistent with those in previous years, because many landowners, outfitters, and hunters have already scheduled hunts and the department does not wish to disrupt those plans. However, the department intends to conduct extensive outreach and survey efforts over the summer to determine hunter, landowner, and outfitter preferences for future segment length determinations.

In the South Zone, the Service has historically allowed no dove hunting prior to September 20 (except for four days of half-day hunting in the SWWDA). This has resulted in the cyclical occurrence of opening day on days other than Friday or Saturday, which hunter and landowner surveys have shown are the preferred choices for opening days. The Service has tentatively approved allowing the department to open the South Zone on the Friday nearest September 20, but no earlier than the 17th, which will allow the department to open the dove season every year on

the Friday closest to September 20. Hunter, landowner, and outfitter preferences for future opening days will also be addressed by the department's survey efforts over the summer.

The proposed amendment to §65.315 also would implement a 16-day statewide teal season to run from September 12 - 27, 2009, which must be approved by the Service before it can be implemented. If the Service does not approve a 16-day season, the department proposes to adopt a 9-day season to run September 19 - 27, 2009. The department cautions that the federal frameworks could close the season on teal if population data warrant. By federal law, the number of days in the September teal season count against the 107 days of total hunting opportunity allowed for ducks, coots, and mergansers.

The proposed amendment to §65.319, concerning Extended Falconry Season--Early Season Species, adjusts season dates for the take of early-season species of migratory game birds by means of falconry to reflect calendar shift.

The proposed amendments are generally necessary to implement commission policy to provide the greatest hunter opportunity possible, consistent with hunter and landowner preference for starting dates and segment lengths, under frameworks issued by the Service. The Service has not issued regulatory frameworks for the 2009-2010 hunting seasons for migratory game birds; thus, the department cautions that the proposed regulations are tentative and may change significantly, depending on federal actions prior to the release of the early-season frameworks in late June. However, it is the policy of the commission to adopt the most liberal provisions possible, consistent with hunter preference, under the frameworks in order to provide maximum hunter opportunity.

Robert Macdonald, regulations coordinator, has determined that for the first five years that the amendments as proposed are in effect, there will be no additional fiscal implications to state or local governments of enforcing or administering the rules as proposed.

Mr. Macdonald also has determined that for each of the first five years the proposed rules are in effect, the public benefit anticipated as a result of enforcing the rules as proposed will be the department's discharge of its statutory obligation to manage and conserve the state's populations of migratory game birds for the use and enjoyment of the public, consistent with the principles of sound biological management.

Under the provisions of Government Code, Chapter 2006, a state agency must prepare an economic impact statement and a regulatory flexibility analysis for a rule that may have an adverse economic effect on small businesses and micro-businesses. As required by Government Code, §2006.002(g), the Office of the Attorney General has prepared guidelines to assist state agencies in determining a proposed rule's potential adverse economic impact on small businesses. Those guidelines state that an agency need only consider a proposed rule's "direct adverse economic impacts" to small businesses and micro-businesses to determine if any further analysis is required. The department considers "direct economic impact" to mean a requirement that would directly impose recordkeeping or reporting requirements; impose taxes or fees; result in lost sales or profits; adversely affect market competition; or require the purchase or modification of equipment or services.

The department has determined that the proposed rules regulate various aspects of recreational license privileges that allow individual persons to pursue and harvest migratory game

bird resources in this state and therefore do not directly affect small businesses or micro-businesses. Therefore, neither the economic impact statement nor the regulatory flexibility analysis described in Government Code, Chapter 2006, is required.

There also will be no adverse economic effect on persons required to comply with the rules as proposed.

The department has not filed a local impact statement with the Texas Workforce Commission as required by Government Code, §2001.022, as the department has determined that the rules as proposed will not impact local economies.

The department has determined that there will not be a taking of private real property, as defined by Government Code, Chapter 2008, as a result of the proposed rules.

Comments on the proposed rules may be submitted to Robert Macdonald, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; (512) 389-4775 or 1-800-792-1112 (e-mail: robert.macdonald@tpwd.state.tx.us).

The amendments are proposed under Parks and Wildlife Code, Chapter 64, which authorizes the Commission and the Executive Director to provide the open season and means, methods, and devices for the hunting and possessing of migratory game birds.

The proposed amendments affect Parks and Wildlife Code, Chapter 64.

*§65.314. Zones and Boundaries for Early Season Species.*

(a) (No change.)

(b) Mourning and white-winged doves.

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

(4) Special white-winged dove area: That portion of the state south and west of a line beginning at the International Toll Bridge in Del Rio; thence northeast along U.S. Highway 277 Spur to U.S. Highway 90 in Del Rio; thence east along U.S. Highway 90 to State Loop 1604; thence along Loop 1604 south and east to Interstate Highway 35, thence south along Interstate Highway 35 to State Highway 44; thence east along State Highway 44 to State Highway 16 at Freer; thence south along State Highway 16 to Randado; thence south on FM 649 to FM 2686; thence east on FM 2686 to FM 1017; [State Highway 285 at Hebbroville; thence east along State Highway 285 to FM 1017;] thence southeast along FM 1017 to State Highway 186 at Linn; thence east along State Highway 186 to the Mansfield Channel at Port Mansfield; thence east along the Mansfield Channel to the Gulf of Mexico.

(c) - (f) (No change.)

*§65.315. Open Seasons and Bag and Possession Limits--Early Season.*

(a) Rails.

(1) Dates: September 12 - 27, 2009 and October 31 - December 23, 2009 [September 13 - 28, 2008 and November 1 - December 24, 2008].

(2) (No change.)

(b) Dove seasons.

(1) North Zone.

(A) Dates: September 1 - October 25, 2009 and December 26, 2009 - January 9, 2010 [September 1 - October 30, 2008].

(B) - (C) (No change.)

(2) Central Zone.

(A) Dates: September 1 - October 25, 2009 and December 26, 2009 - January 9, 2010 [~~September 1 - October 30, 2008 and December 26, 2008 - January 4, 2009~~].

(B) Daily bag limit: 15 [42] mourning doves, white-winged doves, and white-tipped (white-fronted) doves in the aggregate, including no more than two white-tipped doves per day;

(C) Possession limit: 30 [24] mourning doves, white-winged doves, and white-tipped doves in the aggregate, including no more than four white-tipped doves in possession.

(3) South Zone.

(A) Dates: Except in the special white-winged dove area as defined in §65.314 of this title (relating to Zones and Boundaries for Early Season Species), September 18 - November 3, 2009 and December 26, 2009 - January 17, 2010 [~~September 20 - November 9, 2008 and December 26, 2008 - January 13, 2009~~].

(B) Daily bag limit: 15 [42] mourning doves, white-winged doves, and white-tipped (white-fronted) doves in the aggregate, including no more than two white-tipped doves per day;

(C) Possession limit: 30 [24] mourning doves, white-winged doves, and white-tipped doves in the aggregate, including no more than four white-tipped doves in possession.

(4) Special white-winged dove area.

(A) Dates: September 5, 6, 12, and 13, 2009 [~~September 6, 7, 13, and 14, 2008~~].

(i) Daily bag limit: 15 [42] white-winged doves, mourning doves, and white-tipped (white-fronted) doves, in the aggregate to include no more than four mourning doves and two white-tipped doves per day;

(ii) Possession limit: 30 [24] white-winged doves, mourning doves, and white-tipped doves in the aggregate to include no more than eight mourning doves and four white-tipped doves in possession.

(B) Dates: September 18 - November 3, 2009 and December 26, 2009 - January 13, 2010 [~~September 20 - November 9, 2008 and December 26, 2008 - January 9, 2009~~].

(i) Daily bag limit: 15 [42] white-winged doves, mourning doves, and white-tipped (white-fronted) doves, in the aggregate to include no more than two white-tipped doves per day;

(ii) Possession limit: 30 [24] white-winged doves, mourning doves, and white-tipped doves in the aggregate to include no more than four white-tipped doves in possession.

(c) Gallinules.

(1) Dates: September 12 - 27, 2009 and October 31 - December 23, 2009 [~~September 13 - 28, 2008 and November 1 - December 24, 2008~~].

(2) (No change.)

(d) September teal-only season.

(1) Dates: September 12 - 27, 2009 [~~September 13 - 28, 2008~~].

(2) (No change.)

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

(g) Woodcock: December 18, 2009 - January 31, 2010 [~~December 18, 2008 - January 31, 2009~~]. The daily bag limit is three. The possession limit is six.

(h) Wilson's snipe (Common snipe): October 31, 2009 - February 14, 2010 [~~November 1, 2008 - February 15, 2009~~]. The daily bag limit is eight. The possession limit is 16.

§65.319. *Extended Falconry Season--Early Season Species.*

(a) It is lawful to take the species of migratory birds listed in this section by means of falconry during the following Extended Falconry Seasons:

(1) mourning doves and white-winged doves: November 19 - December 25, 2009 [~~November 19 - December 25, 2008~~].

(2) rails and gallinules: December 26, 2009 - January 31, 2010 [~~December 26, 2008 - January 31, 2009~~].

(3) woodcock: November 24 - December 17, 2009 [~~November 24 - December 17, 2008~~].

(b) (No change.)

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

Filed with the Office of the Secretary of State on April 13, 2009.

TRD-200901405

Ann Bright

General Counsel

Texas Parks and Wildlife Department

Earliest possible date of adoption: May 24, 2009

For further information, please call: (512) 389-4775



## SUBCHAPTER P. ALLIGATOR PROCLAMATION

### 31 TAC §65.357

The Texas Parks and Wildlife Department proposes an amendment to §65.357, concerning Purchase and Sale of Alligators. The proposed amendment would clarify that a person who takes an alligator on a wildlife management area must acquire a commercial alligator hide tag if the alligator at any time is to be sold or bartered for anything of value. Under §65.353(a), no person may possess an untagged alligator except as provided in Chapter 65, Subchapters A or P. Under the provisions of the department publication entitled "Applications for Drawings on Public Hunting Lands," a hunter who takes an alligator on a wildlife management area must purchase a commercial hide tag (\$120) if the person desires to use the alligator for commercial purposes. If a hunter chooses not to purchase a commercial hide tag, the alligator is tagged by the department with a "Not for Sale" hide tag at no cost, but the alligator cannot be used for a commercial purpose.

The proposed amendment would clarify that the commercial hide tag requirement is a perpetual requirement, meaning that if a hunter who takes an alligator on a wildlife management area chooses to have an alligator tagged with the "Not for Sale" hide tag and at any time thereafter desires to sell or barter the alligator, that person must then purchase a commercial hide tag from the department in order to lawfully sell or barter the alligator.

Mr. Robert Macdonald, Regulations Coordinator, has determined that for each of the first five years that the rule as proposed is in effect, there will be no fiscal implications to state or local government as a result of enforcement or administration of the rule.

Mr. Macdonald also has determined that for each of the first five years the rule as proposed is in effect, the public benefit anticipated as a result of enforcing or administering the rule as proposed will be the clarification of department regulations for persons hunting alligators on wildlife management areas.

Under the provisions of Government Code, Chapter 2006, a state agency must prepare an economic impact statement and a regulatory flexibility analysis for a rule that may have an adverse economic effect on small businesses and micro-businesses. The department has determined that there will be no direct economic effect on small or micro-businesses or persons required to comply as a result of the proposed rule. The rule would not compel or mandate any action on the part of any entity, including small businesses or microbusinesses. In particular, the proposed rule would not add new reporting or recordkeeping requirements; require any new professional expertise, capital costs, or costs for modification of existing processes or procedures; lead to loss of sales or profits; change market competition; or increase taxes or fees. Accordingly, the department has not prepared a regulatory flexibility analysis under Government Code, Chapter 2006.

The department has not drafted a local employment impact statement under the Administrative Procedures Act, §2001.022, as the agency has determined that the rule as proposed will not impact local economies.

The department has determined that Government Code, §2001.0225 (Regulatory Analysis of Major Environmental Rules), does not apply to the proposed rule.

The department has determined that there will not be a taking of private real property, as defined by Government Code, Chapter 2007, as a result of the proposed rule.

Comments on the proposed rule may be submitted to Robert Macdonald, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; (512) 389-4775 (e-mail: robert.macdonald@tpwd.state.tx.us).

The amendment is proposed under the authority of Parks and Wildlife Code, §65.003, which authorizes the commission to reg-

ulate taking, possession, propagation, transportation, exportation, importation, sale, and offering for sale of alligators, alligator eggs, or any part of an alligator that the commission considers necessary to manage this species, including regulations to provided for the periods of time when it is lawful to take, possess, sell, or purchase alligators, alligator hides, alligator eggs, or any part of an alligator; and limits, size, means, methods, and places in which it is lawful to take or possess alligators, alligator hides, alligator eggs, or any part of an alligator.

The proposed amendment affects Parks and Wildlife Code, Chapter 65.

§65.357. *Purchase and Sale of Alligators.*

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

(e) Sale by recreational hunter.

(1) A person who lawfully kills an alligator under a hunting license may sell only to a farmer or wholesale dealer or lawful out-of-state purchaser.

(2) An alligator taken on a wildlife management area may not be sold or bartered for anything of value at any time unless a commercial alligator hide tag has been purchased from the department and attached to the alligator.

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

Filed with the Office of the Secretary of State on April 13, 2009.

TRD-200901406

Ann Bright

General Counsel

Texas Parks and Wildlife Department

Earliest possible date of adoption: May 24, 2009

For further information, please call: (512) 389-4775

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# WITHDRAWN RULES

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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)

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## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### PART 2. TEXAS PARKS AND WILDLIFE DEPARTMENT

#### CHAPTER 65. WILDLIFE

##### SUBCHAPTER A. STATEWIDE HUNTING AND FISHING PROCLAMATION

###### DIVISION 1. GENERAL PROVISIONS

###### 31 TAC §65.10

The Texas Parks and Wildlife Department withdraws the proposed amendment to §65.10 which appeared in the February 20, 2009, issue of the *Texas Register* (34 TexReg 1202).

Filed with the Office of the Secretary of State on April 8, 2009.

TRD-200901379

Ann Bright

General Counsel

Texas Parks and Wildlife Department

Effective date: April 8, 2009

For further information, please call: (512) 389-4775



# 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 13. CULTURAL RESOURCES

### PART 1. TEXAS STATE LIBRARY AND ARCHIVES COMMISSION

#### CHAPTER 2. GENERAL POLICIES AND PROCEDURES

##### SUBCHAPTER C. GRANT POLICIES

The Texas State Library and Archives Commission adopts amendments to §§2.111, 2.117, 2.310, 2.312, 2.410, 2.412, 2.610, 2.612, and 2.712. Sections 2.312 and 2.612 are adopted with changes to the text as proposed in the November 7, 2008, issue of the *Texas Register* (33 TexReg 9029) and will be republished. Sections 2.111, 2.117, 2.310, 2.410, 2.412, 2.610, and 2.712 are adopted without changes to the proposal and will not be republished. These sections address grant policies and procedures for the management of grants distributed or administered by the agency. One comment, submitted on behalf of others, was received during the comment period.

One comment was received regarding §2.612(a), regarding the criteria for award for grants to Library Systems. The comment concerns the additional 10 points awarded that could be awarded for projects that initiate or expand the sharing of library materials using a shared automation system. The commenter disagreed with this criteria for several reasons. The comment first cites the agency's Library Services and Technology Act Five-Year Plan goals and states that the goals emphasize services to special populations, rather than initiation of joint automation systems. Second, the comment states that the Library Systems are identified in the Plan as providing continuing education and consulting to special populations. Further, the comment states that there has been no statewide study identifying shared automation systems as a top priority for public libraries, and such a decision should be based on data. Extra points only for such projects are a disincentive to innovation and community partnerships, and reflect a "one size fits all" approach to a state with ten distinct regional library systems where conditions and local capacity vary greatly.

Agency response: The citation of the goals in the agency's Five-Year Plan is inaccurate. One of the goals in the Plan (Goal 4) is to "Assist libraries with technology to serve the information needs of Texans." The Library Systems competitive grants are listed as an activity under this goal as "provide grants to Texas Library Systems to assist libraries in developing access to information." The references to the Library Systems providing continuing education and consulting refer to the Texas Library System grant itself, which has continuing education and consulting as a core service. The agency's study of the statewide interlibrary loan system states that one strategy for improving access to library

collections for Texans is through shared automation systems, especially where the shared system allows patrons of all participating libraries to see and place holds on any material in the shared system, and where there is a delivery service. The agency may set priorities for use of the federal funds, and the extra points help promote the Plan goal. However, the agency agrees the maximum number of additional points that may be awarded may be too great, and adopts a reduced number of points in §2.312 and §2.612. In addition, language was added clarifying the resource sharing technology that should be a part of such projects.

#### DIVISION 1. GENERAL GRANT GUIDELINES

##### 13 TAC §2.111, §2.117

These amended sections are adopted under the authority of Government Code, §441.0091, Grant program for local libraries, that permits the State Library and Archives Commission to adopt rules relating to providing grants to meet specific information needs of residents of the state and specific needs of local libraries. These amended sections affect Government Code, §441.0091.

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

Filed with the Office of the Secretary of State on April 13, 2009.

TRD-200901411

Edward Seidenberg

Assistant State Librarian

Texas State Library and Archives Commission

Effective date: May 3, 2009

Proposal publication date: November 7, 2008

For further information, please call: (512) 463-5459



#### DIVISION 3. LIBRARY SERVICES AND TECHNOLOGY ACT, LIBRARY COOPERATION GRANTS

##### 13 TAC §2.310, §2.312

These amended sections are adopted under the authority of Government Code, §441.0091, Grant program for local libraries, that permits the State Library and Archives Commission to adopt rules relating to providing grants to meet specific information needs of residents of the state and specific needs of local libraries. These amended sections affect Government Code, §441.0091.

