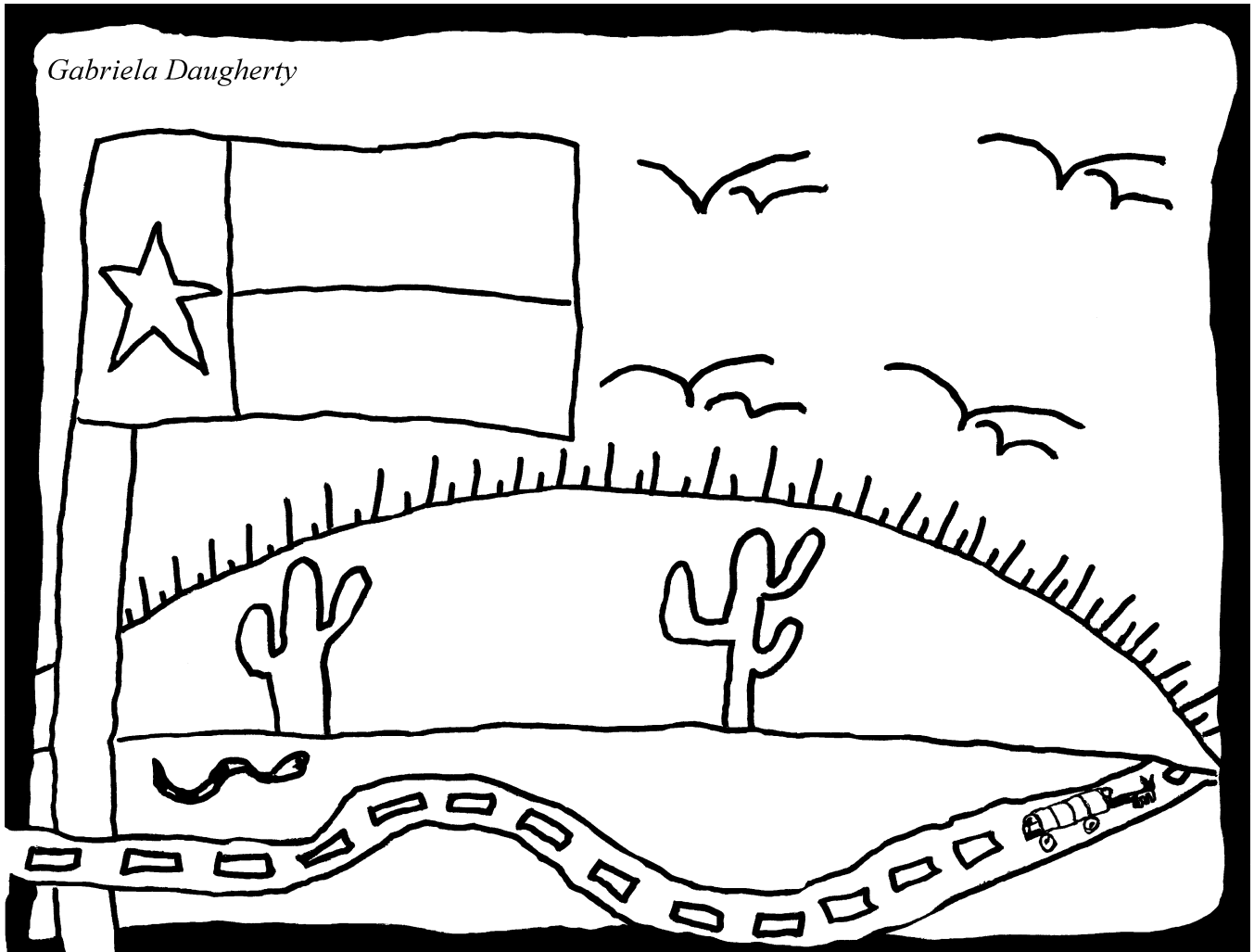

TEXAS REGISTER

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Gabriela Daugherty



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

<http://www.sos.state.tx.us>
register@sos.state.tx.us

Secretary of State –
Hope Andrade

Director –
Dan Procter

Staff
Leti Benavides
Dana Blanton
Kris Hogan
Belinda Kirk
Roberta Knight
Jill S. Ledbetter
Juanita Ledesma
Preeti Marasini

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Open Meetings

Statewide agencies and regional agencies that extend into four or more counties post meeting notices with the Secretary of State.

Meeting agendas are available on the *Texas Register's* Internet site:
<http://www.sos.state.tx.us/open/index.shtml>

Members of the public also may view these notices during regular office hours from a computer terminal in the lobby of the James Earl Rudder Building, 1019 Brazos (corner of 11th Street and Brazos) Austin, Texas. To request a copy by telephone, please call 512-463-5561. Or request a copy by email: register@sos.state.tx.us

For items ***not*** available here, contact the agency directly. Items not found here:

- minutes of meetings
- agendas for local government bodies and regional agencies that extend into fewer than four counties
- legislative meetings not subject to the open meetings law

The Office of the Attorney General offers information about the open meetings law, including Frequently Asked Questions, the *Open Meetings Act Handbook*, and Open Meetings Opinions.

<http://www.oag.state.tx.us/opinopen/opengovt.shtml>

The Attorney General's Open Government Hotline is 512-478-OPEN (478-6736) or toll-free at (877) OPEN TEX (673-6839).

Additional information about state government may be found here:
<http://www.state.tx.us/>

...

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

THE 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-0724

The Honorable Jeff Wentworth

Chair, Committee on Jurisprudence

Texas State Senate

Post Office Box 12068

Austin, Texas 78711

Re: Authority of local taxing units or central appraisal districts to collect special assessments imposed in public improvement districts (RQ-0774-GA)

SUMMARY

A special assessment to finance a public improvement is imposed only upon the property that is specially benefitted by the improvement, and its amount is based on the special benefits accruing to the property. A special assessment is imposed under the taxing power, but it is not an ad valorem property tax within the Texas Constitution, nor does the term "taxation" in statutes ordinarily include special assessments.