§2.312. *Criteria for Award.*

Proposals will be scored by peer reviewers on eight criteria. The maximum points for each criterion is shown. Those projects which initiate or expand the sharing of library materials using a shared library automation system may receive up to 4 additional points, based on the merits of the proposal. If the project is to implement or expand a shared library automation system, that system must implement a proven and widely accepted resource sharing technology such as a Z39.50 server, or a "Search and Retrieval by URL" (SRU) server.

(1) Needs assessment. (15 points) Applicants describe why the program is needed, the program goals and audience. They describe the greater community to be served. They include demographic statistics, library records, or surveys to support these statements. They attach letters of cooperation showing commitment to the project from agencies to be involved.

(2) Program design. (20 points) Applicants thoroughly describe services, programs, activities; describe the location where they will be offered; and explain how these services will attract shared library users. Collaborative projects have priority and inclusion of relevant community organizations is encouraged.

(3) Project impact. (15 points) Applicants describe the impact their project will have on library services and users locally, as well as regionally or statewide. This may include how the proposed project is a model program that would benefit other communities.

(4) Personnel. (5 points) Applicants identify who will administer the funds and which positions will provide the services. List how much time will be spent in each position on assigned duties. List how the qualifications of each person relate to their job duties. Full job descriptions are required for new hires.

(5) Timetable. (5 points) Applicants present a timetable for project activities within the fiscal year (i.e., a list of actions with a date by which they will be accomplished); provide verification that facilities will be available, equipment and materials delivered; and explain how the staff will be hired and trained in time to carry out the services as planned.

(6) Evaluation. (10 points) Applicants set achievable, measurable outcomes, and present a reasonable method to collect data. Applicants present a method to count users of the services as well as the effectiveness of the service.

(7) Budget. (20 points) Applicants provide a complete budget for the proposed project and fully justify the budget by describing how budgeted items will contribute to the project; identify a source for the stated costs (e.g., city pay classification for staff, catalog or city/county bid list for equipment); the costs are reasonable to achieve project objectives. If new staff are to be employed, applicants take into account the time for a realistic hiring process to occur.

(8) Sustainability. (10 points) Applicants describe the resources that will be used to support the services developed through the grant in the future. A written commitment of future support from governing bodies is desirable, but not required.

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

Filed with the Office of the Secretary of State on April 13, 2009.  
TRD-200901412

Edward Seidenberg  
Assistant State Librarian  
Texas State Library and Archives Commission  
Effective date: May 3, 2009  
Proposal publication date: November 7, 2008  
For further information, please call: (512) 463-5459



#### DIVISION 4. LIBRARY SERVICES AND TECHNOLOGY ACT, SPECIAL PROJECTS GRANTS

##### 13 TAC §2.410, §2.412

These amended sections are adopted under the authority of Government Code, §441.0091, Grant program for local libraries, that permits the State Library and Archives Commission to adopt rules relating to providing grants to meet specific information needs of residents of the state and specific needs of local libraries. These amended sections affect Government Code, §441.0091.

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

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Edward Seidenberg  
Assistant State Librarian  
Texas State Library and Archives Commission  
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Proposal publication date: November 7, 2008  
For further information, please call: (512) 463-5459



#### DIVISION 6. LIBRARY SERVICES AND TECHNOLOGY ACT, GUIDELINES FOR LIBRARY SYSTEMS

##### 13 TAC §2.610, §2.612

These amended sections are adopted under the authority of Government Code, §441.0091, Grant program for local libraries, that permits the State Library and Archives Commission to adopt rules relating to providing grants to meet specific information needs of residents of the state and specific needs of local libraries. These amended sections affect Government Code, §441.0091.

§2.612. *Criteria for Award.*

Proposals will be scored by on eight criteria. The maximum points for each criterion is shown. Those projects which initiate or expand the sharing of library materials using a shared library automation system may receive up to 4 additional points, based on the merits of the proposal. If the project is to implement or expand a shared library automation system, that system must implement a proven and widely accepted resource sharing technology such as a Z39.50 server, or a "Search and Retrieval by URL" (SRU) server.

(1) Needs assessment. (15 points) Applicants describe why the program is needed, the program goals and audience. They describe the greater community to be served. They include demographic sta-



tistics, library records, or surveys to support these statements. They attach letters of cooperation showing commitment to the project from agencies to be involved.

(2) Program design. (20 points) Applicants thoroughly describe services, programs, activities; describe the location where they will be offered; and explain how these services will attract shared library users. Collaborative projects have priority and inclusion of relevant community organizations is encouraged.

(3) Project impact. (15 points) Applicants describe the impact their project will have on library services and users regionally or statewide. This may include how the proposed project is a model program that would benefit other regions of the state.

(4) Personnel. (5 points) Applicants identify who will administer the funds and which positions will provide the services. List how much time will be spent in each position on assigned duties. List how the qualifications of each person relate to their job duties. Full job descriptions are required for new hires.

(5) Timetable. (5 points) Applicants present a timetable for project activities within the fiscal year (i.e., a list of actions with a date by which they will be accomplished); provide verification that facilities will be available, equipment and materials delivered; and explain how staff will be hired and trained in time to carry out the services as planned.

(6) Evaluation. (10 points) Applicants set achievable, measurable outcomes, and present a reasonable method to collect data. Applicants present a method to count users of the services as well as the effectiveness of the service.

(7) Budget. (20 points) Applicants provide a complete budget for the proposed project and fully justify the budget by describing how budgeted items will contribute to the project; identify a source for the stated costs (e.g., city pay classification for staff, catalog or city/county bid list for equipment); the costs are reasonable to achieve project objectives. If new staff are to be employed, applicants take into account the time for a realistic hiring process to occur.

(8) Sustainability. (10 points) Applicants describe the resources that will be used to support the services developed through the grant in the future. A written commitment of future support from governing bodies is desirable, but not required.

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

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Edward Seidenberg

Assistant State Librarian

Texas State Library and Archives Commission

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Proposal publication date: November 7, 2008

For further information, please call: (512) 463-5459



## DIVISION 7. TEXAS READS GRANTS, GUIDELINES FOR PUBLIC LIBRARIES

### 13 TAC §2.712

These amended sections are adopted under the authority of Government Code, §441.0091, Grant program for local libraries,

that permits the State Library and Archives Commission to adopt rules relating to providing grants to meet specific information needs of residents of the state and specific needs of local libraries. These amended sections affect Government Code, §441.0091.

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

Filed with the Office of the Secretary of State on April 13, 2009.

TRD-200901415

Edward Seidenberg

Assistant State Librarian

Texas State Library and Archives Commission

Effective date: May 3, 2009

Proposal publication date: November 7, 2008

For further information, please call: (512) 463-5459



## TITLE 25. HEALTH SERVICES

### PART 1. DEPARTMENT OF STATE HEALTH SERVICES

#### CHAPTER 412. LOCAL MENTAL HEALTH AUTHORITY RESPONSIBILITIES SUBCHAPTER G. MENTAL HEALTH COMMUNITY SERVICES STANDARDS

The Executive Commissioner of the Health and Human Services Commission (commission) on behalf of the Department of State Health Services (department) adopts the repeal of §§412.301 - 412.322, and new §§412.301, 412.303, 412.304, 412.311 - 412.318, and 412.321 - 412.327, concerning mental health community services standards, without changes to the proposed text as published in the February 6, 2009, issue of the *Texas Register* (34 TexReg 785) and, therefore, the sections will not be republished.

#### BACKGROUND AND PURPOSE

The purpose of this subchapter is to describe requirements for ensuring the adequate provision and appropriate delivery of mental health community services. Repeal of the existing rules is necessary due to substantial changes being made to the rules to align them with existing service delivery requirements. Beginning with fiscal year 2005, the department began incorporating principles of Resiliency and Disease Management (RDM) into its overall approach to regulating the delivery of community mental health services. The core services affected by RDM include mental health rehabilitative and mental health case management services. However, key components of RDM are reflected throughout the adopted new rules.

Although the repealed rules applied to all Medicaid managed care organizations, the new adopted rules will only apply to local mental health authorities, managed care organizations, and other providers that contract directly with the department. Under the Texas Health and Safety Code, §533.047, Managed Care Organizations: Medicaid Program, the former Texas Department of Mental Health and Mental Retardation was charged with developing performance and quality of care standards for the provi-

sion of mental health and mental retardation services to Medicaid clients by managed care organizations involved in the Medicaid Program. As a result of the passage of House Bill 2292 (78th Texas Legislature, Regular Session, 2003), effective September 1, 2004, the responsibility to implement the Texas Health and Safety Code, §533.047, was transferred to the commission. Therefore, the department is only responsible for developing standards for community mental health services by those providers with which the department contracts directly.

Texas Government Code, §2001.039, requires that each state agency review and consider for re-adoption each rule adopted by that agency pursuant to the Texas Government Code, Chapter 2001 (Administrative Procedure Act). Sections 412.301 - 412.322 have been reviewed and the department has determined that reasons for adopting the sections continue to exist because rules on this subject are needed.

#### SECTION-BY-SECTION SUMMARY

In the new adopted rules, certain terms have been changed, such as using "consumer" instead of "individual," to reflect current usage of terminology within the mental health care delivery system. Other changes made to the new rules include various grammatical, punctuation, and formatting changes. In addition, more specific changes reflected in the new rules are described as follows.

##### Division 1. General Provisions.

Adopted §412.301 states the purpose of the subchapter and its application to providers with which the department contracts.

Adopted §412.303 sets forth a number of definitions of terms used throughout the subchapter.

Adopted §412.304 specifically identifies which of the divisions in the subchapter apply to which types of providers, and sets forth the responsibilities of local mental health authorities (LMHAs), and managed care organizations (MCOs).

##### Division 2. Organizational Standards.

Adopted §412.311 sets forth primary leadership responsibilities of the LMHA and MCO.

Adopted §412.312 sets forth requirements to ensure a proper environment of care and safety at service delivery sites.

Adopted §412.313 sets forth the rights and protections that must be afforded by providers to all individuals who are seeking or receiving mental health services.

Adopted §412.314 sets forth provider requirements relating to the provision of adequate access to mental health community services.

Adopted §412.315 sets forth the requirements relating to maintenance of medical records.

Adopted §412.316 sets forth requirements for certain competencies of staff members.

Adopted §412.317 requires that community mental health services be provided under a detailed quality management plan.

Adopted §412.318 requires providers to develop and implement a utilization management program, timely prior authorization system, and appeal and fair hearing procedures.

##### Division 3. Standards of Care.

Adopted §412.321 identifies specific requirements relating to the provision of crisis services.

Adopted §412.322 identifies various aspects of providers' responsibilities relating to service authorization; assessment, diagnosis and provision of services and related documentation; implementation and use of the department's utilization management guidelines and uniform assessment tools; and integrated treatment planning.

Adopted §412.323 sets forth requirements concerning medication services, including delegation of services, handling of medications, supervision of self-administration of medication, and medication errors.

Adopted §412.324 sets forth additional standards of care relating to the administration of the uniform assessment and the provision of mental health community services to children and adolescents.

Adopted §412.325 sets forth requirements for the provision of telemedicine and/or telepsychiatry.

Adopted §412.326 sets forth specific documentation requirements relating to service provision, including a requirement that such documentation be made within two business days after each service encounter occurs, with the exceptions of crisis services, day programs for acute needs, and case management services.

Adopted §412.327 sets forth requirements for supervision of various staff members, and for implementation of a peer review process for licensed staff members.

#### COMMENTS

The department, on behalf of the commission, did not receive any comments regarding the proposed rules during the comment period.

#### LEGAL CERTIFICATION

The Department of State Health Services General Counsel, Lisa Hernandez, certifies that the rules, as adopted, have been reviewed by legal counsel and found to be a valid exercise of the agencies' legal authority.

### DIVISION 1. GENERAL PROVISIONS

#### 25 TAC §§412.301 - 412.306

#### STATUTORY AUTHORITY

The adopted repeals are authorized by Texas Health and Safety Code, §534.053, which requires the department to ensure that certain community-based services are available in each service area; Texas Health and Safety Code, §534.058, which requires the department to develop standards of care for the services provided by local mental health authorities and their subcontractors; and Texas Government Code, §531.0055, and Texas Health and Safety Code, §1001.075, which authorize the Executive Commissioner of the Health and Human Services Commission to adopt rules and policies necessary for the operation and provision of health and human services by the department and for the administration of Texas Health and Safety Code, Chapter 1001. Review of the sections implements Texas Government Code, §2001.039.

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

Filed with the Office of the Secretary of State on April 9, 2009.  
TRD-200901383  
Lisa Hernandez  
General Counsel  
Department of State Health Services  
Effective date: April 29, 2009  
Proposal publication date: February 6, 2009  
For further information, please call: (512) 458-7111 x6972



## DIVISION 2. ORGANIZATIONAL STANDARDS

### 25 TAC §§412.307 - 412.313

#### STATUTORY AUTHORITY

The adopted repeals are authorized by Texas Health and Safety Code, §534.053, which requires the department to ensure that certain community-based services are available in each service area; Texas Health and Safety Code, §534.058, which requires the department to develop standards of care for the services provided by local mental health authorities and their subcontractors; and Texas Government Code, §531.0055, and Texas Health and Safety Code, §1001.075, which authorize the Executive Commissioner of the Health and Human Services Commission to adopt rules and policies necessary for the operation and provision of health and human services by the department and for the administration of Texas Health and Safety Code, Chapter 1001. Review of the sections implements Texas Government Code, §2001.039.

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

Filed with the Office of the Secretary of State on April 9, 2009.  
TRD-200901385  
Lisa Hernandez  
General Counsel  
Department of State Health Services  
Effective date: April 29, 2009  
Proposal publication date: February 6, 2009  
For further information, please call: (512) 458-7111 x6972



## DIVISION 3. STANDARD OF CARE

### 25 TAC §§412.314 - 412.316

#### STATUTORY AUTHORITY

The adopted repeals are authorized by Texas Health and Safety Code, §534.053, which requires the department to ensure that certain community-based services are available in each service area; Texas Health and Safety Code, §534.058, which requires the department to develop standards of care for the services provided by local mental health authorities and their subcontractors; and Texas Government Code, §531.0055, and Texas Health and Safety Code, §1001.075, which authorize the Executive Commissioner of the Health and Human Services Commission to adopt rules and policies necessary for the operation and provision of health and human services by the department and for the administration of Texas Health and Safety Code, Chap-

ter 1001. Review of the sections implements Texas Government Code, §2001.039.

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

Filed with the Office of the Secretary of State on April 9, 2009.

TRD-200901387  
Lisa Hernandez  
General Counsel  
Department of State Health Services  
Effective date: April 29, 2009  
Proposal publication date: February 6, 2009  
For further information, please call: (512) 458-7111 x6972



## DIVISION 4. SERVICE STANDARDS

### 25 TAC §§412.317 - 412.320

#### STATUTORY AUTHORITY

The adopted repeals are authorized by Texas Health and Safety Code, §534.053, which requires the department to ensure that certain community-based services are available in each service area; Texas Health and Safety Code, §534.058, which requires the department to develop standards of care for the services provided by local mental health authorities and their subcontractors; and Texas Government Code, §531.0055, and Texas Health and Safety Code, §1001.075, which authorize the Executive Commissioner of the Health and Human Services Commission to adopt rules and policies necessary for the operation and provision of health and human services by the department and for the administration of Texas Health and Safety Code, Chapter 1001. Review of the sections implements Texas Government Code, §2001.039.

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

Filed with the Office of the Secretary of State on April 9, 2009.

TRD-200901389  
Lisa Hernandez  
General Counsel  
Department of State Health Services  
Effective date: April 29, 2009  
Proposal publication date: February 6, 2009  
For further information, please call: (512) 458-7111 x6972



## DIVISION 5. REFERENCES AND DISTRIBUTION

### 25 TAC §§412.321, §412.322

#### STATUTORY AUTHORITY

The adopted repeals are authorized by Texas Health and Safety Code, §534.053, which requires the department to ensure that certain community-based services are available in each service area; Texas Health and Safety Code, §534.058, which requires the department to develop standards of care for the services

provided by local mental health authorities and their subcontractors; and Texas Government Code, §531.0055, and Texas Health and Safety Code, §1001.075, which authorize the Executive Commissioner of the Health and Human Services Commission to adopt rules and policies necessary for the operation and provision of health and human services by the department and for the administration of Texas Health and Safety Code, Chapter 1001. Review of the sections implements Texas Government Code, §2001.039.

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

Filed with the Office of the Secretary of State on April 9, 2009.

TRD-200901390

Lisa Hernandez

General Counsel

Department of State Health Services

Effective date: April 29, 2009

Proposal publication date: February 6, 2009

For further information, please call: (512) 458-7111 x6972



## DIVISION 1. GENERAL PROVISIONS

### 25 TAC §§412.301, 412.303, 412.304

#### STATUTORY AUTHORITY

The adopted new rules are authorized by Texas Health and Safety Code, §534.053, which requires the department to ensure that certain community-based services are available in each service area; Texas Health and Safety Code, §534.058, which requires the department to develop standards of care for the services provided by local mental health authorities and their subcontractors; and Texas Government Code, §531.0055, and Texas Health and Safety Code, §1001.075, which authorize the Executive Commissioner of the Health and Human Services Commission to adopt rules and policies necessary for the operation and provision of health and human services by the department and for the administration of Texas Health and Safety Code, Chapter 1001. Review of the sections implements Texas Government Code, §2001.039.