Tax Code section 6.24 authorizes contracts between a municipal governing body and another taxing unit or an appraisal district board to collect ad valorem taxes, but it does not authorize contracts to collect special assessments imposed under the Public Improvement District Assessment Act, Local Government Code chapter 372, subchapter A.

Pursuant to the Interlocal Cooperation Act, a municipal governing body may contract for the collection of a special assessment it imposes in a public improvement district with another local governmental entity that is authorized to collect assessments for public improvements.

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

TRD-200902710

Stacey Napier

Deputy Attorney General

Office of the Attorney General

Filed: July 1, 2009



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 4. OFFICE OF THE SECRETARY OF STATE

CHAPTER 97. BUSINESS OPPORTUNITY

The Office of the Secretary of State proposes amendments to 1 TAC §§97.1, 97.21 - 97.23, 97.27, 97.28, 97.31, 97.32, 97.41, and 97.42, concerning business opportunities. Non-substantive changes are proposed to clarify the rules, update the mailing address for the Office of the Secretary of State, correct outdated citations, provide the secretary of state's website, and remove references to specific required forms by name.

Additionally, §97.32 and §97.42 are amended to provide for cancellation of a trust account or letter of credit, respectively two years after the registrant formally terminates the registration or upon approval from the secretary of state, rather than requiring both two years passing and secretary of state approval.

FISCAL NOTE

Leigh A. Joseph, Attorney in the Business and Public Filings Division of the Office of the Secretary of State, has determined that for each year of the first five years that the section is in effect there will be no fiscal implications to state or local governments as a result of enforcing or administering the amendment as proposed.

PUBLIC BENEFIT AND SMALL BUSINESS COST NOTE

Ms. Joseph has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing or administering the section as proposed will be to view the rule as corrected. There will be no effect on small or micro businesses. There is no anticipated economic cost to persons who are required to comply with the proposed rule.

COMMENTS

Comments on the proposed amendment may be submitted in writing to: Leigh A. Joseph, Office of the Secretary of State, Corporations Section, P.O. Box 13697, Austin, Texas 78711-3697. Comments must be received not later than 12 noon, August 7, 2009.

SUBCHAPTER A. BUSINESS OPPORTUNITY REGISTRATION

1 TAC §97.1

STATUTORY AUTHORITY

This amendment is proposed under the authority of the Administrative Procedure Act, Chapter 2001, Government Code and

the Business Opportunity Act, Chapter 51, Business and Commerce Code, which provides for the secretary of state to prescribe forms, set fees, and adopt rules to administer and enforce Chapter 51.

No other code or statute is affected by this rule.

§97.1. Registration of Business Opportunities.

The materials required to be filed with the secretary of state by §51.051, Business and Commerce Code (hereinafter "Business Opportunity Act") shall be referred to in this title as the "registration." The secretary of state will not accept a registration for filing unless, in addition to meeting the requirements of §51.051, the registration is accompanied by the applicable fee as set forth in §97.21 of this title (relating to Fees).

~~[(a) The acceptance of documents shall only be upon submission of a complete initial file and payment of applicable fee.]~~

~~[(b) Documents for submission must follow the format prescribed by the Office of the Secretary of State.]~~

~~[(c) Specifications pertaining to the prescribed format may be obtained by writing the Business Opportunity Section, Office of the Secretary of State, P.O. Box 13563, Austin, Texas 78711-3563.]~~

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 June 24, 2009.

TRD-200902600

Lorna Wassdorf

Director of Business and Public Filings

Office of the Secretary of State

Earliest possible date of adoption: August 9, 2009

For further information, please call: (512) 463-5562



SUBCHAPTER B. FEES AND GENERAL INFORMATION

1 TAC §§97.21 - 97.23, 97.27, 97.28

STATUTORY AUTHORITY

This amendment is proposed under the authority of the Administrative Procedure Act, Chapter 2001, Government Code and the Business Opportunity Act, Chapter 51, Business and Commerce Code, which provides for the secretary of state to prescribe forms, set fees, and adopt rules to administer and enforce Chapter 51.

No other code or statute is affected by these rules.

§97.21. *Fees [and General Information].*

(a) The filing fee for filing a new registration [an initial original file] is \$195 and is nonrefundable.

(b) The fee for [a supplemental or an amendment] filing any of the following is \$25 and is nonrefundable: [-]

(1) a renewal or amended registration;

(2) a notice of exemption pursuant to §51.003(b)(8), Business Opportunity Act and §97.22 of this title (relating to Notice of Exemption); and

(3) a voluntary termination pursuant to §51.251, Business Opportunity Act.

[(c) File material may be obtained in either a total or partial file format upon advance payment of the fees set out in §71.8 of this title (relating to Fees for Copies of Open Records).]

[(d) The exemption filing under the Act, §41.004(b)(8), is \$25 and is nonrefundable.]

[(e) The voluntary termination filing under the Act, §41.251, is \$25 and is nonrefundable.]

§97.22. *Notice of Exemption [Statement Form].*

(a) In addition to the information required by §51.003(b)(8) of the Business Opportunity Act, notice filed with the secretary of state pursuant to §51.003(b)(8), must contain:

(1) a statement that the franchisor claims an exemption under §51.003(b)(8), Business Opportunity Act;

(2) the date the notice is signed;

(3) a statement that the person executing the notice is authorized to do so; and

(4) the signature of the person executing the notice.

(b) The notice of exemption will be effective as of the date of receipt by the secretary of state of both the complete notice of exemption and the filing fee provided in §97.21 of this title (relating to Fees).