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

Filed with the Office of the Secretary of State on April 9, 2009.

TRD-200901384

Lisa Hernandez

General Counsel

Department of State Health Services

Effective date: April 29, 2009

Proposal publication date: February 6, 2009

For further information, please call: (512) 458-7111 x6972



## DIVISION 2. ORGANIZATIONAL STANDARDS

### 25 TAC §§412.311 - 412.318

#### STATUTORY AUTHORITY

The adopted new rules are authorized by Texas Health and Safety Code, §534.053, which requires the department to ensure that certain community-based services are available in each service area; Texas Health and Safety Code, §534.058, which requires the department to develop standards of care for the services provided by local mental health authorities and their subcontractors; and Texas Government Code, §531.0055, and Texas Health and Safety Code, §1001.075, which authorize the Executive Commissioner of the Health and Human Services Commission to adopt rules and policies necessary for the operation and provision of health and human services by the department and for the administration of Texas Health and Safety Code, Chapter 1001. Review of the sections implements Texas Government Code, §2001.039.

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

Filed with the Office of the Secretary of State on April 9, 2009.

TRD-200901386

Lisa Hernandez

General Counsel

Department of State Health Services

Effective date: April 29, 2009

Proposal publication date: February 6, 2009

For further information, please call: (512) 458-7111 x6972



## DIVISION 3. STANDARDS OF CARE

### 25 TAC §§412.321 - 412.327

#### STATUTORY AUTHORITY

The adopted new rules are authorized by Texas Health and Safety Code, §534.053, which requires the department to ensure that certain community-based services are available in each service area; Texas Health and Safety Code, §534.058, which requires the department to develop standards of care for the services provided by local mental health authorities and their subcontractors; and Texas Government Code, §531.0055, and Texas Health and Safety Code, §1001.075, which authorize the Executive Commissioner of the Health and Human Services Commission to adopt rules and policies necessary for the operation and provision of health and human services by the department and for the administration of Texas Health and Safety Code, Chapter 1001. Review of the sections implements Texas Government Code, §2001.039.

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

Filed with the Office of the Secretary of State on April 9, 2009.

TRD-200901388

Lisa Hernandez

General Counsel

Department of State Health Services

Effective date: April 29, 2009

Proposal publication date: February 6, 2009

For further information, please call: (512) 458-7111 x6972

# REVIEW OF AGENCY RULES

This section contains notices of state agency rules review as directed by the Texas Government Code, §2001.039. Included here are (1) notices of *plan to review*; (2)

notices of *intention to review*, which invite public comment to specified rules; and (3) notices of *readoption*, which summarize public comment to specified rules. The complete text of an agency's *plan to review* is available after it is filed with the Secretary of State on the Secretary of State's web site (<http://www.sos.state.tx.us/texreg>). The complete text of an agency's rule being reviewed and considered for *readoption* is available in the *Texas Administrative Code* on the web site (<http://www.sos.state.tx.us/tac>).

For questions about the content and subject matter of rules, please contact the state agency that is reviewing the rules. Questions about the web site and printed copies of these notices may be directed to the *Texas Register* office.

## Proposed Rule Reviews

Texas State Library and Archives Commission

### Title 13, Part 1

The Texas State Library and Archives Commission files this notice of intention to review Title 13, Chapter 8, concerning the TexShare Library Consortium, in accordance with Government Code, §2001.039, which requires state agencies to review and consider for readoption each of their rules every four years.

The rules were adopted pursuant to the Government Code, §441.225(b), which permits the Texas State Library and Archives Commission to adopt rules to govern the operation of the consortium.

The rules are necessary to carry out the statutory obligations of the Texas State Library and Archives Commission for the establishment and maintenance of a state publications depository program.

Comments on the commission's review of its rules in Chapter 8 may be directed to Beverley Shirley, Director, Library Resource Sharing Division, Box 12927, Austin, TX 78711-2927. For further information or questions concerning this proposal, please contact Ms. Shirley at (512) 463-5433 or at [bshirley@tsl.state.tx.us](mailto:bshirley@tsl.state.tx.us).

TRD-200901409  
Edward Seidenberg  
Assistant State Librarian  
Texas State Library and Archives Commission  
Filed: April 13, 2009



## Adopted Rule Reviews

Texas State Library and Archives Commission

### Title 13, Part 1

The Texas State Library and Archives Commission has completed the review of Title 13, Chapter 3, concerning the State Publications Depository Program, in accordance with the requirements of Government Code, §2001.039. Notice of the review was published in the November 7, 2008, issue of the *Texas Register* (33 TexReg 9088).

The commission finds that the reasons for the adoption of the rules in Title 13, Chapter 3, continue to exist. The rules were adopted pursuant to the Government Code, §441.102(a), which requires the Texas State Library and Archives Commission to adopt policies to ensure the distribution of state publications to depository libraries; Government Code §441.103(b), which requires the Texas State Library and

Archives Commission to adopt policies to ensure the acquisition of state publications from state agencies and institutions of higher education; Government Code §441.104(7) - (9), which requires the Texas State Library and Archives Commission to adopt policies to provide indexes of and electronic access to all state publications in electronic format, and Government Code §441.010(b), which establishes an electronically searchable central grant database. The rules are necessary to carry out the statutory obligations of the Texas State Library and Archives Commission for the establishment and maintenance of a state publications depository program.

The commission readopts Chapter 3 in accordance with the Government Code, §2001.039. No comments were received regarding the review of the chapter.

TRD-200901408  
Edward Seidenberg  
Assistant State Librarian  
Texas State Library and Archives Commission  
Filed: April 13, 2009



The Texas State Library and Archives Commission has completed the review of rules in Title 13, Chapter 6, concerning the management, retention, microfilming, and electronic storage of state agency records and fee schedules for the commission's imaging and records storage services. Notice of the review was published in the November 7, 2008, issue of the *Texas Register* (33 TexReg 9088).

The commission readopts §§6.1 - 6.10, 6.21 - 6.35, 6.91 - 6.97, 6.121, and 6.122 of the chapter in accordance with the Government Code, §2001.039.

The commission finds that the reasons for the adoption of the rules in Title 13, Chapter 6 continue to exist. They allow the commission to fulfill its statutory obligations in the management of state records and for state agencies to meet the requirements of the Government Code, Subchapter K, relating to the preservation and management of state records. The commission did not receive any comments on its review of Title 13, Chapter 6 rules.

TRD-200901410  
Edward Seidenberg  
Assistant State Librarian  
Texas State Library and Archives Commission  
Filed: April 13, 2009



**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.

**Comptroller of Public Accounts**

**Certification of the Average Taxable Price of Gas and Oil**

The Comptroller of Public Accounts, administering agency for the collection of the Crude Oil Production Tax, has determined that the average taxable price of crude oil for reporting period March 2009, as required by Tax Code, §202.058, is \$34.19 per barrel for the three-month period beginning on December 1, 2008, and ending February 28, 2009. Therefore, pursuant to Tax Code, §202.058, crude oil produced during the month of March 2009, from a qualified Low-Producing Oil Lease, is not eligible for exemption from the crude oil production tax imposed by Tax Code, Chapter 202.

The Comptroller of Public Accounts, administering agency for the collection of the Natural Gas Production Tax, has determined that the average taxable price of gas for reporting period March 2009, as required by Tax Code, §201.059, is \$4.14 per mcf for the three-month period beginning on December 1, 2008, and ending February 28, 2009. Therefore, pursuant to Tax Code, §201.059, gas produced during the month of March 2009, from a qualified Low-Producing Well, is not eligible for exemption from the natural gas production tax imposed by Tax Code, Chapter 201.

Inquiries should be directed to Bryant K. Lomax, Manager, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711-3528.

TRD-200901426  
Martin Cherry  
General Counsel  
Comptroller of Public Accounts  
Filed: April 14, 2009



**Notice of Request for Proposals**

Pursuant to Chapter 403 and Chapter 2156, Texas Government Code, and Chapter 54, Subchapter F, Texas Education Code, the Comptroller of Public Accounts (Comptroller) on behalf of the Texas Prepaid Higher Education Tuition Board (Board) announces its Request for Proposals (RFP #192f) for the purpose of obtaining Inflation-Protected Securities investment management services for the Board for the Texas Tomorrow Fund Guaranteed Tuition Plan Funds (Texas Tomorrow Fund I). The selected contractor (Contractor) will advise and assist the Board and Comptroller in administering the Board's investment activities related to Inflation-Protected Securities for Texas Tomorrow Fund I. The Comptroller, as Chair and Executive Director of the Board, is issuing this RFP on behalf of the Board so that the Board may move forward with retaining the necessary Contractor. The Comptroller and the Board reserve the right to award more than one contract under the RFP. If approved by the Board, Contractor will be expected to begin performance of the contract on or about September 1, 2009, or as soon thereafter as practical.

Contact: Parties interested in submitting a proposal should contact William Clay Harris, Assistant General Counsel, Contracts, Comptroller of Public Accounts, in the Issuing Office at: 111 E. 17th Street, Room 201, Austin, Texas 78774, (512) 305-8673, to obtain a complete

copy of the RFP. The Comptroller will mail copies of the RFP only to those parties specifically requesting a copy. The RFP will be available for pick-up at the above referenced address on Friday, April 24, 2009, after 10:00 a.m. Central Zone Time (CZT) and during normal business hours thereafter. The Comptroller will also make the entire RFP available electronically on the Electronic State Business Daily (ESBD) at: <http://esbd.cpa.state.tx.us> after 10:00 a.m. CZT on Friday, April 24, 2009.

Questions and Non-Mandatory Letters of Intent: All written inquiries, questions, and Non-Mandatory Letters of Intent to propose must be received at the above-referenced address not later than 2:00 p.m. CZT on Friday, May 1, 2009. Prospective proposers are encouraged to fax Non-Mandatory Letters of Intent and Questions to (512) 463-3669 to ensure timely receipt. Non-Mandatory Letters of Intent must be addressed to William Clay Harris, Assistant General Counsel, Contracts, and must contain the information as stated in the corresponding Section of the RFP and be signed by an official of that entity. On or about Friday, May 8, 2009, the Comptroller expects to post responses to questions on the ESBD. Late Non-Mandatory Letters of Intent and Questions will not be considered under any circumstances. Respondents shall be solely responsible for verifying timely receipt of Non-Mandatory Letters of Intent and Questions in the Issuing Office.

Closing Date: Proposals must be delivered in the Issuing Office to the attention of the Assistant General Counsel, Contracts, no later than 2:00 p.m. CZT, on Friday, May 22, 2009. Late Proposals will not be considered under any circumstances. Respondents shall be solely responsible for verifying time receipt of Proposals in the Issuing Office.

Evaluation Criteria: Proposals will be evaluated under the evaluation criteria outlined in the RFP. The Board and Comptroller will make the final decision. The Comptroller and the Board each reserve the right to accept or reject any or all proposals submitted. The Comptroller and the Board are not obligated to execute a contract on the basis of this notice or the distribution of any RFP. The Comptroller and the Board shall not pay for any costs incurred by any entity in responding to this Notice or to the RFP.

The anticipated schedule of events pertaining to this solicitation is as follows: Issuance of RFP - April 24, 2009, after 10:00 a.m. CZT; Non-Mandatory Letters of Intent and Questions Due - May 1, 2009, 2:00 p.m. CZT; Official Responses to Questions posted - May 8, 2009; Proposals Due - May 22, 2009, 2:00 p.m. CZT; Contract Execution - September 1, 2009, or as soon thereafter as practical; Commencement of Services - September 1, 2009.

TRD-200901435  
William Clay Harris  
Assistant General Counsel, Contracts  
Comptroller of Public Accounts  
Filed: April 15, 2009



**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 04/20/09 - 04/26/09 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 04/20/09 - 04/26/09 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.

TRD-200901427

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: April 14, 2009



## Credit Union Department

### Application to Expand Field of Membership

Notice is given that the following application has been filed with the Credit Union Department (Department) and is under consideration:

An application was received from Associated Credit Union of Texas, Deer Park, Texas to expand its field of membership. The proposal would permit persons who work or reside within a 10-mile radius of the following ACUTX branch location: 1550 Grand Parkway, Katy, TX 77493, to be eligible for membership in the credit union.

Comments or a request for a meeting by any interested party relating to an application must be submitted in writing within 30 days from the date of this publication. Credit unions that wish to comment on any application must also complete a Notice of Protest form. The form may be obtained by contacting the Department at (512) 837-9236 or downloading the form at <http://www.tcup.state.tx.us/applications.html>. Any written comments must provide all information that the interested party wishes the Department to consider in evaluating the application. All information received will be weighed during consideration of the merits of an application. Comments or a request for a meeting should be addressed to the Texas Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

TRD-200901433

Harold E. Feeney

Commissioner

Credit Union Department

Filed: April 15, 2009



### Notice of Final Action Taken

In accordance with the provisions of 7 TAC §91.103, the Credit Union Department provides notice of the final action taken on the following applications:

Applications to Expand Field of Membership - Approved

Associated Credit Union of Texas, Deer Park, Texas - See *Texas Register* issue, dated January 30, 2009.

First Service Credit Union, Houston, Texas - See *Texas Register* issue dated February 27, 2009.

Articles of Incorporation - 50 Years to perpetuity - Approved

Highway Employees Credit Union, Tyler, Texas

TRD-200901434

Harold E. Feeney

Commissioner

Credit Union Department

Filed: April 15, 2009



## Texas Education Agency

### Request for Applications Concerning Target Tech in Texas (T3) Collaborative Grant

Eligible Applicants. The Texas Education Agency (TEA) is requesting applications under Request for Applications (RFA) #701-09-118 from eligible collaborative partnerships. To be considered eligible, at least one member of the collaborative must be a high-need local education agency (LEA) that meets both of the following criteria: (1) at least 2,500 or 22 percent of the children served by the LEA must come from families with incomes below the poverty line as identified by the 2007 U.S. Census data; and (2) the LEA must serve one or more campuses that (a) were identified for improvement or corrective action under the No Child Left Behind Act of 2001 (NCLB), Title I, Section 1116; or (b) reflect a substantial need for assistance in acquiring and using technology based on the Texas Campus STaR Chart.

Each high-need LEA may be included in only one application for Target Tech in Texas (T3) Collaborative Grant funding.

In addition to at least one high-need LEA, an eligible collaborative must include at least one of the following entities: (1) an LEA that can demonstrate that its teachers are effectively integrating technology and proven teaching practices into instruction and that the integration of technology has improved classroom instruction in the core academic subjects and made students better prepared to meet challenging state academic content and student academic achievement standards; (2) other educational entities such as ESCs, libraries, and other LEAs with the resources and ability to provide technology-focused programs to the local target population; (3) an institution of higher education (IHE) that is in full compliance with the reporting requirements of the Higher Education Act of 1965, Section 207(f), and that has not been identified as low-performing under Section 208 of that act; (4) a for-profit business or organization that develops, designs, manufactures, or produces technology products or services, or that has substantial expertise in the application of technology in instruction; or (5) a public or private non-profit organization with demonstrated experience in the application of educational technology to instruction.

Only an LEA or ESC may apply for T3 Collaborative Grant funding as fiscal agent of the collaborative partnership. For-profit entities, non-profit entities, and IHEs are not eligible to apply as fiscal agents and may only apply as members of a collaborative partnership.

Description. The purpose of the T3 Collaborative Grant is to provide the necessary funding to move Texas LEAs toward 21st century classrooms in the state of Texas. The program is designed to support high-need LEAs by fostering their collaboration with ESCs, local businesses, other local government or law enforcement agencies, nonprofit organizations, faith-based organizations, and IHEs to deliver proven, research-based methods of delivering technology-based educational services.

To achieve this, Texas schools must assess their technology needs, implement programs, and address goals that work toward reaching the Target Tech level on the Texas Campus and Teacher STaR Charts. Providing more up-to-date and innovative technology to students and edu-

cators will enable schools to focus on improving teaching and learning and narrowing educational technology gaps in Texas.

The purpose of this grant is to meet the following goals defined in NCLB, Title II, Part D: (1) to improve student academic achievement through the use of technology in elementary and secondary schools; (2) to assist every student in crossing the digital divide by ensuring that every student is technology literate by the time the student finishes the eighth grade regardless of the students race, ethnicity, gender, family income, geographic location, or disability; and (3) to encourage the effective integration of technology resources and systems with teacher training and curriculum development to establish research-based instructional methods that can be widely implemented as best practices by state and local education agencies.

Dates of Project. The T3 Collaborative Grant will be implemented during the 2009-2010 and 2010-2011 school years. Applicants should plan for a starting date of no earlier than October 1, 2009, and an ending date of no later than September 30, 2011.

Project Amount. The number of projects funded will be determined by the number of applications received and the amount each applicant selected for funding is eligible to receive. Each project will receive a maximum of \$1 million for the 2009-2011 project period. This project is funded 100 percent by federal American Recovery and Reinvestment Act of 2009 funds. Funds must be tracked and reported separately from regular NCLB, Title II, Part D, funds.

Selection Criteria. Applications will be selected based on the ability of each applicant to carry out all requirements contained in the RFA. Reviewers will evaluate applications based on the overall quality and validity of the proposed grant programs and the extent to which the applications address the primary objectives and intent of the project. Applications must address each requirement as specified in the RFA to be considered for funding. TEA reserves the right to select from the highest-ranking applications those that address all requirements in the RFA.