[(a) The Office of the Secretary of State hereby adopts by reference the form, Exemption Statement Form. All persons required to register shall use this form or a document which shall contain the following information: a statement that the product/package franchisor claims an exemption under Texas Business and Commerce Code, §41.004(b)(8), the name of the franchisor, the name under which the franchisor intends to do business, the franchisor's principal address, the date the document is signed, and the signature and title of the signer. Copies of the form may be obtained by contacting the Office of the Secretary of State, Business Opportunities Section, P.O. Box 13563, Austin, Texas 78711-3563.]

[(b) The exemption statement will be effective as of the date of receipt in the secretary of state's office and the receipt of the proper filing fee.]

[(c) Refer to §97.21 of this title (relating to Fees and General Information) for the filing fee.]

§97.23. *Voluntary Termination.*

(a) A voluntary termination of business opportunity filed with the secretary of state pursuant to §51.251, Business Opportunity Act, must contain:

(1) the name of the business opportunity;

(2) the date of registration of the business opportunity with the secretary of state;

(3) the registration number issued by the secretary of state;

(4) a statement of voluntary termination specifying the applicable subsection of §51.251, Business Opportunity Act;

(5) the date the statement is signed;

(6) a statement that the person executing the statement is authorized to do so; and

(7) the signature of the person executing the statement.

(b) The voluntary termination will be effective as of the date of receipt by the secretary of state of both the complete voluntary termination statement and the filing fee provided in §97.21 of this title (relating to Fees).

[(a) The Office of the Secretary of State hereby adopts by reference the form, Voluntary Termination Statement Form. All persons voluntarily terminating their registration shall use this form. Copies may be obtained by contacting the Office of the Secretary of State, Business Opportunities Section, P.O. Box 13563, Austin, Texas 78711-3563.]

[(b) The voluntary termination statement will be in effect as of the date of receipt in the Secretary of State's Office and the receipt of the proper filing fee.]

[(c) Refer to §97.21 of this title (relating to Fees and General Information) for the filing fee.]
[Figure: + TAC §97.23(e)]

§97.27. *[Delinquent] Update Filings; Delinquency and Termination.*

(a) A disclosure statement filed under §51.051 of the Business Opportunity Act, must be updated annually and whenever a material change occurs. The list of individuals who sell the business opportunity for the principal seller must be updated every six months.

(b) A registered seller of a business opportunity that does not file the updates required by §51.052 [§41.052] of the [Texas] Business Opportunity [Opportunities] Act[, Texas Business and Commerce Code, §41.001 et seq.,] is delinquent and subject to termination of its registration under the procedures outlined in this section [§97.28 of this title (relating to Termination Procedure for Failure To File Required Updates)].

(c) After an update is 30 days past the required filing date, the secretary of state shall send a notice of delinquency to the seller that:

(1) informs the seller of the delinquency;

(2) gives the seller the opportunity to show compliance with the required filing; and

(3) informs the seller of its right to request a hearing, present evidence, and be represented by counsel.

(d) If, within 35 days of the date the notice is mailed, the seller does not respond, file the required updates, or request a hearing, the seller's registration will be terminated. Notice of the termination shall be sent to the seller in accordance with subsection (e) of this section.

(e) The notice described in subsections (c) and (d) of this section shall be sent to the seller's registered agent, or, if the seller does not have a registered agent, to the address shown in the most recent filing with the secretary of state made by the seller pursuant to the Business Opportunity Act.

§97.28. *Forms [Termination Procedure for Failure To File Required Updates].*

The secretary of state provides forms for required business opportunity filings. The forms are available on the secretary of state web site at <http://www.sos.state.tx.us/statdoc/statforms.shtml> or may be obtained

by writing the Office of the Secretary of State, Statutory Documents Section, P.O. Box 13550, Austin, Texas 78711. [The registration of a registered seller of a business opportunity that is delinquent in any of the update filings referenced in §97.27 of this title (relating to Delinquent Update Filings) may be terminated by the following procedure.]

{(1) After an update is 30 days past the required filing date, the secretary of state shall forward a notice of delinquency.}

{(2) The notice will be sent by certified mail to the seller's registered agent or to the last known address shown in the most recent filing with the secretary of state made under the Business Opportunity Act.}

{(3) The notice in paragraph (1) of this section shall inform the seller of the delinquency and give such seller the opportunity to show compliance with the required filing in order to retain its registration. Additionally, the notice will inform the seller of its right to request a hearing, present evidence, and be represented by counsel.}

{(4) If, within 35 days of the date the notice is mailed, the seller does not respond, file the required updates, or request a hearing, the seller's registration will be terminated and a letter will be sent by certified mail notifying said seller of the termination.}

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 June 24, 2009.

TRD-200902601

Lorna Wassdorf

Director of Business and Public Filings

Office of the Secretary of State

Earliest possible date of adoption: August 9, 2009

For further information, please call: (512) 463-5562



SUBCHAPTER C. TRUST ACCOUNT

1 TAC §97.31, §97.32

STATUTORY AUTHORITY

This amendment is proposed under the authority of the Administrative Procedure Act, Chapter 2001, Government Code and the Business Opportunity Act, Chapter 51, Business and Commerce Code, which provides for the secretary of state to prescribe forms, set fees, and adopt rules to administer and enforce Chapter 51.

No other code or statute is affected by these rules.

§97.31. Requirements of Trust Account.

A trust account established in accordance with §51.101(a)(2) of the Business Opportunity Act must be established with an entity that has the power to accept deposits under the law and that is authorized to transact business in Texas. [A registrant who elects pursuant to the Business Opportunity Act, §41.101, to establish a trust account shall establish and maintain a trust account in the amount of no less than \$25,000 in the favor of the State of Texas with a processor (as defined by the Banking Code of 1943, Article 342-102) authorized to transact business in the State of Texas.]

§97.32. Cancellation of Trust Account.

A trust account shall be maintained until the earlier of: [established in accordance with §97.31 of this title (relating to Requirements of Trust

Account) must be maintained for a period not to exceed two years after registrant has formally terminated registration and only with the approval of the Office of the Secretary of State.]

(1) approval of the secretary of state to cancel the trust account; or

(2) two years after the registrant formally terminates registration.

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 June 24, 2009.

TRD-200902602

Lorna Wassdorf

Director of Business and Public Filings

Office of the Secretary of State

Earliest possible date of adoption: August 9, 2009

For further information, please call: (512) 463-5562



SUBCHAPTER D. IRREVOCABLE LETTER OF CREDIT

1 TAC §97.41, §97.42

STATUTORY AUTHORITY

This amendment is proposed under the authority of the Administrative Procedure Act, Chapter 2001, Government Code and the Business Opportunity Act, Chapter 51, Business and Commerce Code, which provides for the secretary of state to prescribe forms, set fees, and adopt rules to administer and enforce Chapter 51.

No other code or statute is affected by these rules.

§97.41. Requirements of Irrevocable Letter of Credit.

An irrevocable letter of credit must be obtained from an entity that has the power to issue letters of credit under the law and that is authorized to transact business in Texas. [A registrant who elects pursuant to the Business Opportunity Act, Article 16.14, to establish an irrevocable letter of credit shall establish and maintain an irrevocable letter of credit in the amount of no less than \$25,000 in the favor of the State of Texas with a processor (as defined by the Banking Code of 1943, Article 342-102) authorized to transact business in the State of Texas.]

§97.42. Cancellation of Irrevocable Letter of Credit.

An irrevocable letter of credit established in accordance with §97.41 of this title (relating to Requirements of Irrevocable Letter of Credit) shall be maintained until the earlier of: [must be maintained for a period not to exceed two years after registrant has formally terminated registration and only with the approval of the Office of the Secretary of State.]

(1) approval of the secretary of state to cancel the irrevocable letter of credit; or

(2) two years after the registrant formally terminates registration.

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 June 24, 2009.

TRD-200902603
Lorna Wassdorf
Director of Business and Public Filings
Office of the Secretary of State
Earliest possible date of adoption: August 9, 2009
For further information, please call: (512) 463-5562

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CHAPTER 103. MEMBERSHIP CAMPING RESORTS

The Office of the Secretary of State proposes to reorganize Chapter 103, concerning membership camping resorts, by proposing the repeal of 1 TAC §§103.1, 103.2, 103.10 and 103.21 and the concurrent proposal of new §§103.1 - 103.3. The non-substantive changes are proposed to update the mailing address for the Office of the Secretary of State, correct outdated citations, provide the secretary of state's website as well as citations to the Texas Membership Camping Resort Act, Chapter 222, Texas Property Code, and remove redundant and unnecessary repetition of statutory provisions.

FISCAL NOTE

Leigh A. Joseph, Attorney in the Business and Public Filings Division of the Office of the Secretary of State, has determined that for each year of the first five years that the proposed repeal and new sections are in effect there will be no fiscal implications to state or local governments as a result of enforcing or administering the sections as proposed.

PUBLIC BENEFIT AND SMALL BUSINESS COST NOTE

Ms. Joseph has determined that for each year of the first five years the repeal and new sections are in effect the public benefit anticipated as a result of enforcing or administering the sections as proposed will be to view the rule as corrected. There will be no effect on small or micro businesses. There is no anticipated economic cost to persons who are required to comply with the proposed rules.

COMMENTS

Comments on the proposed repeal and new sections may be submitted in writing to: Leigh A. Joseph, Office of the Secretary of State, Corporations Section, P.O. Box 13697, Austin, Texas 78711-3697. Comments must be received not later than 12 noon, August 7, 2009.

1 TAC §§103.1, 103.2, 103.10, 103.21

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the Office of the Secretary of State, Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin, Texas.)

STATUTORY AUTHORITY

The repeal of §§103.1, 103.2, 103.10, and 103.21 is proposed under the authority of §222.004(f) and §222.010(a), Texas Property Code, which provide that the secretary of state shall prescribe forms and set fees for registration of membership camping resorts, brokers, and sellers, and §53.025, Texas Occupations Code, which requires a licensing authority to issue guidelines related to the revocation, suspension, or denial of licenses due to criminal convictions.

Chapter 222, Texas Property Code, is affected by these rules.

§103.1. Registration of Membership Camping Resort.

§103.2. Registration of Membership Camping Resort Brokers and Sellers.

§103.10. Filing Fees.

§103.21. Sanctions--Administrative.

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 June 24, 2009.

TRD-200902604
Lorna Wassdorf
Director of Business and Public Filings
Office of the Secretary of State
Earliest possible date of adoption: August 9, 2009
For further information, please call: (512) 463-5562

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1 TAC §§103.1 - 103.3

STATUTORY AUTHORITY

The new sections are proposed under the authority of §222.004(f) and §222.010(a), Texas Property Code, which provide that the secretary of state shall prescribe forms and set fees for registration of membership camping resorts, brokers and sellers, and §53.025, Texas Occupations Code, which requires a licensing authority to issue guidelines related to the revocation, suspension, or denial of licenses due to criminal convictions.

Chapter 222, Texas Property Code, is affected by these rules.

§103.1. Registration.

(a) The Texas Membership Camping Resort Act, Chapter 222, Texas Property Code, requires membership camping resort operators, as well as sellers and contract brokers, to register with the secretary of state.

(b) A registration will be accepted for filing only upon submission of a completed registration form and payment of the applicable fee.

(c) Registration forms are available on the secretary of state web site at www.sos.state.tx.us/statdoc/statforms or may be obtained by writing the Statutory Documents Section, Office of the Secretary of State, P.O. Box 13550, Austin, Texas 78711-3550. See Forms 3101, 3102.

§103.2. Filing Fees.