TEA is not obligated to approve an application, provide funds, or endorse any application submitted in response to this RFA. This RFA does not commit TEA to pay any costs before an application is approved. The issuance of this RFA does not obligate TEA to award a grant or pay any costs incurred in preparing a response.

Requesting the Application. RFAs are no longer available in print. The announcement letter and complete RFA will be posted on the TEA website at <http://burleson.tea.state.tx.us/GrantOpportunities/forms> for viewing and downloading. In the "Select Search Options" box, select the name of the RFA from the drop-down list. Scroll down to the "Application and Support Information" section to view all documents that pertain to this RFA.

Further Information. For clarifying information about the RFA, contact Rebecca Schroeder, Division of Discretionary Grants, Texas Education Agency, (512) 463-9269. In order to assure that no prospective applicant may obtain a competitive advantage because of acquisition of information unknown to other prospective applicants, any and all questions must be submitted in writing to the TEA contact persons identified in Part 2: Program Guidelines of the RFA.

Applicants must submit their written questions to either the program or funding contact person at the TEA no later than 5:00 p.m. (Central Time), Thursday, May 28, 2009. To provide all applicants with equal opportunity to review all questions and answers prior to submitting the grant application, any questions received after Thursday, May 28, 2009, will not be answered by the TEA.

All questions and the written answers thereto will be posted on the TEA website in the format of Frequently Asked Questions (FAQs)

at <http://burleson.tea.state.tx.us/GrantOpportunities/forms> on or before Thursday, June 4, 2009. In the "Select Search Options" box, select the name of the RFA from the drop-down list. Scroll down to the "Application and Support Information" section to view all documents that pertain to this RFA.

Deadline for Receipt of Applications. Applications must be received in the TEA Document Control Center by 5:00 p.m. (Central Time), Thursday, June 18, 2009, to be eligible to be considered for funding.

TRD-200901440

Cristina De La Fuente-Valadez

Director, Policy Coordination

Texas Education Agency

Filed: April 15, 2009

## ◆ ◆ ◆ Texas Commission on Environmental Quality

### Agreed Orders

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (the Code), §7.075. Section 7.075 requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. Section 7.075 requires that notice of the proposed orders and the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **May 25, 2009**. Section 7.075 also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that 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 May 25, 2009**. Written comments may also be sent by facsimile machine to the enforcement coordinator at (512) 239-2550. The commission enforcement coordinators are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, §7.075 provides that comments on the AOs shall be submitted to the commission in **writing**.

(1) COMPANY: A N Trading, Inc. dba Buddy's Discount Store; DOCKET NUMBER: 2009-0045-PST-E; IDENTIFIER: RN102245586; LOCATION: Dallas, Dallas County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 Texas Administrative Code (TAC) §115.246(7)(A) and Texas Health and Safety Code (THSC), §382.085(b), by failing to maintain Stage II records at the station and make them immediately available for review; 30 TAC §115.242(3)(L) and THSC, §382.085(b), by failing to maintain the Stage II vapor recovery system in proper operating condition; and 30 TAC §115.245(2) and THSC, §382.085(b), by failing to verify proper operation of the Stage II equipment; PENALTY: \$6,490; ENFORCEMENT COORDINATOR:



Brianna Carlson, (956) 425-6010; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(2) COMPANY: Chevron Phillips Chemical Company LP; DOCKET NUMBER: 2008-1878-AIR-E; IDENTIFIER: RN100209857; LOCATION: Port Arthur, Jefferson County; TYPE OF FACILITY: ethylene production plant; RULE VIOLATED: 30 TAC §116.115(b)(2)(F) and (c) and §122.143(4), New Source Review (NSR) Permit Number 21101, Special Condition (SC) Number 8, Federal Operating Permit (FOP) Number O-01235, General Terms and Conditions (GTC), and Special Terms and Conditions (STC) Number 2 and 21, and THSC, §382.085(b), by failing to prevent unauthorized emissions; and 30 TAC §101.201(a)(1) and §122.143(4), FOP Number O-01235, STC Number 2, THSC, §382.085(b), by failing to properly report unauthorized emissions; PENALTY: \$14,560; Supplemental Environmental Project (SEP) offset amount of \$5,824 applied to South East Texas Regional Planning Commission-West Port Arthur Home Energy Efficiency Program; ENFORCEMENT COORDINATOR: Kirk Schoppe, (512) 239-0489; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(3) COMPANY: Dripping Springs Independent School District; DOCKET NUMBER: 2009-0104-EAQ-E; IDENTIFIER: RN103124186; LOCATION: Dripping Springs, Hays County; TYPE OF FACILITY: school construction site; RULE VIOLATED: 30 TAC §213.23(a)(1), by failing to obtain a modification of a contributing zone plan prior to conducting a regulated activity over the Edwards Aquifer Contributing Zone; PENALTY: \$3,750; ENFORCEMENT COORDINATOR: Samuel Short, (512) 239-5363; REGIONAL OFFICE: 2800 South IH 35, Suite 100, Austin, Texas 78704-5700, (512) 339-2929.

(4) COMPANY: E. I. du Pont de Nemours and Company; DOCKET NUMBER: 2008-1817-AIR-E; IDENTIFIER: RN100542711; LOCATION: Orange, Orange County; TYPE OF FACILITY: petrochemical plant; RULE VIOLATED: 30 TAC §116.115(b)(2)(F) and (c) and §122.143(4), NSR Permit Number 20204, SC Number 1, FOP Number O-02055, GTC, SC Numbers 1 and 8, and THSC, §382.085(b), by failing to prevent unauthorized emissions; and 30 TAC §101.201(a)(1) and §122.143(4), FOP Number O-02055, SC Number 2F, and THSC, §382.085(b), by failing to properly report an emissions event; PENALTY: \$6,916; ENFORCEMENT COORDINATOR: Raymond Marlow, (409) 898-3838; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(5) COMPANY: Essner Manufacturing, L.P.; DOCKET NUMBER: 2009-0249-AIR-E; IDENTIFIER: RN100751395; LOCATION: Fort Worth, Tarrant County; TYPE OF FACILITY: aerospace component manufacturing plant; RULE VIOLATED: 30 TAC §116.110(a) and THSC, §382.0518(a) and §382.085(b), by failing to obtain air permit authorization for two spray booths; and 30 TAC §106.433(2)(C) and §115.422(5)(E) and THSC, §382.085(b), by failing to store all new and used coatings and solvents in closed containers; PENALTY: \$1,600; ENFORCEMENT COORDINATOR: Suzanne Walrath, (512) 239-2134; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(6) COMPANY: Exxon Mobil Corporation; DOCKET NUMBER: 2008-1726-AIR-E; IDENTIFIER: RN102212925; LOCATION: Baytown, Harris County; TYPE OF FACILITY: industrial organic chemicals manufacturing plant; RULE VIOLATED: 30 TAC §101.20(3) and §116.715(a), Flexible Permit Number 3452, PSD-TX-302M2, SC Number 1, and THSC, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$26,450; SEP offset amount of \$10,580 applied to Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program; ENFORCEMENT COORDINATOR: Trina Grieco, (210)

490-3096; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(7) COMPANY: KLEMME ENTERPRISES, INC. dba Freeway Exxon; DOCKET NUMBER: 2008-1749-PST-E; IDENTIFIER: RN100819259; LOCATION: El Paso, El Paso County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE 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; 30 TAC §334.8(c)(5)(A)(i) and the Code, §26.3467(a), by failing to make available to a common carrier a valid, current delivery certificate; 30 TAC §334.49(c)(2)(C) and the Code, §26.3475(d), by failing to inspect the impressed current cathodic protection system; 30 TAC §334.49(c)(4) and the Code, §26.3475(d), by failing to have the cathodic protection system inspected and tested for operability and adequacy of protection; 30 TAC §334.48(c), by failing to conduct effective manual or automatic inventory control procedures for the UST system; 30 TAC §334.50(d)(1)(B)(ii) and the Code, §26.3475(c)(1), by failing to provide a release detection method for the USTs by failing to conduct reconciliation of inventory control records; 30 TAC §334.50(d)(1)(B)(iii)(I) and the Code, §26.3475(c)(1), by failing to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day; 30 TAC §334.10(b), by failing to maintain UST records and make them immediately available for inspection; and 30 TAC §115.246(1) and THSC, §382.085(b), by failing to maintain all required Stage II records at the station and make them immediately available for review; PENALTY: \$15,881; ENFORCEMENT COORDINATOR: Wallace Myers, (512) 239-6580; REGIONAL OFFICE: 401 East Franklin Avenue, Suite 560, El Paso, Texas 79901-1212, (915) 834-4949.

(8) COMPANY: M & O SERVICES, L.L.C. dba Shell Super Stop 10; DOCKET NUMBER: 2009-0054-PST-E; IDENTIFIER: RN100814524; LOCATION: El Paso, El Paso County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.8(c)(4)(A)(vii) and (5)(B)(ii), by failing to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form; 30 TAC §334.8(c)(5)(A)(i) and the Code, §26.3467(a), by failing to make available to a common carrier a valid, current delivery certificate; 30 TAC §334.49(c)(2)(C) and the Code, §26.3475(d), by failing to inspect the impressed current cathodic protection system; 30 TAC §334.49(c)(4) and the Code, §26.3475(d), by failing to have the cathodic protection system inspected and tested for operability and adequacy of protection; 30 TAC §334.50(b)(1)(A) and the Code, §26.3475(c)(1), by failing to ensure that all USTs are monitored in a manner which will detect a release; 30 TAC §334.50(b)(2) and the Code, §26.3475(a), by failing to provide release detection for the piping associated with the USTs; 30 TAC §334.50(b)(2)(A)(i)(III) and the Code, §26.3475(a), by failing to test the line leak detectors at least once per year for performance and operational reliability; 30 TAC §334.48(c), by failing to conduct effective manual or automatic inventory control procedures for all USTs; and 30 TAC §334.8(c)(5)(C), by failing to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube for each regulated UST; PENALTY: \$19,499; ENFORCEMENT COORDINATOR: Judy Kluge, (817) 588-5800; REGIONAL OFFICE: 401 East Franklin Avenue, Suite 560, El Paso, Texas 79901-1212, (915) 834-4949.

(9) COMPANY: Hipolito Martinez; DOCKET NUMBER: 2009-0014-LII-E; IDENTIFIER: RN105663397; LOCATION: Richmond, Fort Bend County; TYPE OF FACILITY: landscape irrigation business;

RULE VIOLATED: 30 TAC §305.5 and §344.4, Texas Occupations Code, §1903.251, and the Code, §37.003, by failing to hold an irrigator license prior to selling, designing, consulting, installing, maintaining, altering, repairing, or servicing an irrigation system and representing to the public that he could perform a service for which a license is required; PENALTY: \$736; ENFORCEMENT COORDINATOR: Keith Frank, (512) 239-1203; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(10) COMPANY: Rosa Santis and Whittlesey Landscape Supplies & Recycling, Inc.; DOCKET NUMBER: 2008-1929-MSW-E; IDENTIFIER: RN105209175; LOCATION: Round Rock, Travis County; TYPE OF FACILITY: mulching; RULE VIOLATED: 30 TAC §328.5(h), by failing to have a fire prevention and suppression plan; PENALTY: \$900; ENFORCEMENT COORDINATOR: Keith Frank, (512) 239-1203; REGIONAL OFFICE: 2800 South IH 35, Suite 100, Austin, Texas 78704-5700, (512) 339-2929.

(11) COMPANY: City of Sonora; DOCKET NUMBER: 2008-1921-MWD-E; IDENTIFIER: RN102806411; LOCATION: Sutton County; TYPE OF FACILITY: wastewater treatment plant; RULE VIOLATED: 30 TAC §305.125(1) and (5) and Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0010545001, Operational Requirements Number 4, by failing to maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures; 30 TAC §305.125(1) and (5) and TPDES Permit Number WQ0010545001, Operational Requirements Number 1, by failing to properly operate and maintain the facility and all of its systems of collection, treatment, and disposal; 30 TAC §305.125(1), (4), and (5), TPDES Permit Number WQ0010545001, Permit Conditions Number 2.d., and Operational Requirements Number 1, and the Code, §26.121(a), by failing to prevent the unauthorized discharge of sludge; 30 TAC §305.125(1), TPDES Permit Number WQ0010545001, Effluent Limitations and Monitoring Requirements Numbers 1, 2, and 6, and the Code, §26.121(a), by failing to comply with permitted effluent limitations; 30 TAC §305.125(1) and §319.11(c) and TPDES Permit Number WQ0010545001, Monitoring and Reporting Requirements Numbers 2, 3.a., and 5., by failing to properly calibrate measuring or recording devices; 30 TAC §305.125(1) and §319.9(c) and TPDES Permit Number WQ0010545001, Operational Requirements Number 1, by failing to retain records of process control and quality assurance activities; 30 TAC §305.125(1) and §319.7(e) and TPDES Permit Number WQ0010545001, Monitoring and Reporting Requirements Number 7.d., by failing to submit correct information in the discharge monitoring reports (DMRs); PENALTY: \$26,192; SEP offset amount of \$26,192 applied to Texas Association of Resource Conservation and Development Areas, Inc. - Household Hazardous Waste Clean-Up; ENFORCEMENT COORDINATOR: Tom Jecha, (512) 239-2576; REGIONAL OFFICE: 622 South Oakes, Suite K, San Angelo, Texas 76903-7035, (325) 655-9479.

(12) COMPANY: Star Fuels, Inc. dba Phillips 66; DOCKET NUMBER: 2008-1738-PST-E; IDENTIFIER: RN101617777; LOCATION: Houston, Harris County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §115.245(2) and THSC, §382.085(b), by failing to verify proper operation of the Stage II equipment; and 30 TAC §334.22(a) and the Code, §5.702, by failing to pay outstanding late fees associated with UST fees; PENALTY: \$2,518; ENFORCEMENT COORDINATOR: Wallace Myers, (512) 239-6580; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(13) COMPANY: Targa Midstream Services Limited Partnership; DOCKET NUMBER: 2009-0130-AIR-E; IDENTIFIER: RN100222900; LOCATION: Mont Belvieu, Chambers County;

TYPE OF FACILITY: natural gas liquid processing plant; RULE VIOLATED: 30 TAC §116.115(c), Air Permit Number 5414, SC Number 1, and THSC, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$3,800; ENFORCEMENT COORDINATOR: Roshondra Lowe, (713) 767-3500; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(14) COMPANY: TERMINAL MARKET GARAGE, L.L.C. dba Terminal Market Garage; DOCKET NUMBER: 2009-0139-PST-E; IDENTIFIER: RN101896876; LOCATION: San Antonio, Bexar County; TYPE OF FACILITY: vehicle maintenance garage; RULE VIOLATED: 30 TAC §334.7(a)(1) and (d)(3), by failing to provide an amended UST registration form; 30 TAC §334.55(a)(6)(D)(ii), by failing to submit a release determination report; and 30 TAC §334.47(a)(2), by failing to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, a UST system; PENALTY: \$7,000; ENFORCEMENT COORDINATOR: Judy Kluge, (817) 588-5800; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(15) COMPANY: United States Department of Agriculture, Animal and Plant Health Inspection Service; DOCKET NUMBER: 2009-0055-PWS-E; IDENTIFIER: RN101611804; LOCATION: Hidalgo County; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.113(f)(4), TCEQ Agreed Order Docket Number 2005-1262-PWS-E, Ordering Provision 2.a., and the THSC, §341.0315(c), by failing to comply with the maximum contaminant level (MCL) for total trihalomethanes; and 30 TAC §290.113(f)(5), TCEQ Agreed Order Docket Number 2005-1262-PWS-E, Ordering Provision 2.b., and the THSC, §341.0315(c), by failing to comply with the MCL for haloacetic acids; PENALTY: \$2,850; ENFORCEMENT COORDINATOR: Epifanio Villarreal, (361) 825-3100; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(16) COMPANY: City of West; DOCKET NUMBER: 2009-0082-MWD-E; IDENTIFIER: RN102079282; LOCATION: West, McLennan County; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §305.125(1), TPDES Permit Number WQ0010544001, Effluent Limitations and Monitoring Requirements Numbers 1 and 6, and the Code, §26.121(a), by failing to comply with permit effluent limits for ammonia-nitrogen and dissolved oxygen; PENALTY: \$7,260; ENFORCEMENT COORDINATOR: Steve Villatoro, (512) 239-4930; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826 (254) 751-0335.

TRD-200901425

Kathleen C. Decker

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: April 14, 2009

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Notice of Proposed Underground Injection Control

General Permit Number WDWG010000

The Texas Commission on Environmental Quality (TCEQ or commission) proposes to issue a general permit (Proposed General Permit Number WDWG010000) authorizing the use of a Class I injection well to inject nonhazardous brine from a desalination operation or nonhazardous drinking water treatment residuals. The proposed general permit applies to the entire state of Texas. This general permit is authorized by Texas Water Code, §27.023.

**PROPOSED GENERAL PERMIT**

The executive director has prepared a draft general permit that provides requirements and conditions for the authorization of Class I injection wells to inject nonhazardous brine from a desalination operation or nonhazardous drinking water treatment residuals. The executive director proposes to require regulated facilities to submit a Notice of Intent to obtain authorization for injection.

The executive director has reviewed this action for consistency with the goals and policies of the Texas Coastal Management Program (CMP) according to Coastal Coordination Council regulations, and has determined that the action is consistent with applicable CMP goals and policies.