(a) The filing fee for registering a membership camping resort is \$250.

(b) The filing fee for registering a membership camping contract broker or seller is \$50.

§103.3. Revocation, Suspension, or Denial of Registration.

The secretary of state may revoke, suspend, or deny a registration as set forth in §§53.021 - 53.024, Texas Occupations Code.

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 June 24, 2009.



TITLE 4. AGRICULTURE

PART 1. TEXAS DEPARTMENT OF AGRICULTURE

CHAPTER 12. WEIGHTS AND MEASURES

The Texas Department of Agriculture (the department) proposes amendments to Chapter 12, Subchapter A, §12.1, and Subchapter H, §12.72 and §12.73, concerning regulation of public weighers. The amendments are proposed to make revisions to the public weigher regulations to conform to requirements established by the enactment of Senate Bill (SB) 1016, 81st Legislative Session, 2009, which requires licensing of businesses, rather than the individuals employed by the business; and eliminates the distinction between state and county public weighers. Changes are made throughout the sections for purposes of clarification and to make the sections consistent with SB 1016.

The proposed amendments to §12.1 remove definitions for "County Public Weigher," "Deputy Public Weigher," and "State Public Weigher." A new definition for a "Public Weigher" is added. Section 12.72 is amended to eliminate the distinction between county and state public weighers and to also change the bond amount required for a license. Section 12.73 is amended to establish a registration fee for a public weigher.

Andria Perales, Coordinator for Weights and Measures Programs, has determined that for the first five-year period the amended sections are in effect, there will be a fiscal impact for the state government as a result of enforcing or administering the amended sections. There will be an estimated loss of revenue of \$49,860 per year due to fewer licenses that will be issued as a result of changing the licensing requirement to the business client level rather than the individual employee of the business. There will be no fiscal implication for local government.

Ms. Perales has also determined that for the first five-year period the amended sections are in effect, the public benefit resulting from the administration and enforcement of the sections, as amended will be a more streamlined licensing process and efficient use of agency resources. There will be an economic cost to some microbusinesses, small businesses and individuals required to comply with the proposed amendments. Since the proposed amendments will shift the licensing requirements for a public weigher from the employees of the business to the business client, only those businesses who currently have less than four individuals with public weigher licenses will have a negative fiscal impact. Businesses who currently have four individuals with public weigher licenses will experience no change in license fee and bond amounts. Businesses who currently have more than four individuals with public weigher licenses will experience a decrease in overall license fee and bond amounts required. Approximately 159 microbusinesses, small businesses,

or persons with less than four County or Deputy Public Weigher licenses will see an increase in registration fees ranging from \$120 - \$360 per registration, and an increase in the bond amount ranging from \$2500 - \$7500 per registrant. There will be no impact on approximately 13 microbusinesses, small businesses or persons with a total of four County or Deputy Public Weigher licenses. Approximately 50 microbusinesses, small businesses, or persons with more than four County or Deputy Public Weigher licenses will see a decrease in registration fees in the amount of \$120 per weigher and a decrease in bond amount in the amount of \$2500 per weigher. There will be a decrease of \$420 in registration fees and a bond amount of \$10,000 per weigher for microbusinesses, small businesses, or persons with more than one State Public Weigher. Currently, only one business has more than one State Public Weigher license. Fees established in this proposal are established in accordance with Article VI-4, Rider 3, Senate Bill 1, Appropriations Act, 81st Legislature, 2009, which provides that the Texas Department of Agriculture shall collect fee amounts which offset, when feasible, the direct and indirect costs of administering its regulatory activities. Therefore, no regulatory flexibility analysis is required.

Comments on the proposal may be submitted to Andria Perales, Coordinator for Weights and Measures Programs, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

SUBCHAPTER A. GENERAL PROVISIONS

4 TAC §12.1

The amendments to §12.1 are proposed under the Texas Agriculture Code, §13.258, which provides the department with the authority to adopt rules related to the regulation and enforcement of public weighers and §13.255, as amended by SB 1016, which provides the department with the authority to establish fees for a public weigher certificate of authority; and Texas Government Code, §2001.006, which provides the department with the authority to adopt rules in preparation for the implementation of legislation that has become law, but has not taken effect.

The code affected by the proposal is the Texas Agriculture Code, Chapter 13.

§12.1. Definitions.

In addition to the definitions set out in the Texas Agriculture Code, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise.

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

~~[(7) County Public Weigher--An individual elected or appointed to issue an official certificate only in the county for which appointed.]~~

~~[(8) Deputy Public Weigher--An individual appointed by a county public weigher to assist in weighing commodities.]~~

(7) ~~[(9)]~~ Device--Any pump, scale, or bulk or liquefied petroleum gas meter used in a commercial transaction. Device includes any accessory which may affect accuracy. The term also includes weighing and measuring equipment in official use for the enforcement of law or for the collection of statistical information by government agencies.

(8) ~~[(40)]~~ Handbook 44--NIST publication that sets the specifications, tolerances and other technical requirements for devices.

(9) [(41)] Licensed inspection company--A company licensed by the department authorized to employ registered technicians who may place devices into service or remove an out-of-order tag and may also perform inspections of LPG meters and ranch scales.

(10) [(42)] Licensed service company--A company licensed by the department authorized to employ registered technicians who may place devices into service or remove an out-of-order tag.

(11) [(43)] LPG Meter--A device used for the measurement of liquefied petroleum gas.

(12) [(44)] NCWM--National Conference on Weights and Measures.

(13) [(45)] NIST--National Institute of Standards and Technology, United States Department of Commerce.

(14) [(46)] Official certificate--A certificate declaring the accurate weight or measure of a commodity which includes: the time and date the weight or measure was taken, signature and license number of the public weigher, and the seal of the department.

(15) [(47)] OIML--International Organization of Legal Metrology.

(16) [(48)] Operator of a Device--A person operates a device if the person collects or distributes payments for a commercial transaction for which the device is used; oversees the day-to-day operation of the device; or owns, leases, manages, or otherwise controls the physical location of the device or the device itself.

(17) [(49)] Out-of-Order tag--A notice attached to a device directing that the device may not be used for commercial service.

(18) [(20)] Person--An individual, partnership, firm, corporation, or association.

(19) [(21)] Place in service--An approval for the device to be used.

(20) Public Weigher--A business appointed to issue an official certificate in Texas.

(21) [(22)] Ranch scale--A livestock scale which is located on a private ranch and which has a capacity of 5,000 pounds or greater.

(22) [(23)] Registered technician--An individual registered with the department who may place devices into service and remove an out-of-order tag or, if employed by an inspection company, may also perform inspections of LPG meters and ranch scales.

(23) [(24)] Service Report--A report prescribed by the department, indicating the type of service, device type, device location, service/inspection company license number, and registered technician number.

(24) [(25)] Sub-kit--A subdivided series of test standards that weigh a total of not less than one pound in avoirdupois units and whose smallest test standard weighs not more than one-sixteenth (1/16) ounce or five-thousandths (0.005) pound.

[(26) ~~State Public Weigher--An individual elected or appointed to issue an official certificate anywhere in Texas.~~]

(25) [(27)] Test--A field examination of a device to determine compliance with the requirements of this chapter.

(26) [(28)] Test Standard--A certified weight or measure used to test a device.

(27) [(29)] Test kit--A collection of test standards that collectively weigh 30 pounds and that consists of one sub-kit, at least two

one-pound standards, and any other combination of standards that allows a scale with a capacity of 30 pounds or less be tested in one-pound increments to capacity.

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 June 29, 2009.

TRD-200902683

Dolores Alvarado Hibbs

General Counsel

Texas Department of Agriculture

Earliest possible date of adoption: August 9, 2009

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



SUBCHAPTER H. PUBLIC WEIGHERS

4 TAC §12.72, §12.73

The amendments to §12.72 and §12.73 are proposed under the Texas Agriculture Code, §13.258, which provides the department with the authority to adopt rules related to the regulation and enforcement of public weighers and §13.255, as amended by SB 1016, which provides the department with the authority to establish fees for a public weigher certificate of authority; and Texas Government Code, §2001.006, which provides the department with the authority to adopt rules in preparation for the implementation of legislation that has become law, but has not taken effect.

The code affected by the proposal is the Texas Agriculture Code, Chapter 13.

§12.72. Bond.

Any bond executed as a condition for holding office as a public weigher shall be:

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

(3) in the amount of \$10,000 payable to the State of Texas and filed with the department. [~~filed in the following manner:~~]

[(A) ~~state public weighers shall file the bond with the department; or~~]

[(B) ~~county and deputy public weighers shall file the bond with the office of the county clerk of the county in which the public weigher intends to operate.~~]

§12.73. Fees.

[(a) ~~County or Deputy public weigher fee is \$120.~~]

[(b) ~~Public [State public] weigher fee is \$480.~~]

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 June 29, 2009.

TRD-200902684

Dolores Alvarado Hibbs

General Counsel

Texas Department of Agriculture

Earliest possible date of adoption: August 9, 2009

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

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CHAPTER 26. FOOD AND NUTRITION
DIVISION
SUBCHAPTER B. NUTRITION WORKING
GROUPS

4 TAC §26.20, §26.21

The Texas Department of Agriculture (the department) proposes new Chapter 26, Subchapter B, §26.20, concerning the Early Childhood Health and Nutrition Interagency Council, and §26.21, concerning the Interagency Farm-To-School Coordination Task Force. New §26.20 is proposed to establish the Early Childhood Health and Nutrition Interagency Council as a council within the department's food and nutrition division, as authorized by the enactment of Senate Bill 395 (SB 395) by the 81st Texas Legislature, 2009, to research, assess and develop an early childhood nutrition and physical activity plan for implementation in the state. New §26.21 is proposed to establish the Interagency Farm-To-School Coordination Task Force within the department's food and nutrition division, as authorized by the enactment of Senate Bill 1027 (SB 1027) by the 81st Texas Legislature, 2009, to develop and implement a plan to facilitate the availability of locally grown food products in public schools.

Angela Olige, Assistant Commissioner for Food and Nutrition, has determined that for the first five years the new sections are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the new sections.

Ms. Olige also has determined that for each year of the first five years the new sections are in effect the public benefit anticipated as a result of administering and enforcing the new sections will be to establish working groups within the department that will enhance the resources available in the areas of early childhood nutrition and physical activity. There will be no economic cost for micro-businesses, small businesses or individuals who are required to comply with the sections, as proposed.

Comments on the proposal may be submitted to Angela Olige, Assistant Commissioner for Food and Nutrition, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

New §26.20 is proposed under the Health and Safety Code, Chapter 15, as enacted by the passage of HB 395, 81st Legislature, 2009, §115.003, which authorizes the department to establish the Early Childhood Health and Nutrition Interagency Council; and §115.012, which provides the department with the authority to adopt rules to implement Chapter 115. New §26.21 is proposed under the Texas Agriculture Code (the Code), §12.0026, as enacted by the passage of SB 1027, 81st Legislature, 2009, which requires the department to establish the Interagency Farm-To-School Coordination Task Force; the Code, §12.016, which provides the department with the authority to adopt rules to carry out its duties under the Code; and Texas Government Code, §2001.006, which provides the department with the authority to adopt rules in preparation for the implementation of legislation that has become law, but has not taken effect.

The code affected by the proposal is the Health and Safety Code, Chapter 115, and the Texas Agriculture Code, Chapter 12.

§26.20. Early Childhood Health and Nutrition Interagency Council.