A copy of the proposed general permit and fact sheet are available for viewing and copying at the TCEQ Office of the Chief Clerk located at the TCEQ's Austin office, at 12100 Park 35 Circle, Building F. These documents are also available at the TCEQ's 16 regional offices and at [http://www.tceq.state.tx.us/permitting/waste\\_permits/adv-groups/uic\\_gp.html](http://www.tceq.state.tx.us/permitting/waste_permits/adv-groups/uic_gp.html) on the TCEQ web site.

#### **PUBLIC COMMENT/PUBLIC MEETING**

You may submit public comments about this general permit. In addition, the TCEQ will hold a public meeting on this general permit pursuant to 30 TAC §331.202. A public meeting is not a contested case hearing. The purpose of a public meeting is to provide the opportunity to submit comments or to ask questions about the general permit. The public meeting will be held as follows: **June 2, 2009, at 1:30 p.m.** at the TCEQ Austin Office, 12100 Park 35 Circle, Building E, Room 254S.

Written public comments must be submitted to the Office of the Chief Clerk, MC 105, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at <http://www5.tceq.state.tx.us/ecmnts/index.cfm> within 30 days from the date this notice is published in the *Texas Register* or at the end of the public meeting, whichever is later.

#### **APPROVAL PROCESS**

After the comment period, the executive director will consider all the public comments and prepare a written response. The response will be filed with the TCEQ Office of the Chief Clerk at least ten days before the scheduled commission meeting when the commission will consider approval of the general permit. This commission meeting will be open to the public. The commission will consider all public comments in making its decision and will either adopt the executive director's response or prepare its own response. The commission will issue its written response on the general permit at the same time the commission issues or denies the general permit. A copy of any issued general permit and response to comments will be made available to the public for inspection at the agency's Austin and regional offices. A notice of the commissioners' action on the proposed general permit and a copy of its response to comments will be mailed to each person who made a comment. Also, a notice of the commission's action on the proposed general permit and the text of its response to comments will be published in the *Texas Register*.

#### **MAILING LIST**

In addition to submitting public comments, you may request to be placed on a mailing list to receive future public notices mailed by the Office of the Chief Clerk. You may request to be added to: (1) the mailing list for this specific general permit; (2) the mailing list for a specific county; and/or (3) the mailing list for a specific applicant name and permit number. Clearly specify which list(s) to which you wish to be added and send your request to TCEQ Office of the Chief Clerk at the address listed previously. Unless you otherwise specify, you will be included only on the mailing list for this specific general permit.

#### **AGENCY CONTACTS AND INFORMATION**

If you need more information about this general permit or the permitting process, please call the TCEQ Office of Public Assistance, at 1-800-687-4040. General information about the TCEQ can be found at our web site at <http://www.tceq.state.tx.us/>. Further information may also be obtained by calling Kathryn Flegal at (512) 239-6890.

Si desea información en Español, puede llamar 1-800-687-4040.

TRD-200901423

LaDonna Castañuela

Chief Clerk

Texas Commission on Environmental Quality

Filed: April 14, 2009

### **General Land Office**

#### **Notice of Ike Disaster Recovery Order**

Pursuant to 31 TAC §15.13, Jerry Patterson, Commissioner of the General Land Office, issued a disaster recovery order on April 13, 2009, to authorize temporary standards for stabilization and repair of structures, dune restoration, and other minimum measures necessary to mitigate for adverse effect to public beach access and dune areas in Galveston and Brazoria Counties caused by Hurricane Ike.

All jurisdictions within Brazoria and Galveston Counties have areas where residential structures and public infrastructure need stabilization and repair and where hazard mitigation measures are needed to reestablish the protective barrier provided by the natural dunes damaged or destroyed by wind and storm tidal surges from Hurricane Ike. The need to respond to threats to public health, safety, and welfare with hazard mitigation measures continues beyond the expiration of the previously issued emergency rules (31 TAC §15.17, concerning Emergency Provisions for Stabilization and Repair of Damaged Residential Structures, and §15.18, concerning Emergency Measures for Beach and Dune Restoration and existing Shore Protection Projects, §15.19 concerning Utilities and Ground Level Enclosures, and §15.20 concerning Use of Clay Fill) due to delays in obtaining funding from insurance payments for insured losses, governmental assistance, and other sources.

While the Ike Disaster Recovery Order is in effect, the local government may:

- a. issue a certificate or permit authorizing recovery repair and recovery stabilization of a structure that encroaches or may encroach on the public beach if the local government determines that the measures comply with rules adopted by the Commissioner at 31 TAC §15.13(f);
- b. issue a certificate or permit authorizing recovery dune restoration if the local government determines that the restoration complies with rules adopted by the Commissioner at 31 TAC §15.13(g) and (h);
- c. authorize minimum measures necessary to mitigate for adverse effects to public beach access and dune areas caused by Hurricane Ike as provided in rules adopted by the Commissioner at 31 TAC §15.13(j);
- d. authorize repairs to existing shoreline protection projects if the local government determines that the repair complies with rules adopted by the Commissioner at 31 TAC §15.13(k); and
- e. suspend the authority of a permittee to scrape a beach under a previously issued beach maintenance permit if significant beach erosion has been caused by Hurricane Ike pursuant to rules adopted at 31 TAC §15.13(n).

The Ike Disaster Recovery Order is effective until September 13, 2011. The text of the order may be viewed at <http://www.glo.state.tx.us/ike/hurricane.html>.

TRD-200901436

Larry L. Laine

Chief Clerk, Deputy Land Commissioner

General Land Office

Filed: April 15, 2009

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**Department of State Health Services**  
Licensing Actions for Radioactive Materials

The Department of State Health Services has taken actions regarding Licenses for the possession and use of radioactive materials as listed in the tables. The subheading "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout Texas" indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.

NEW LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Dallas	Crown Imaging L.L.C.	L06223	Dallas	00	03/25/09
Fort Worth	Scott E. Ewing D.O.	L06210	Fort Worth	00	03/24/09
Houston	University of Texas M.D. Anderson Cancer Center	L06227	Houston	00	03/24/09
Throughout Tx	Frac Tech Services Ltd.	L06188	Cisco	00	03/26/09

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Alice	Christus Spohn Health System Corporation	L02390	Alice	43	03/18/09
Amarillo	Cardinal Health	L03398	Amarillo	38	03/24/09
Amarillo	Baptist St. Anthony's Health System	L01259	Amarillo	88	03/25/09
Andrews	Waste Control Specialists L.L.C.	L06153	Andrews	02	03/25/09
Arlington	G.E. Healthcare	L05693	Arlington	07	03/23/09
Austin	Seton Healthcare dba University Medical Center at Brackenridge	L00268	Austin	104	03/12/09
Austin	Seton Healthcare dba Seton Medical Center at Austin	L02896	Austin	101	03/13/09
Austin	Seton Healthcare dba Seton Medical Center Williamson	L06128	Austin	06	03/13/09
Austin	Seton Healthcare dba Dell Children's Medical Center of Central Texas	L06065	Austin	10	03/13/09
Austin	Columbia St. David's Healthcare System L.P. dba South Austin Hospital	L03273	Austin	84	03/25/09
Austin	North Austin Surgery Center L.P.	L05832	Austin	02	03/19/09
Beaumont	Baptist Hospital of Southeast Texas	L00358	Beaumont	118	03/18/09
Bonham	Attentus Bonham L.P. dba Red River Regional Hospital	L03331	Bonham	38	03/17/09
Cleveland	Cleveland Regional Medical Center L.P.	L02055	Cleveland	39	03/17/09
Corpus Christi	Cardiology Associates of Corpus Christi	L04611	Corpus Christi	27	03/13/09
Dallas	I.B.A. Molecular North America Inc. dba I.B.A. Molecular	L06174	Dallas	02	03/16/09
Dallas	Medical Edge Healthcare Group P.A. dba Verity Radiation Therapy	L06135	Dallas	01	03/12/09
Dallas	Medi Physics Inc. dba G.E. Healthcare	L05529	Dallas	25	03/24/09
Dallas	Methodist Hospitals of Dallas	L00659	Dallas	64	03/19/09
Dallas	Afridi Heart Care P.A.	L06005	Dallas	04	03/19/09
El Paso	The University of Texas at El Paso	L00159	El Paso	60	03/24/09
El Paso	E.P. Medical Imaging Technology L.P. dba El Paso Medical Imaging Technology	L06095	El Paso	03	03/20/09
Ennis	Ellis County Medical Associates	L05759	Ennis	05	03/18/09
Fort Worth	Heart Center of North Texas P.A.	L05338	Fort Worth	12	03/24/09
Fort Worth	John Peter Smith Hospital	L02208	Fort Worth	71	03/19/09
Fort Worth	Physician Reliance L.P. dba Texas Oncology at Klabzuba	L05545	Fort Worth	28	03/18/09

AMENDMENTS TO EXISTING LICENSES ISSUED (CONTINUED):

Friendswood	Raj K. Bhalla M.D. P.A.	L05469	Friendswood	05	03/23/09
Galveston	The University of Texas Medical Branch	L01299	Galveston	81	03/16/09
Galveston	Galveston Laboratories L.L.C.	L02970	Galveston	08	03/26/09
Granbury	Granbury Hospital Corporation dba Lake Granbury Medical Center	L02903	Granbury	32	03/26/09
Gun Barrel City	Heartmasters P.A.	L05760	Gun Barrel City	04	03/24/09
Houston	U.T. Physicians	L05465	Houston	07	03/13/09
Houston	The Methodist Hospital	L00457	Houston	165	03/16/09
Houston	Advanced Nuclear Consultants	L06167	Houston	03	03/19/09
Houston	The Houston Proton Therapy Center - Houston Ltd. L.L.P., dba M.D. Anderson Cancer Proton Therapy Center	L05859	Houston	02	03/18/09
Houston	Go Imaging L.L.P.	L06117	Houston	02	03/19/09
Houston	Rice University Department of Civil and Environmental Engineering	L04639	Houston	10	03/18/09
Houston	Houston Association of Cardiovascular Medicine dba Houston Cardiac Association	L05840	Houston	02	03/18/09
Houston	Memorial Hermann Hospital System dba Memorial Hospital Memorial City	L01168	Houston	106	03/18/09
Houston	Ben Taub General Hospital	L01303	Houston	68	03/19/09
Houston	Rice University Department of Biochemistry and Cell Biology	L01772	Houston	20	03/18/09
Houston	Texas Children's Hospital	L04612	Houston	45	03/24/09
Houston	Petnet Houston L.L.C. dba Petnet Houston L.L.C.	L05542	Houston	23	03/25/09
Houston	Houston Cancer Institute P.A. dba Houston Diagnostics and PET/CT Center	L06193	Houston	01	03/25/09
Houston	Cogenics Inc.	L04387	Houston	19	03/26/09
Irving	Abbott Laboratories	L04841	Irving	12	03/25/09
Irving	University of Dallas	L01194	Irving	14	03/18/09
Kerrville	Kerrville Cancer Center	L06024	Kerrville	01	03/18/09
Kingsville	Texas A&M University Kingsville	L01821	Kingsville	38	03/23/09
Lubbock	University Medical Center	L04719	Lubbock	104	03/20/09
Lufkin	East Texas Hematology and Oncology P.A.	L06039	Lufkin	01	03/24/09
Nacogdoches	Memorial Hospital	L01071	Nacogdoches	44	03/25/09
Orange	Lanxess Corporation	L00976	Orange	57	03/19/09
Paris	Advanced Heart Care P.A.	L05290	Paris	28	03/18/09
Pasadena	Mohamed O. Jeroudi, M.D. P.A.	L05753	Pasadena	12	03/18/09
Plano	Baylor Regional Medical Center of Plano	L05844	Plano	07	03/11/09
Plano	Texas Heart Hospital of the Southwest L.L.P. dba The Heart Hospital Baylor of Plano	L06004	Plano	12	03/16/09
Plano	Medical Edge Healthcare Group P.A. dba Heart First	L05555	Plano	23	03/19/09
Plano	Baylor Regional Medical Center of Plano	L05844	Plano	08	03/19/09
Plano	Physician Reliance Network Inc. dba Texas Oncology Plano West Cancer Center	L05896	Plano	15	03/26/09
Richardson	Raytheon Company	L04096	Richardson	28	03/19/09
San Antonio	Methodist Healthcare System of San Antonio Ltd. L.L.P.	L00594	San Antonio	256	03/13/09
San Antonio	Texas Cancer Clinic	L05786	San Antonio	12	03/16/09
San Antonio	Methodist Healthcare System of San Antonio Ltd. L.L.P.	L00594	San Antonio	257	03/19/09
San Antonio	South Texas Radiology Imaging Centers	L00325	San Antonio	174	03/20/09
San Antonio	Urology San Antonio P.A. dba San Antonio Center for Cancer Treatment	L06047	San Antonio	01	03/18/09
San Antonio	San Antonio Endovascular and Heart Institute	L05766	San Antonio	04	03/26/09
San Benito	Ballenger Construction Company	L05955	San Benito	01	03/26/09

AMENDMENTS TO EXISTING LICENSES ISSUED (CONTINUED):

Stafford	Ramco Laboratories	L02172	Stafford	18	03/18/09
Sugarland	Fort Bend Heart Center	L05678	Sugarland	08	03/11/09
Sunray	Diamond Shamrock Refining Company L.P.	L04398	Sunray	17	03/19/09
The Woodlands	Memorial Hermann Hospital System dba Memorial Hermann Hospital The Woodlands	L03772	The Woodlands	70	03/25/09
Throughout Tx	R.S.I. Inspection L.L.C.	L05624	Abilene	19	03/12/09
Throughout Tx	Desert Industrial X-Ray L.P.	L04590	Abilene	94	03/18/09
Throughout Tx	Mactec Engineering and Consulting Inc.	L05490	Addison	14	03/16/09
Throughout Tx	City of Amarillo Department of Engineering	L02320	Amarillo	21	03/19/09
Throughout Tx	Troxler Electronic Laboratories	L01296	Arlington	43	03/25/09
Throughout Tx	M.L.A. Labs Inc.	L01820	Austin	33	03/17/09
Throughout Tx	Texas Department of Transportation, Construction Division, Materials and Pavements Section	L00197	Austin	145	03/12/09
Throughout Tx	Qal-Tek Associates L.L.C.	L05965	Austin	07	03/26/09
Throughout Tx	Gulf Coast Weld Spec.	L05426	Beaumont	80	03/12/09
Throughout Tx	Applied Standards Inspection Inc.	L03072	Beaumont	109	03/12/09
Throughout Tx	Gulf Coast Weld Spec.	L05426	Beaumont	81	03/19/09
Throughout Tx	Gulf Coast Weld Spec. Inc.	L05426	Beaumont	82	03/23/09
Throughout Tx	N.D.E. Solutions L.L.C.	L05879	College Station	22	03/13/09
Throughout Tx	C.T.L. Thompson Texas L.L.C.	L04900	Dallas	14	03/19/09
Throughout Tx	J.R.J. Paving Inc.	L05307	Dallas	07	03/23/09
Throughout Tx	Terracon Consultants Inc.	L05268	Dallas	30	03/23/09
Throughout Tx	Integrity Testing and Inspection Inc.	L06027	El Paso	06	03/12/09
Throughout Tx	T.S.I.T	L05697	Fort Worth	04	03/25/09
Throughout Tx	The Dow Chemical Company	L00451	Freeport	87	03/13/09
Throughout Tx	O.C.T.G. L.L.P.	L05871	Houston	03	03/19/09
Throughout Tx	The Methodist Hospital	L00457	Houston	166	03/25/09
Throughout Tx	Pathfinder Energy Services Inc.	L05236	Houston	18	03/26/09
Throughout Tx	Dialog Wireline Services L.L.C.	L06104	Kilgore	02	03/19/09
Throughout Tx	Marco Inspection Services L.L.C.	L06072	Kilgore	21	03/23/09
Throughout Tx	Qisi Inc. dba Quality Inspection Services	L06219	La Porte	01	03/13/09
Throughout Tx	Acuren Inspection Inc.	L01774	La Porte	252	03/13/09
Throughout Tx	Acuren Inspection Inc.	L01774	La Porte	253	03/18/09
Throughout Tx	American X-Ray and Inspection Services Inc. dba A.X.I.S. Inc.	L05974	Midland	17	03/13/09
Throughout Tx	Nuliner Inc.	L06053	Odessa	02	03/24/09
Throughout Tx	Petrochem Inspection Services Inc.	L04460	Pasadena	97	03/12/09
Throughout Tx	Petrochem Inspection Services Inc.	L04460	Pasadena	98	03/19/09
Throughout Tx	Conam Inspection and Engineering Inc.	L05010	Pasadena	165	03/25/09
Throughout Tx	Fugro Consultants Inc.	L04322	Pasadena	98	03/26/09
Throughout Tx	Conam Inspection and Engineering	L05010	Pasadena	166	03/30/09
Throughout Tx	Midwest Inspection Services	L03120	Perryton	115	03/26/09
Throughout Tx	Arias and Associates Inc.	L04964	San Antonio	35	03/12/09
Throughout Tx	Great Guns Inc.	L01990	Sour Lake	28	03/13/09
Throughout Tx	Durwood Greene Construction L.P.	L04753	Stafford	09	03/26/09
Throughout Tx	Schlumberger Technology Corporation	L01833	Sugarland	152	03/30/09
Tyler	Allens Nutech Inc. dba Nutech Inc.	L05511	Tyler	11	03/20/09
Victoria	Victoria Heart and Vascular Center	L05748	Victoria	05	03/18/09
Waco	Hillcrest Baptist Medical Center	L00845	Waco	86	03/30/09
Weslaco	South Texas Imaging Center - K P.A. dba Stic-K	L05636	Weslaco	07	03/19/09
Winnsboro	Presbyterian Hospital of Winnsboro	L03336	Winnsboro	22	03/13/09

RENEWAL OF LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Houston	Rice University Department of Biochemistry and Cell Biology	L01772	Houston	21	03/19/09
Houston	Red Oak Cardiovascular Center	L04159	Houston	16	03/18/09
Katy	St. Catherine Health and Wellness Center	L05310	Katy	19	03/19/09
San Antonio	Southwest Research Institute	L04958	San Antonio	16	03/18/09
San Antonio	I.H.I. Southwest Technologies Inc.	L05279	San Antonio	08	03/25/09
Throughout Tx	E.C.S.-Texas L.L.P.	L05319	Austin	07	03/10/09
Tyler	Tyler Cardiovascular Consultants P.A.	L05242	Tyler	17	03/11/09
Waco	Lehigh Cement Company	L01087	Waco	23	03/11/09

TERMINATIONS OF LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Alvin	Digital Surveys Inc.	L01611	Alvin	29	03/19/09
Dallas	Criterion Imaging Ltd. dba Richardson Diagnostic	L05468	Dallas	14	03/25/09
McKinney	Silk Imaging and Healthcare L.P. dba Silk Imaging and Healthcare	L06129	McKinney	03	03/11/09
San Antonio	South Texas Radiology Imaging Centers	L03518	San Antonio	67	03/25/09
Throughout Tx	I.E.S. Incorporated	L03694	Denver City	11	03/17/09

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

This notice affords the opportunity for a hearing on written request of a person affected within 30 days of the date of publication of this notice. A person affected is defined as a person who demonstrates that the person has suffered or will suffer actual injury or economic damage and, if the person is not a local government, is (a) a resident of a county, or a county adjacent to the county, in which radioactive material is or will be located, or (b) doing business or has a legal interest in land in the county or adjacent county. A person affected may request a hearing by writing Richard A. Ratliff, Radiation Program Officer, Department of State Health Services, Radiation Material Licensing - MC 2835, P.O. Box 149347, Austin, Texas 78714-9347. For information call (512) 834-6688.