(a) Purpose. The Early Childhood Health and Nutrition Interagency Council (Council) is created pursuant to the Health and Safety Code Chapter 115 and is established within the Texas Department of Agriculture (the department) to research, assess and develop an early childhood nutrition and physical activity plan for implementation in the state.

(b) Composition. The Council is composed of eight (8) members as follows:

(1) a representative of the Texas Health and Human Services Commission who is involved in the coordination of children's programs, appointed by the executive commissioner of the Texas Health and Human Services Commission;

(2) a representative of the Department of State Health Services' health promotion and chronic disease prevention programs, appointed by the commissioner of state health services;

(3) a representative of the Department of State Health Services' Special Supplemental Nutrition Program for Women, Infants, and Children, appointed by the commissioner of state health services;

(4) a representative of the Texas Workforce Commission, appointed by the executive director of the Texas Workforce Commission;

(5) a representative of the department, appointed by the commissioner of agriculture;

(6) a representative of the Texas Education Agency's school health programs, appointed by the commissioner of education;

(7) a representative of the Department of Family and Protective Services' Child Care Licensing Division, appointed by the commissioner of the Department of Family and Protective Services; and

(8) a representative of the Texas AgriLife Extension Service, appointed by the director of the Texas AgriLife Extension Service.

(c) Presiding Officer. The representative of the department shall serve as the presiding officer of the Council.

(d) Meetings. The Council shall meet in person at least three times each year, and may hold meetings by conference call, as necessary.

(e) Duties. The Council shall:

(1) consult with stakeholders in the course of its regular meetings and by other means, as appropriate;

(2) review current research in the areas of child nutrition and physical activity;

(3) review the status of agency programs related to promotion of healthy nutrition and physical activity for children;

(4) identify state and federal funding sources for the promotion of health and nutrition in early childhood settings; and

(5) develop an early childhood nutrition and physical activity plan with a recommended timeline for implementation over a six (6) year period.

(f) Duration. The Council is subject to Chapter 325 of the Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the Council is abolished on September 1, 2019.

(g) Reporting. Reporting takes place through meetings held by the Council. Through these meetings, the Commissioner and/or de-

partment staff discuss matters related to the Council's business and the Council provides oral feedback and direction. The Council is staffed by the department. Department staff prepares and maintains the minutes of each Council meeting. Staff maintains a record of actions taken and distributes copies of approved minutes and other Council documents to Council members and the Commissioner.

§26.21. Interagency Farm-To-School Coordination Task Force.

(a) Purpose. The Interagency Farm-To-School Coordination Task Force (Task Force) is created pursuant to the Texas Agriculture Code, §12.0026 and is established within the Texas Department of Agriculture (the department) to develop and implement a plan to facilitate the availability of locally grown food products in public schools.

(b) Composition. The Task Force is composed of the following members:

(1) a representative of the department, appointed by the commissioner of agriculture (Commissioner);

(2) a representative of the Texas Education Agency, appointed by the commissioner of education;

(3) a representative from the Department of State Health Services, appointed by the commissioner of state health services; and

(4) at least one representative from each of the following groups appointed by the Commissioner:

(A) fruit and vegetable producer organizations;

(B) school food service organizations;

(C) food distribution businesses;

(D) child nutrition and advocacy organizations;

(E) parent organizations;

(F) educational institutions that conduct research in the areas of agriculture and nutrition; and

(G) health nutrition educators who serve school directors.

(c) Presiding Officer. The representative of the department shall serve as the presiding officer. The Task Force shall meet at the call of the Presiding Officer.

(d) Duties. The Task Force shall:

(1) design new education resources, or review or update existing resources, on nutrition and food education that may be used by schools and school districts;

(2) expand food-focused experiential education programs;

(3) offer assistance in identifying funding sources and grants that allow schools and school districts to recover the costs associated with purchasing locally grown food products;

(4) develop a database of available locally grown food products for use by school food service agencies that includes contact and purchasing information for the products;

(5) identify, design, or make available training programs to enable local farmers and ranchers to market their products to schools and school districts;

(6) advise schools and school districts on methods by which a school or school district may improve its facilities to allow for the use of minimally processed, fresh, and locally produced foods in school meals;

(7) provide technical assistance to school food service agencies to establish procedures, recipes, menu rotations, and other internal processes that accommodate the use of locally grown foods in public schools;

(8) offer advanced skills development training to school food service employees regarding the proper methods of handling, preparing, and serving locally grown foods; and

(9) conduct any other activity considered by the task force as necessary to achieve its goals under this section.

(e) Duration. The Task Force shall remain in existence as long as deemed necessary by the Commissioner.

(f) Reporting. Reporting takes place through meetings held by the Task Force. Through these meetings, the Commissioner and/or department staff discuss matters related to the task force's business and the Task Force provides oral feedback and direction. The Task Force is staffed by the department. Department staff prepares and maintains the minutes of each task force meeting. Staff maintains a record of actions taken and distributes copies of approved minutes and other Task Force documents to Task Force members and the Commissioner.

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 June 29, 2009.

TRD-200902685

Dolores Alvarado Hibbs

General Counsel

Texas Department of Agriculture

Earliest possible date of adoption: August 9, 2009

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

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TITLE 16. ECONOMIC REGULATION

**PART 8. TEXAS RACING
COMMISSION**

**CHAPTER 309. RACETRACK LICENSES AND
OPERATIONS**

**SUBCHAPTER D. GREYHOUND
RACETRACKS**

DIVISION 1. FACILITIES AND EQUIPMENT

16 TAC §309.307

The Texas Racing Commission (Commission) proposes an amendment to 16 TAC §309.307, Lures, relating to the lures used in greyhound racing. The change adds the requirement that a greyhound lure have an audible squawker at the escape.

Charla Ann King, Executive Director for the Texas Racing Commission, has determined that for the first five year period the amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing the amendment.