TRD-200901395  
 Lisa Hernandez  
 General Counsel  
 Department of State Health Services  
 Filed: April 13, 2009



**Texas Health and Human Services Commission**

Notice of Hearing on Proposed Nursing Facility Payment Rates

**Hearing.** The Texas Health and Human Services Commission (HHSC) will conduct a public hearing on May 14, 2009, at 1:00 p.m., to receive public comment on proposed payment rates for the state-owned veterans nursing facilities. These nursing facilities are in the nursing facility program operated by Texas Department of Aging and Disabilities. These payment rates are proposed to be effective March 1, 2009.

The public hearing will be held in compliance with Human Resources Code §32.0282 and Title 1 of the Texas Administrative Code (TAC) §355.105(g), which require public notice and hearings on proposed payment rates. The public hearing will be held in the Permian Basin Room of the Health and Human Services Commission, Braker Center, Building H, located at 11209 Metric Blvd., Austin, Texas. Entry is through Security at the main entrance of the building, which faces Metric Boulevard. Persons requiring American with Disabilities Act (ADA) accommodation or auxiliary aids or services should contact Josie Wheatfall by calling (512) 491-1174, at least 72 hours prior to the hearing so appropriate arrangements can be made.

**Proposal.** HHSC proposes the following interim per day payment rates for the state-owned veterans nursing facilities effective March 1, 2009: Big Spring, \$136.00; Bonham, \$136.00; Floresville, \$136.00; Temple, \$136.00; McAllen, \$136.00, El Paso, \$136.00 and Amarillo, \$136.00. The proposed rates for each home are based upon the state veterans home semi-private basic daily rate in effect on the first day of



the rate period in accordance with the rate setting methodologies listed below under Methodology and Justification. These rates will be reconciled retrospectively based on actual costs in accordance with 1 TAC §355.311(j).

**Methodology and Justification.** The proposed rates were determined in accordance with the rate reimbursement setting methodology at 1 TAC §355.311(d).

**Briefing Package.** A briefing package describing the proposed payment rates will be available April 29, 2009. Interested parties may obtain a copy of the briefing package prior to the hearing by contacting Josie Wheatfall by telephone at (512) 491-1174, by fax at (512) 491-1983; or by e-mail at [josie.wheatfall@hhsc.state.tx.us](mailto:josie.wheatfall@hhsc.state.tx.us). The briefing package will also be available at the public hearing.

**Written and Oral Comments.** Written comments regarding the payment rates may be submitted in lieu of, or in addition to, oral testimony until 5:00 p.m. the day of the hearing. Written comments may be sent by U.S. mail to the attention of Josie Wheatfall, Health and Human Services Commission, Rate Analysis, Mail Code H-400, P.O. Box 85200, Austin, Texas 78708-5200; by fax to Josie Wheatfall at (512) 491-1983; or by e-mail to [josie.wheatfall@hhsc.state.tx.us](mailto:josie.wheatfall@hhsc.state.tx.us). In addition, written comments may be sent by overnight mail or hand delivered to Josie Wheatfall, HHSC Rate Analysis, Mail Code H-400, Braker Center, Building H, 11209 Metric Boulevard, Austin, Texas 78758-4021.

TRD-200901419

Steve Aragón

Chief Counsel

Texas Health and Human Services Commission

Filed: April 13, 2009



#### Notice of Public Hearing on Proposed Medicaid Payment Rates

**Hearing.** The Texas Health and Human Services Commission (HHSC) will conduct a public hearing on May 12, 2009, at 1:30 p.m., to receive public comment on proposed Medicaid payment rate for Implant Procedure Codes for Types of Service (TOS) 2, 8, and F. The public hearing will be held in the Lone Star Conference Room of HHSC, Braker Center, Building H, located at 11209 Metric Boulevard, Austin, Texas. Entry is through Security at the main entrance of the building, which faces Metric Boulevard. The hearing will be held in compliance with Human Resources Code §32.082 and Texas Administrative Code (TAC) Title 1, §355.201(e) - (f), which require public notice of and hearings on proposed Medicaid reimbursements.

**Proposal.** The proposed payment rates for the Implant Procedure Codes for Types of Service (TOS) 2, 8, and F are proposed to be effective July 1, 2009. TOS 2 covers physician surgery services. TOS 8 covers physician assistant surgery services. TOS F covers services delivered in an ambulatory surgical center (ASC) / hospital ASC (HASC).

**Methodology and Justification.** The proposed payment rates for TOS 2 and TOS 8 were calculated in accordance with 1 TAC §355.8085, relating to the reimbursement methodology for physician services, including surgery and assistant surgery services. The proposed TOS F rates were calculated in accordance with 1 TAC §355.8121, relating to the reimbursement methodology for ASC/HASC services.

**Briefing Package.** A briefing package describing the proposed payment rates will be available on or after April 28, 2009. Interested parties may obtain a copy of the briefing package prior to the hearing by contacting Josie Wheatfall by telephone at (512) 491-1445; by fax at

(512) 491-1983; or by e-mail at [josie.wheatfall@hhsc.state.tx.us](mailto:josie.wheatfall@hhsc.state.tx.us). The briefing package also will be available at the public hearing.

**Written Comments.** Written comments regarding the proposed payment rates may be submitted in lieu of, or in addition to, oral testimony until 5 p.m. the day of the hearing. Written comments may be sent by U.S. mail to the attention of Josie Wheatfall, HHSC, Rate Analysis, Mail Code H-400, P.O. Box 85200, Austin, Texas 78708-5200; by fax to Josie Wheatfall at (512) 491-1983; or by e-mail to [josie.wheatfall@hhsc.state.tx.us](mailto:josie.wheatfall@hhsc.state.tx.us). In addition, written comments may be sent by overnight mail or hand delivered to Josie Wheatfall, HHSC, Rate Analysis, Mail Code H-400, Braker Center, Building H, 11209 Metric Boulevard, Austin, Texas 78758-4021.

Persons with disabilities who wish to attend the hearing and require auxiliary aids or services should contact Josie Wheatfall at (512) 491-1445 at least 72 hours in advance, so appropriate arrangements can be made.

TRD-200901399

Steve Aragón

Chief Counsel

Texas Health and Human Services Commission

Filed: April 13, 2009



#### Notice of Public Hearing on Proposed Medicaid Payment Rate

**Hearing.** The Texas Health and Human Services Commission (HHSC) will conduct a public hearing on May 12, 2009, at 1:30 p.m. to receive public comment on the proposed Medicaid Vision Services Fees. The public hearing will be held in the Lone Star Conference Room of HHSC, Braker Center, Building H, located at 11209 Metric Boulevard, Austin, Texas. Entry is through Security at the main entrance of the building, which faces Metric Boulevard. The hearing will be held in compliance with Human Resources Code §32.082 and 1 Texas Administrative Code (TAC), §355.201(e) - (f), which require public hearings on proposed Medicaid reimbursements.

**Proposal.** The new Vision Services Fees are proposed to be effective July 1, 2009.

**Methodology and Justification.** The proposed payment rates are calculated in accordance with 1 TAC §355.8001, 1 TAC §355.8081, and 1 TAC §355.8085 which address the reimbursement methodology for Vision Care Services.

**Briefing Package.** A briefing package describing the proposed payment rates will be available on or after April 27, 2009. Interested parties may obtain a copy of the briefing package prior to the hearing by contacting Josie Wheatfall by telephone at (512) 491-1445; by fax at (512) 491-1983; or by e-mail at [josie.wheatfall@hhsc.state.tx.us](mailto:josie.wheatfall@hhsc.state.tx.us). The briefing package also will be available at the public hearing.

**Written Comments.** Written comments regarding the proposed payment rates may be submitted in lieu of or in addition to oral testimony until 5 p.m. the day of the hearing. Written comments may be sent by U.S. mail to the attention of Josie Wheatfall, HHSC, Rate Analysis, Mail Code H-400, P.O. Box 85200, Austin, Texas 78708-5200; by fax to Josie Wheatfall at (512) 491-1983; or by e-mail to [josie.wheatfall@hhsc.state.tx.us](mailto:josie.wheatfall@hhsc.state.tx.us). In addition, written comments may be sent by overnight mail or hand delivered to Josie Wheatfall, HHSC, Rate Analysis, Mail Code H-400, Braker Center, Building H, 11209 Metric Boulevard, Austin, Texas 78758-4021.

Persons with disabilities who wish to attend the hearing and require auxiliary aids or services should contact Josie Wheatfall at (512) 491-

1445 at least 72 hours in advance, so appropriate arrangements can be made.

TRD-200901397

Steve Aragón

Chief Counsel

Texas Health and Human Services Commission

Filed: April 13, 2009



#### Notice of Public Hearing on Proposed Medicaid Payment Rate

**Hearing.** The Texas Health and Human Services Commission (HHSC) will conduct a public hearing on May 12, 2009, at 1:30 p.m. to receive public comment on the proposed Medicaid Molecular Lab Fees associated with medical policy changes. The public hearing will be held in the Lone Star Conference Room of HHSC, Braker Center, Building H, located at 11209 Metric Boulevard, Austin, Texas. Entry is through Security at the main entrance of the building, which faces Metric Boulevard. The hearing will be held in compliance with Human Resources Code §32.082 and 1 Texas Administrative Code (TAC), §355.201(e) - (f), which require public hearings on proposed Medicaid reimbursements.

**Proposal.** The new Molecular Lab Fees are proposed to be effective July 1, 2009.

**Methodology and Justification.** The proposed payment rate is calculated in accordance with 1 TAC §355.8610, which addresses the reimbursement methodology for clinical laboratory services and 1 TAC §355.8081, which addresses the reimbursement methodology for non-clinical laboratory services.

**Briefing Package.** A briefing package describing the proposed payment rates will be available on or after April 27, 2009. Interested parties may obtain a copy of the briefing package prior to the hearing by contacting Josie Wheatfall by telephone at (512) 491-1445; by fax at (512) 491-1983; or by e-mail at [Josie.Wheatfall@hhsc.state.tx.us](mailto:Josie.Wheatfall@hhsc.state.tx.us). The briefing package also will be available at the public hearing.

**Written Comments.** Written comments regarding the proposed payment rates may be submitted in lieu of or in addition to oral testimony until 5 p.m. the day of the hearing. Written comments may be sent by U.S. mail to the attention of Josie Wheatfall, HHSC, Rate Analysis, Mail Code H-400, P.O. Box 85200, Austin, Texas 78708-5200; by fax to Josie Wheatfall at (512) 491-1983; or by e-mail to [Josie.Wheatfall@hhsc.state.tx.us](mailto:Josie.Wheatfall@hhsc.state.tx.us). In addition, written comments may be sent by overnight mail or hand delivered to Josie Wheatfall, HHSC, Rate Analysis, Mail Code H-400, Braker Center, Building H, 11209 Metric Boulevard, Austin, Texas 78758-4021.

Persons with disabilities who wish to attend the hearing and require auxiliary aids or services should contact Josie Wheatfall at (512) 491-1445 at least 72 hours in advance, so appropriate arrangements can be made.

TRD-200901400

Steve Aragón

Chief Counsel

Texas Health and Human Services Commission

Filed: April 13, 2009



#### Notice of Public Hearing on Proposed Medicaid Payment Rate

**Hearing.** The Texas Health and Human Services Commission (HHSC) will conduct a public hearing on May 12, 2009, at 1:30 p.m. to receive public comment on the multiple proposed updated Medicaid pay-

ment rates resulting from Quarterly Medicaid Fee Reviews. The procedure codes covered by the Quarterly Medicaid Fee Reviews include multiple blood products, multiple surgery, assistant surgery and medical services procedure codes, Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) codes; other (ambulance, eye-wear, and supplies) procedure codes; multiple non-clinical laboratory procedure codes; and clinical laboratory procedure codes. The public hearing will be held in the Lone Star Conference Room of HHSC, Braker Center, Building H, located at 11209 Metric Boulevard, Austin, Texas. Entry is through Security at the main entrance of the building, which faces Metric Boulevard. The hearing will be held in compliance with Human Resources Code §32.082 and 1 Texas Administrative Code (TAC), §355.201(e) - (f), which require public hearings on proposed Medicaid reimbursements.

**Proposal.** The proposed updated payment rates resulting from the Quarterly Medicaid Fee Reviews are proposed to be effective July 1, 2009.

**Methodology and Justification.** The proposed updated payment rates are calculated in accordance with 1 TAC §355.8021, relating to home health services; 1 TAC §355.8085, relating to the reimbursement methodology for physician services and certain other practitioners; and 1 TAC §355.8081, which addresses the reimbursement methodology for non-clinical laboratory services; and 1 TAC §355.8610, which addresses the reimbursement methodology for clinical laboratory services.

**Briefing Package.** A briefing package describing the proposed payment rates will be available on or after April 27, 2009. Interested parties may obtain a copy of the briefing package prior to the hearing by contacting Josie Wheatfall by telephone at (512) 491-1445; by fax at (512) 491-1983; or by e-mail at [Josie.Wheatfall@hhsc.state.tx.us](mailto:Josie.Wheatfall@hhsc.state.tx.us). The briefing package also will be available at the public hearing.

**Written Comments.** Written comments regarding the proposed payment rates may be submitted in lieu of or in addition to oral testimony until 5 p.m. the day of the hearing. Written comments may be sent by U.S. mail to the attention of Josie Wheatfall, HHSC, Rate Analysis, Mail Code H-400, P.O. Box 85200, Austin, Texas 78708-5200; by fax to Josie Wheatfall at (512) 491-1983; or by e-mail to [Josie.Wheatfall@hhsc.state.tx.us](mailto:Josie.Wheatfall@hhsc.state.tx.us). In addition, written comments may be sent by overnight mail or hand delivered to Josie Wheatfall, HHSC, Rate Analysis, Mail Code H-400, Braker Center, Building H, 11209 Metric Boulevard, Austin, Texas 78758-4021.

Persons with disabilities who wish to attend the hearing and require auxiliary aids or services should contact Josie Wheatfall at (512) 491-1445 at least 72 hours in advance, so appropriate arrangements can be made.

TRD-200901418

Steve Aragón

Chief Counsel

Texas Health and Human Services Commission

Filed: April 13, 2009



#### Notice of Public Hearing on Proposed Medicaid Payment Rates

**Hearing.** The Texas Health and Human Services Commission (HHSC) will conduct a public hearing on May 12, 2009, at 1:30 p.m., to receive public comment on the proposed Medicaid payment rate for Physician Evaluation & Management (E&M) Services (Adult Annual Preventive/Wellness Exams). The public hearing will be held in the Lone Star Conference Room of HHSC, Braker Center, Building H, located at 11209 Metric Boulevard, Austin, Texas. Entry is through Security

at the main entrance of the building, which faces Metric Boulevard. The hearing will be held in compliance with Human Resources Code §32.0282 and Texas Administrative Code (TAC) Title 1, §355.201(e) - (f), which require public notice of and hearings on proposed Medicaid reimbursements.

**Proposal.** The proposed payment rate for the Physician Evaluation & Management (E&M) Services (Adult Annual Preventive/Wellness Exams) is proposed to be effective December 6, 2009.

**Methodology and Justification.** The proposed payment rate was calculated in accordance with 1 TAC §355.8085, which addresses the reimbursement methodology for physician services, including medical service, surgery, assistant surgery, anesthesia and physician-administered drugs/biologicals.

**Briefing Package.** A briefing package describing the proposed payment rate will be available on or after April 28, 2009. Interested parties may obtain a copy of the briefing package prior to the hearing by contacting Josie Wheatfall by telephone at (512) 491-1445; by fax at (512) 491-1983; or by e-mail at [josie.wheatfall@hhsc.state.tx.us](mailto:josie.wheatfall@hhsc.state.tx.us). The briefing package also will be available at the public hearing.

**Written Comments.** Written comments regarding the proposed payment rate may be submitted in lieu of, or in addition to, oral testimony until 5 p.m. the day of the hearing. Written comments may be sent by U.S. mail to the attention of Josie Wheatfall, HHSC, Rate Analysis, Mail Code H-400, P.O. Box 85200, Austin, Texas 78708-5200; by fax to Josie Wheatfall at (512) 491-1983; or by e-mail to [josie.wheatfall@hhsc.state.tx.us](mailto:josie.wheatfall@hhsc.state.tx.us). In addition, written comments may be sent by overnight mail or hand delivered to Josie Wheatfall, HHSC, Rate Analysis, Mail Code H-400, Braker Center, Building H, 11209 Metric Boulevard, Austin, Texas 78758-4021.

Persons with disabilities who wish to attend the hearing and require auxiliary aids or services should contact Josie Wheatfall at (512) 491-1445 at least 72 hours in advance, so appropriate arrangements can be made.

TRD-200901398

Steve Aragón

Chief Counsel

Texas Health and Human Services Commission

Filed: April 13, 2009



#### Notice of Public Hearing on Proposed Medicaid Payment Rate

**Hearing.** The Texas Health and Human Services Commission (HHSC) will conduct a public hearing on May 12, 2009, at 1:30 p.m., to receive public comment on a proposed Medicaid new benefit payment rate for repair or nonroutine service for durable medical equipment other than oxygen associated with Durable Medical Equipment medical policy changes. The public hearing will be held in the Lone Star Conference Room of HHSC, Braker Center, Building H, located at 11209 Metric Boulevard, Austin, Texas. Entry is through Security at the main entrance of the building, which faces Metric Boulevard. The hearing will be held in compliance with Human Resources Code §32.0282 and Texas Administrative Code (TAC) Title 1, §355.201(e) - (f), which require public notice of and hearings on proposed Medicaid reimbursements.

**Proposal.** The proposed payment rate for the repair or nonroutine for durable medical equipment other than oxygen is proposed to be effective July 1, 2009.

**Methodology and Justification.** The proposed payment rate was calculated in accordance with 1 TAC §355.8021(c), which addresses the

reimbursement methodology for durable medical equipment (DME) as home health services, and 1 TAC §355.8441(3), relating to the reimbursement methodology for DME under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program (known in Texas as Texas Health Steps).

**Briefing Package.** A briefing package describing the proposed payment rate will be available on or after April 28, 2009. Interested parties may obtain a copy of the briefing package prior to the hearing by contacting Josie Wheatfall by telephone at (512) 491-1445; by fax at (512) 491-1983; or by e-mail at [josie.wheatfall@hhsc.state.tx.us](mailto:josie.wheatfall@hhsc.state.tx.us). The briefing package also will be available at the public hearing.

**Written Comments.** Written comments regarding the proposed payment rate may be submitted in lieu of, or in addition to, oral testimony until 5 p.m. the day of the hearing. Written comments may be sent by U.S. mail to the attention of Josie Wheatfall, HHSC, Rate Analysis, Mail Code H-400, P.O. Box 85200, Austin, Texas 78708-5200; by fax to Josie Wheatfall at (512) 491-1983; or by e-mail to [josie.wheatfall@hhsc.state.tx.us](mailto:josie.wheatfall@hhsc.state.tx.us). In addition, written comments may be sent by overnight mail or hand delivered to Josie Wheatfall, HHSC, Rate Analysis, Mail Code H-400, Braker Center, Building H, 11209 Metric Boulevard, Austin, Texas 78758-4021.

Persons with disabilities who wish to attend the hearing and require auxiliary aids or services should contact Josie Wheatfall at (512) 491-1445 at least 72 hours in advance, so appropriate arrangements can be made.

TRD-200901396

Steve Aragón

Chief Counsel

Texas Health and Human Services Commission

Filed: April 13, 2009



#### Texas Department of Housing and Community Affairs

Announcement of the Opening of the Public Comment Period for the Draft 2009 State of Texas Consolidated Plan Annual Performance Report - Reporting on Program Year 2008

The Texas Department of Housing and Community Affairs (Department) announces the opening of a 15-day public comment period for the *State of Texas Draft 2009 Consolidated Plan Annual Performance Report - Reporting on Program Year 2008* (Report) as required by the US Department of Housing and Urban Development (HUD). The Report is required as part of the overall requirements governing the State's consolidated planning process. The Report is submitted in compliance with 24 CFR §91.520, Consolidated Plan Submissions for Community Planning and Development Programs. The 15-day public comment period begins April 24, 2009, and continues until 5:00 pm on May 14, 2009.

The Report gives the public an opportunity to evaluate the performance of the past program year for four HUD programs: the Community Development Block Grant Program administered by the Office of Rural Community Affairs, the Emergency Shelter Grants and HOME Investment Partnerships programs administered by the Department, and the Housing Opportunities for Persons with AIDS Program administered by the Texas Department of State Health Services. The following information is provided for each of the four programs covered in the Report: a summary of program resources and programmatic accomplishments; a series of narrative statements on program performance over the past year; a qualitative analysis of program actions and experiences; and a

discussion of program successes in meeting program goals and objectives.

Beginning April 24, 2009, the Report will be available on the Department's website at [www.tdhca.state.tx.us](http://www.tdhca.state.tx.us). A hard copy can be requested by contacting the Housing Resource Center at P.O. Box 13941, Austin, TX 78711-3941 or by calling (512) 475-3976.

Written comment should be sent by mail to the Texas Department of Housing and Community Affairs, Housing Resource Center, P.O. Box 13941, Austin, TX 78711-3941, by email to [info@tdhca.state.tx.us](mailto:info@tdhca.state.tx.us), or by fax to (512) 469-9606.

TRD-200901420

Michael Gerber

Executive Director

Texas Department of Housing and Community Affairs

Filed: April 13, 2009



## Texas Department of Insurance

### Company Licensing

Application to change the name of DIXIE NATIONAL LIFE INSURANCE COMPANY to HEARTLAND NATIONAL LIFE INSURANCE COMPANY, a foreign company. The home office is in Indianapolis, Indiana.

Application to change the name of PODIATRY INSURANCE COMPANY OF AMERICA, A MUTUAL COMPANY to PODIATRY INSURANCE OF AMERICA, a foreign fire and casualty company. The home office is in Franklin, Tennessee.

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, M/C 305-2C, Austin, Texas 78701.

TRD-200901441

Brenda Caldwell

Chief Clerk and General Counsel

Texas Department of Insurance

Filed: April 15, 2009



### Third Party Administrator Applications

The following third party administrator (TPA) applications have been filed with the Texas Department of Insurance and are under consideration.

Application of DKMELLAN, LLC (doing business as FIRST CARDINAL OF TEXAS), a domestic third party administrator. The home office is IRVING, TEXAS.

Application of GM-SOUTHWEST, INC. (doing business as GMSW, INC.), a foreign third party administrator. The home office is WILMINGTON, DELAWARE.

Any objections must be filed within 20 days after this notice is published in the *Texas Register*, addressed to the attention of David Moskowitz, MC 305-2E, 333 Guadalupe, Austin, Texas 78701.

TRD-200901439

Gene C. Jarmon

Chief Clerk and General Counsel

Texas Department of Insurance

Filed: April 15, 2009



## Texas Lottery Commission

### Instant Game Number 1185 "Lucky Rider"

#### 1.0 Name and Style of Game.

A. The name of Instant Game No. 1185 is "LUCKY RIDER". The play style is "key number match with multiplier".

#### 1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 1185 shall be \$5.00 per ticket.

#### 1.2 Definitions in Instant Game No. 1185.

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, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 5X SYMBOL, \$5.00, \$10.00, \$15.00, \$20.00, \$25.00, \$40.00, \$50.00, \$100, \$500, \$1,000, \$50,000 and CHOPPER SYMBOL.

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

Figure 1: GAME NO. 1185 - 1.2D

<b>PLAY SYMBOL</b>	<b>CAPTION</b>
1	ONE
2	TWO
3	THR
4	FOR
6	SIX
7	SVN
8	EGT
9	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWV
26	TWSX
27	TWSV
28	TWET
29	TWNI
30	TRTY
31	TRON
32	TRTO
33	TRTH
34	TRFR
35	TRFV
36	TRSX
37	TRSV
38	TRET
39	TRNI
40	FRTY
5X SYMBOL	WINX5
\$5.00	FIVE\$
\$10.00	TEN\$
\$15.00	FIFTN
\$20.00	TWENTY
\$25.00	TWY FIV
\$40.00	FORTY

\$50.00	FIFTY
\$100	ONE HUND
\$500	FIV HUND
\$1,000	ONE THOU
\$50,000	50 THOU
CHOPPER SYMBOL	CHOPPER

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

F. Low-Tier Prize - A prize of \$5.00, \$10.00, \$15.00 or \$20.00.

G. Mid-Tier Prize - A prize of \$50.00, \$100 or \$500.

H. High-Tier Prize - A prize of \$1,000, \$50,000 or CHOPPER.

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 (1185), a seven (7) digit pack number, and a three (3) digit ticket number. Ticket numbers start with 001 and end with 075 within each pack. The format will be: 1185-0000001-001.

K. Pack - A pack of "LUCKY RIDER" Instant Game tickets contains 075 tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). The packs will alternate. One will show the front of ticket 001 and back of 075 while the other fold will show the back of 001 and front 075.

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 "LUCKY RIDER" Instant Game No. 1185 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 "LUCKY RIDER" Instant Game is determined once the latex on the ticket is scratched off to expose 45 (forty-five) Play Symbols. If a player matches any of YOUR NUMBERS play symbols to any of the WINNING NUMBERS play symbols, the player wins the PRIZE shown for that number. If a player reveals a 5X SYMBOL, the player wins 5 TIMES the PRIZE shown for that symbol. If the winning prize symbol is a CHOPPER SYMBOL, the player wins a LUCKY RIDER Motorcycle. 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:

- Exactly 45 (forty-five) Play Symbols must appear under the latex overprint on the front portion of the ticket;
- 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;
- Each of the Play Symbols must be present in its entirety and be fully legible;
- Each of the Play Symbols must be printed in black ink except for dual image games;
- The ticket shall be intact;
- The Serial Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;
- The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;
- The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
- The ticket must not be counterfeit in whole or in part;
- The ticket must have been issued by the Texas Lottery in an authorized manner;
- 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;
- The Play Symbols, Serial Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;
- The ticket must be complete and not miscut, and have exactly 45 (forty-five) Play Symbols under the latex overprint on the front portion of the ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;
- 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;
- The ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;
- Each of the 45 (forty-five) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;
- Each of the 45 (forty-five) Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;
- The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The ticket must have been received by the Texas Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket, solely at the Executive Director's discretion.

## 2.2 Programmed Game Parameters.

A. Consecutive non-winning tickets will not have identical play data, spot for spot.

B. No four or more matching non-winning prize symbols will appear on a ticket.

C. Non-winning prize symbols will never be the same as the winning prize symbol(s).

D. No duplicate non-winning YOUR NUMBERS play symbols on a ticket.

E. No duplicate WINNING NUMBERS play symbols on a ticket.

F. The "5X" (win x 5) play symbol will only appear on winning tickets as dictated by the prize structure.

G. The "CHOPPER" prize symbol may appear on both winning and non-winning tickets.

H. The \$50,000 prize symbol and the "CHOPPER" prize symbol will appear on every ticket unless otherwise restricted.

## 2.3 Procedure for Claiming Prizes.

A. To claim a "LUCKY RIDER" Instant Game prize of \$5.00, \$10.00, \$15.00, \$20.00, \$50.00, \$100 or \$500, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, 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, \$100 or \$500 ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "LUCKY RIDER" Instant Game prize of \$1,000, \$50,000 or CHOPPER, 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. MOTORCYCLE PRIZE WINNERS under the age of 21 are considered "minors" by definition under Texas Government Code Section 466.405. Section 466.405(c) states that if a minor wins a prize "other than prize money," the TLC shall pay the cash equivalent to an adult member of the minor's family or the minor's guardian as custodian for the minor. Payment of the cash equivalent of a prize other than prize money shall be made as a direct payment to the minor by depositing the amount of the prize in any bank to the credit of an adult member of the minor's family or the minor's guardian as custodian for the minor.

D. MOTORCYCLE PRIZE WINNERS over the age of 21 are not eligible to receive payment of the cash equivalent for this prize.

E. As an alternative method of claiming a "LUCKY RIDER" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

F. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;

2. delinquent in making child support payments administered or collected by the Attorney General;

3. delinquent in reimbursing the Texas Health and Human Services Commission for a benefit granted in error under the food stamp program or the program of financial assistance under Chapter 31, Human Resources Code;

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

5. in default on a loan guaranteed under Chapter 57, Education Code.

G. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

- A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

- B. if there is any question regarding the identity of the claimant;

- C. if there is any question regarding the validity of the ticket presented for payment; or

- D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "LUCKY RIDER" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of more than \$600 from the "LUCKY RIDER" 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 prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

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 5,040,000 tickets in the Instant Game No. 1185. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 1185 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in**
\$5	537,600	9.38
\$10	470,400	10.71
\$15	151,200	33.33
\$20	134,400	37.50
\$50	61,068	82.53
\$100	6,300	800.00
\$500	588	8,571.43
\$1,000	24	210,000.00
\$50,000	4	1,260,000.00
CHOPPER	4	1,260,000.00

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

\*\*The overall odds of winning a prize are 1 in 3.70. 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. 1185 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 the game will be made in accordance with the instant game closing procedures and the Instant Game Rules, 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. 1185, 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-200901438

Kimberly L. Kiplin  
 General Counsel  
 Texas Lottery Commission  
 Filed: April 15, 2009

◆ ◆ ◆  
**North Central Texas Council of Governments**

Notice of Call for Projects

The North Central Texas Council of Governments (NCTCOG) is issuing a competitive call for projects to award Federal Transit Administration Job Access/Reverse Commute (49 U.S.C. §5316) and New Freedom (49 U.S.C. §5317) Program funds. Approximately \$4.6 million in Job Access/Reverse Commute and \$1.5 million in New Freedom funding is available for eligible projects selected in the Dallas-Fort Worth Metropolitan Area. The Job Access/Reverse Commute Program provides funding for local projects designed to transport low-income in-



dividuals to and from employment and employment-related activities or to transport residents of urban, rural and suburban areas to suburban employment opportunities. The New Freedom Program supports new services and facility improvements that address transportation needs of individuals with disabilities that go beyond those required by the Americans with Disabilities Act. Private non-profit organizations, state or local governmental authorities, and operators of public transportation services, including private operators of public transportation services, are encouraged to submit projects for consideration. Detailed information on the call for projects can be obtained online at [www.nctcog.org/jarc](http://www.nctcog.org/jarc) or by contacting James Powell at [jpowell@nctcog.org](mailto:jpowell@nctcog.org) or (817) 695-9283.

#### Due Date

Project submittals are due at the NCTCOG offices no later than 5:00 p.m. Central Daylight Time on Friday, June 5, 2009. No late submittals will be accepted.

TRD-200901443

R. Michael Eastland

Executive Director

North Central Texas Council of Governments

Filed: April 15, 2009

## **Texas Parks and Wildlife Department**

### Notice of Proposed Real Estate Transactions and Opportunity for Public Comment

#### Land Transfer

##### Abilene State Park - Taylor County

In a meeting on May 27, 2009, the Texas Parks and Wildlife Commission (the Commission) will consider the transfer of approximately 91.3 acres of land adjacent to Abilene State Park to The Texas Trails Council, Boy Scouts of America. At this meeting, the public will have an opportunity to comment on the proposed transaction before the Commission takes action. The meeting will start at 9:00 a.m. at the Texas Parks and Wildlife Department Headquarters, 4200 Smith School Road, Austin, Texas 78744. Prior to the meeting, public comment may be submitted to Corky Kuhlmann, Land Conservation, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744 or by email at [corky.kuhlmann@tpwd.state.tx.us](mailto:corky.kuhlmann@tpwd.state.tx.us) or through the TPWD web site at [tpwd.state.tx.us](http://tpwd.state.tx.us).

#### Land Exchange

##### Galveston Island State Park - Galveston County

In a meeting on May 27, 2009, the Texas Parks and Wildlife Commission (the Commission) will consider the exchange of approximately 6.2 acres of Galveston Island State Park (Park) land for an approximate 11-acre private tract; the 11-acre tract represents an in-holding at the Park. At this meeting, the public will have an opportunity to comment on the proposed transaction before the Commission takes action. The meeting will start at 9:00 a.m. at the Texas Parks and Wildlife Department Headquarters, 4200 Smith School Road, Austin, Texas 78744. Prior to the meeting, public comment may be submitted to Corky Kuhlmann, Land Conservation, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744 or by email at [corky.kuhlmann@tpwd.state.tx.us](mailto:corky.kuhlmann@tpwd.state.tx.us) or through the TPWD web site at [tpwd.state.tx.us](http://tpwd.state.tx.us).

#### Land Purchase

##### Lost Maples State Park - Bandera County

In a meeting on May 27, 2009, the Texas Parks and Wildlife Commission (the Commission) will consider the purchase of approximately 732 acres of land adjacent to Lost Maples State Park in Bandera County. At this meeting the public will have an opportunity to comment on the proposed transaction before the Commission takes action. The meeting will start at 9:00 a.m. at the Texas Parks and Wildlife Department Headquarters, 4200 Smith School Road, Austin, Texas 78744. Prior to the meeting, public comment may be submitted to Ted Hollingsworth, Land Conservation, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744 or by email at [ted.hollingsworth@tpwd.state.tx.us](mailto:ted.hollingsworth@tpwd.state.tx.us) or through the TPWD web site at [tpwd.state.tx.us](http://tpwd.state.tx.us).

#### Land Exchange

##### Possum Kingdom State Park - Palo Pinto County

In a meeting on May 27, 2009, the Texas Parks and Wildlife Commission (the Commission) will consider accepting a donation of approximately 350 acres adjacent to Possum Kingdom State Park in Palo Pinto County, concurrent with the conveyance to the Brazos River Authority of approximately 200 acres of submerged land lying beneath the surface of Possum Kingdom Reservoir. At this meeting, the public will have an opportunity to comment on the proposed transaction before the Commission takes action. The meeting will start at 9:00 a.m. at the Texas Parks and Wildlife Department Headquarters, 4200 Smith School Road, Austin, Texas 78744. Prior to the meeting, public comment may be submitted to Ted Hollingsworth, Land Conservation, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744 or by email at [ted.hollingsworth@tpwd.state.tx.us](mailto:ted.hollingsworth@tpwd.state.tx.us) or through the TPWD web site at [tpwd.state.tx.us](http://tpwd.state.tx.us).

#### Land Exchange

##### Caddo Lake State Park - Harrison County

In a meeting on May 27, 2009, the Texas Parks and Wildlife Commission (the Commission) will consider exchanging approximately 1 acre of land for approximately 1 acre of land adjacent to Caddo Lake State Park in Harrison County. At this meeting, the public will have an opportunity to comment on the proposed transaction before the Commission takes action. The meeting will start at 9:00 a.m. at the Texas Parks and Wildlife Department Headquarters, 4200 Smith School Road, Austin, Texas 78744. Prior to the meeting, public comment may be submitted to Ted Hollingsworth, Land Conservation, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744 or by email at [ted.hollingsworth@tpwd.state.tx.us](mailto:ted.hollingsworth@tpwd.state.tx.us) or through the TPWD web site at [tpwd.state.tx.us](http://tpwd.state.tx.us).

#### Acceptance of Land Donation

##### Government Canyon State Park - Bexar County

In a meeting on May 27, 2009, the Texas Parks and Wildlife Commission (the Commission) will consider accepting a donation of approximately 3,000 acres adjacent to Government Canyon State Park in Bexar County. At this meeting, the public will have an opportunity to comment on the proposed transaction before the Commission takes action. The meeting will start at 9:00 a.m. at the Texas Parks and Wildlife Department Headquarters, 4200 Smith School Road, Austin, Texas 78744. Prior to the meeting, public comment may be submitted to Ted Hollingsworth, Land Conservation, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744 or by email at [ted.hollingsworth@tpwd.state.tx.us](mailto:ted.hollingsworth@tpwd.state.tx.us) or through the TPWD web site at [tpwd.state.tx.us](http://tpwd.state.tx.us).

TRD-200901432

Ann Bright  
General Counsel  
Texas Parks and Wildlife Department  
Filed: April 14, 2009



## Public Utility Commission of Texas

### Announcement of Application for Amendment to a State-Issued Certificate of Franchise Authority

The Public Utility Commission of Texas received an application on April 6, 2009, for an amendment to a state-issued certificate of franchise authority (CFA), pursuant to §§66.001 - 66.016 of the Public Utility Regulatory Act (PURA).

Project Title and Number: Application of Windjammer Communications LLC for an Amendment to its State-Issued Certificate of Franchise Authority, Project Number 36882 before the Public Utility Commission of Texas.

The requested CFA service area footprint includes the removal of the City Limits of Encinal and Stockdale, Texas, and the County Limits of Webb County, 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 1-888-782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All inquiries should reference Project Number 36882.

TRD-200901392  
Adriana A. Gonzales  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: April 9, 2009



### Announcement of Application for Amendment to a State-Issued Certificate of Franchise Authority

The Public Utility Commission of Texas received an application on April 7, 2009, for an amendment to a state-issued certificate of franchise authority (CFA), pursuant to §§66.001 - 66.016 of the Public Utility Regulatory Act (PURA).

Project Title and Number: Application of Time Warner Cable for an Amendment to its State-Issued Certificate of Franchise Authority, Project Number 36891 before the Public Utility Commission of Texas.

The requested CFA expanded service area footprint includes the City of Fredericksburg, Texas, and to consolidate SICFA Numbers 90008 and 90009, reassigning all service footprint areas of SICFA Number 90009 to SICFA Number 90008.

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 1-888-782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All inquiries should reference Project Number 36891.

TRD-200901393

Adriana A. Gonzales  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: April 9, 2009



### Announcement of Application for Amendment to a State-Issued Certificate of Franchise Authority

The Public Utility Commission of Texas received an application on April 7, 2009, for an amendment to a state-issued certificate of franchise authority (CFA), pursuant to §§66.001 - 66.016 of the Public Utility Regulatory Act (PURA).

Project Title and Number: Application of Comcast of Houston, LLC for an Amendment to its State-Issued Certificate of Franchise Authority, Project Number 36892 before the Public Utility Commission of Texas.

The requested CFA expanded service area footprint includes the City of Tomball, 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 1-888-782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All inquiries should reference Project Number 36892.

TRD-200901394  
Adriana A. Gonzales  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: April 9, 2009



### 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 13, 2009, for an amendment to a state-issued certificate of franchise authority (CFA), pursuant to §§66.001 - 66.016 of the Public Utility Regulatory Act (PURA).

Project Title and Number: Application of Comcast of Houston, LLC for an Amendment to its State-Issued Certificate of Franchise Authority, Project Number 36907 before the Public Utility Commission of Texas.

The requested CFA expanded service area footprint includes the city of Freeport, 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 1-888-782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All inquiries should reference Project Number 36907.

TRD-200901431  
Adriana A. Gonzales  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: April 14, 2009



## Notice of Application for Service Provider Certificate of Operating Authority

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on April 6, 2009, for a service provider certificate of operating authority (SPCOA), pursuant to §§54.151 - 54.156 of the Public Utility Regulatory Act (PURA).

Docket Title and Number: Application of Enteleget Solutions, Inc. for a Service Provider Certificate of Operating Authority, Docket Number 36886 before the Public Utility Commission of Texas.

Applicant intends to provide plain old telephone service, and long distance services.

Applicant's requested SPCOA geographic area includes the entire state of Texas.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477 no later than April 29, 2009. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All comments should reference Docket Number 36886.

TRD-200901430

Adriana A. Gonzales

Rules Coordinator

Public Utility Commission of Texas

Filed: April 14, 2009



## Notice of Application for Waiver of Denial of Request for NXX Code

Notice is given to the public of the filing with the Public Utility Commission of Texas an application on April 3, 2009, for waiver of denial by the Pooling Administrator (PA) of Southwestern Bell Telephone Company d/b/a AT&T Texas' (AT&T Texas) request for assignment of two thousand-blocks of numbers in the Dallas rate center.

Docket Title and Number: Petition of Southwestern Bell Telephone Company d/b/a AT&T Texas for Waiver of Denial of Numbering Resources, Docket Number 36881.

The Application: AT&T Texas submitted an application to the PA for the requested blocks in accordance with the current guidelines. The PA denied the request because AT&T Texas did not meet the months-to-exhaust and utilization criteria established by the Federal Communications Commission.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477 no later than April 29, 2009. Hearing and speech impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All comments should reference Docket Number 36881.

TRD-200901429

Adriana A. Gonzales

Rules Coordinator

Public Utility Commission of Texas

Filed: April 14, 2009



## Notice of Application to Amend a Certificate of Convenience and Necessity for a Proposed Transmission Line

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) an application on April 7, 2009, to amend a certificate of convenience and necessity for a proposed transmission line in Wheeler County, Texas.

Docket Style and Number: Application of Southwestern Public Service Company to Amend a Certificate of Convenience and Necessity (CCN) for a Proposed 115 kV Transmission Line Within Wheeler County, Texas. Docket Number 36848.

The Application: The application of Southwestern Public Service Company (SPS) for a proposed transmission line is designated the Wheeler to Howard Transmission Line Project. SPS stated that the proposed transmission line is needed to provide reliable transmission service to existing customers and the growing oil field industry in the eastern Texas Panhandle area. The project will provide additional transmission capacity and voltage strength to both transmission and distribution customers in the area. The miles of right-of-way for this project will be approximately 7.5 miles (preferred route). The estimated date to energize facilities is 9 months following CCN approval.

Persons wishing to intervene or comment on the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free at 1-888-782-8477. The deadline for intervention in this proceeding is May 22, 2009. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or use Relay Texas (toll-free) 1-800-735-2989. All comments should reference Docket Number 36848.

TRD-200901391

Adriana A. Gonzales

Rules Coordinator

Public Utility Commission of Texas

Filed: April 9, 2009



## Texas Residential Construction Commission

### Notice of Application for Designation as a "Texas Star Builder"

The Texas Residential Construction Commission (commission) adopted rules regarding the procedures for designation as a "Texas Star Builder" at 10 TAC §303.300. The rules were adopted pursuant to §416.011, Property Code (Act effective September 1, 2003), which provides that the commission shall establish rules and procedures through which a builder can be designated as a "Texas Star Builder." The commission's rules for application for designation can be found on the commission's website at [www.trcc.state.tx.us](http://www.trcc.state.tx.us).

10 TAC §303.300(i)(2) requires the commission to publish in the *Texas Register* notice of the application of each person seeking to become designated as a "Texas Star Builder" registered under this subchapter. The commission will accept public comment on each application for twenty-one (21) days after the date of publication of the notice. Information provided in response to this notice will be utilized in evaluating the applicants for approval. The "Texas Star Builder" designation requires that a builder or remodeler demonstrate that its education, experience and commitment to professionalism sets the builder or remodeler apart from its peers and offers some assurance to its customers that its quality of service and construction will be above average.

Pursuant to 10 TAC §303.300(i)(2), the commission hereby notices the application(s) for designation as a "Texas Star Builder" of:

Foursquare Builders LLC, 6800 Caudill Lane, Austin, TX 78738. Foursquare Builders LLC holds TRCC builder registration #26707. The applicant's registered agent is Wesley O. Wigginton.

Interested persons may send written comments regarding this application to Susan K. Durso, General Counsel, The Texas Residential Construction Commission, P.O. Box 13509, Austin, TX 78711-3144. Comments regarding this application will be accepted for twenty-one days following the date of publication of this notice in the *Texas Register*. Thereafter, the comments will not be considered as timely filed.

TRD-200901422  
A. Duane Waddill  
Executive Director  
Texas Residential Construction Commission  
Filed: April 14, 2009

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## State Board of Examiners for Speech-Language Pathology and Audiology

### Notice of Public Hearing Concerning Proposal of Speech-Language Pathology and Audiology Telepractice Rulemaking

The State Board of Examiners for Speech-Language Pathology and Audiology will hold a public hearing to receive comments on the proposal of 22 Texas Administrative Code, Chapter 741, Subchapter O - Telehealth (Telepractice), §§741.211 - 741.215. The proposed rules were published in the April 10, 2009, issue of the *Texas Register* (34 TexReg 2360).

The hearing will be held from 9:30 a.m. until 12:00 p.m., on Friday, May 8, 2009, in the Moreton Building, Room M-653, Department of State Health Services, 1100 West 49th Street, Austin, Texas 78756.

Further information may be obtained from Joyce Parsons, Executive Director, Speech-Language Pathology and Audiology, Department of State Health Services, 1100 West 49th Street, Austin, Texas 78756, telephone (512) 834-6627, fax (512) 834-6677, or email Joyce.Parsons@dshs.state.tx.us.

TRD-200901444  
Kerry Ormson, Ed.D., Au.D.  
Presiding Officer  
State Board of Examiners for Speech-Language Pathology and Audiology  
Filed: April 15, 2009

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## Texas Department of Transportation

### Aviation Division - Request for Proposal for Aviation Engineering Services

The City of Uvalde, through its agent the Texas Department of Transportation (TxDOT), intends to engage an aviation professional engineering firm for services pursuant to Government Code, Chapter 2254, Subchapter A. TxDOT Aviation Division will solicit and receive proposals for professional aviation engineering design services described below.

The following is a listing of proposed projects at the Garner Field Airport during the course of the next five years through multiple grants.

**Current Project:** City of Uvalde, Garner Field Airport. TxDOT CSJ No.: 0915UVALE. Current Scope: Install PAPI-4 Runway 15-33 at Garner Field Airport.

There is no DBE goal for the current project. TxDOT Project Manager is Charles Graham.

Future scope work items for engineering/design services within the next five years may include, but are not necessarily limited to, the following:

1. Rehabilitate taxiways and aprons.
2. Reconstruct apron.
3. Replace MIRLS Runway 15-33.
4. Clear/grub on Runway 33 and south end of airport.
5. Rehabilitate and mark Runway 15-33.
6. Update terminal area plan.
7. Install game-proof fence.
8. Extend Howard Langford Drive.
9. Reconstruct entrance road.

The City of Uvalde reserves the right to determine which of the above scope of services may or may not be awarded to the successful firm and to initiate additional procurement action for any of the services above.

To assist in your proposal preparation, the criteria, 5010 drawing, and most recent Airport Layout Plan are available online at

[www.txdot.gov/avn/avninfo/notice/consult/index.htm](http://www.txdot.gov/avn/avninfo/notice/consult/index.htm)

by selecting "Garner Field Airport". The proposal should address a technical approach for the current scope only. Firms shall use page 4, Recent Airport Experience, to list relevant past projects for both current and future scope.

Interested firms shall utilize the latest version of Form AVN-550, titled "Aviation Engineering Services Proposal". The form may be requested from TxDOT, Aviation Division, 125 East 11th Street, Austin, Texas 78701-2483, phone number, 1-800-68-PILOT (74568). The form may be emailed by request or downloaded from the TxDOT web site at

<http://www.txdot.gov/business/projects/aviation.htm>.

The form may not be altered in any way. All printing must be in black on white paper, except for the optional illustration page. Firms must carefully follow the instructions provided on each page of the form. Proposals may not exceed the number of pages in the proposal format. The proposal format consists of seven pages of data plus two optional pages consisting of an illustration page and a proposal summary page. Proposals shall be stapled but not bound in any other fashion. PROPOSALS WILL NOT BE ACCEPTED IN ANY OTHER FORMAT.

ATTENTION: To ensure utilization of the latest version of Form AVN-550, firms are encouraged to download Form AVN-550 from the TxDOT website as addressed above. Utilization of Form AVN-550 from a previous download may not be the exact same format. Form AVN-550 is a PDF Template.

**Please note:**

Five completed, unfolded copies of Form AVN-550 **must be received** by TxDOT Aviation Division at 150 East Riverside Drive, 5th Floor, South Tower, Austin, Texas 78704 no later than **May 20, 2009 4:00 p.m.** Electronic facsimiles or forms sent by email will not be accepted. Please mark the envelope of the forms to the attention of Edie Stimach, Grant Manager.

The consultant selection committee will be composed of Aviation Division staff members. The final selection by the committee will generally be made following the completion of review of proposals. The com-

mittee will review all proposals and rate and rank each. The criteria for evaluation of engineering proposals can be found at

<http://www.txdot.gov/business/projects/aviation.htm>.

All firms will be notified and the top rated firm will be contacted to begin fee negotiations. The consultant selection committee does, however, reserve the right to conduct interviews for the top rated firms if the committee deems it necessary. If interviews are conducted, selection will be made following interviews.

Please contact TxDOT Aviation for any technical or procedural questions at 1-800-68-PILOT (74568). For procedural questions, please

contact Edie Stimach, Grant Manager. For technical questions, please contact Charles Graham, Project Manager.

TRD-200901428

Joanne Wright

Deputy General Counsel

Texas Department of Transportation

Filed: April 14, 2009



### How to Use the Texas Register

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

**Governor** - Appointments, executive orders, and proclamations.

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

**Secretary of State** - opinions based on the election laws.

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

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

**Proposed Rules** - sections proposed for adoption.

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

**Adopted Rules** - sections adopted following public comment period.

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

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

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

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

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

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

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

**How to Cite:** Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words "TexReg" and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 33 (2008) is cited as follows: 33 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 "33 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 33 TexReg 3."

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

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

through the Internet. For website subscription information, call the Texas Register at (512) 463-5561.

### Texas Administrative Code

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

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

The complete TAC is available through the Secretary of State's website at <http://www.sos.state.tx.us/tac>. The following companies also provide complete copies of the TAC: Lexis-Nexis (800-356-6548), and West Publishing Company (800-328-9352).

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

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

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

**How to update:** To find out if a rule has changed since the publication of the current supplement to the *Texas Administrative Code*, please look at the *Table of TAC Titles Affected*. The table 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 one or more *Texas Register* page numbers, as shown in the following example.

TITLE 40. SOCIAL SERVICES AND ASSISTANCE  
*Part I. Texas Department of Human Services*  
40 TAC §3.704.....950, 1820

The *Table of TAC Titles Affected* is cumulative for each volume of the *Texas Register* (calendar year).