Ms. King has also determined that for each year of the first five years the amendment is in effect the anticipated public benefit will be to assist in the stopping and recalling of the greyhounds at the end of a race.

The rule will have no adverse economic effect on small or micro-businesses, and therefore preparation of an economic impact statement and a regulatory flexibility analysis is not required.

There are no negative impacts upon employment conditions in this state as a result of the proposed amendment.

All comments or questions regarding the proposed amendment may be submitted in writing within 30 days following publication of this notice in the *Texas Register* to Carolyn Weiss, Assistant to the Executive Director for the Texas Racing Commission, at P.O. Box 12080, Austin, Texas 78711-2080, telephone (512) 833-6699, or fax (512) 833-6907.

The amendment is proposed under the Texas Revised Civil Statutes, Article 179e, §3.02, which authorizes the Commission to make rules relating exclusively to horse and greyhound racing.

The amendment implements Texas Civil Statutes, Article 179e.

§309.307. *Lures.*

An association shall provide an inside dual equipped lure with an extendable arm and an audible squawker at the escape.

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 June 24, 2009.

TRD-200902606

Mark Fenner

General Counsel

Texas Racing Commission

Earliest possible date of adoption: August 9, 2009

For further information, please call: (512) 833-6699



DIVISION 2. OPERATIONS

16 TAC §309.355, §309.363

The Texas Racing Commission (Commission) proposes amendments to 16 TAC §309.355, Grading System, and §309.363, Official Program. Section 309.355 relates to the grading system used by greyhound racetracks to create races in which each participating greyhound will be competitive. Section 309.363 relates to the required program printed by a racetrack that lists information about each of the races and the participants that will be competing in those races on a particular day.

The changes to §309.355 enable tracks to keep more greyhounds on the active list by permitting a racing secretary to advance a 2nd through 4th place greyhound in a maiden or Grade J race to a Grade D or Grade C level. The current rule only allows an advance to a Grade C level.

The change to §309.363 requires the greyhound racetracks to publish the Texas-bred emblem in the program to identify any accredited Texas-bred greyhounds.

Charla Ann King, Executive Director for the Texas Racing Commission, has determined that for the first five year period the amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing the amendment.

Ms. King has also determined that for each year of the first five years the amendment is in effect the anticipated public benefit

will be to identify and support participation in the state's accredited Texas-bred program.

The rule will have no adverse economic effect on small or micro-businesses, and therefore preparation of an economic impact statement and a regulatory flexibility analysis is not required.

There are no negative impacts upon employment conditions in this state as a result of the proposed amendment.

All comments or questions regarding the proposed amendment may be submitted in writing within 30 days following publication of this notice in the *Texas Register* to Carolyn Weiss, Assistant to the Executive Director for the Texas Racing Commission, at P.O. Box 12080, Austin, Texas 78711-2080, telephone (512) 833-6699, or fax (512) 833-6907.

The amendments are proposed under the Texas Revised Civil Statutes, Article 179e, §3.02, which authorizes the Commission to make rules relating exclusively to horse and greyhound racing, and §11.01, which requires the Commission to adopt rules regulating pari-mutuel wagering on greyhound and horse racing.

The amendments implement Texas Civil Statutes, Article 179e.

§309.355. *Grading System.*

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

(c) The racing secretary shall use seven grades of AA, A, B, C, J, D, and M. Grade M is for maidens of any age and Grade J is for winning maidens.

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

(f) The racing secretary shall advance a greyhound that wins a maiden race to Grade J. The racing secretary shall advance a greyhound that wins a Grade J race to Grade C. On request by a kennel owner or trainer, the racing secretary may regrade [~~advance~~] a greyhound that finishes second, third, or fourth in a maiden or a Grade J race to Grade D or C. For a greyhound regraded on request under this subsection, an association shall place the letter "M" or "J" after the greyhound's name in the racing program.

(g) - (n) (No change.)

~~[(o) A greyhound that has advanced from Grade M and has been dropped from further racing without winning another official start may be requalified after a period of 30 days.]~~

(o) ~~[(p)]~~ If a maiden fails to finish in the top four positions in six consecutive starts, the maiden may not race again at the race meeting until it requalifies. If the maiden fails to finish in the top four positions in the two starts after requalifying, the maiden may not race again at the race meeting.

§309.363. *Official Program.*

(a) (No change.)

(b) The official program must contain at least two past performances for each greyhound scheduled to race. The program must also contain, for each greyhound scheduled to race:

(1) - (10) (No change.)

(11) the Texas-bred emblem if the greyhound is an accredited Texas-bred; and

(12) [(11)] other information to enable the public to properly judge the greyhound's ability.

(c) (No change.)

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

Filed with the Office of the Secretary of State on June 24, 2009.

TRD-200902607

Mark Fenner

General Counsel

Texas Racing Commission

Earliest possible date of adoption: August 9, 2009

For further information, please call: (512) 833-6699



CHAPTER 315. OFFICIALS AND RULES FOR GREYHOUND RACING

SUBCHAPTER A. OFFICIALS

DIVISION 2. DUTIES

16 TAC §315.43, §315.44

The Texas Racing Commission (Commission) proposes new 16 TAC §315.43, Track Superintendent, and new §315.44, Brakeman. Section 315.43 relates to the duties and responsibilities of the track superintendent at a greyhound racetrack. Section 315.44 relates to the duties and responsibilities of the brakeman at a greyhound racetrack.

New §315.43 assigns the track superintendent the responsibility for ensuring that the greyhound racetrack is properly maintained and that the track equipment is operable.

New §315.44 assigns the brakeman the responsibility for ensuring that the lure is stopped on the designated revolution on the racetrack at the end of each race.

Charla Ann King, Executive Director for the Texas Racing Commission, has determined that for the first five year period the new rules are in effect there will be no fiscal implications for state or local government as a result of enforcing the rules.

Ms. King has also determined that for each year of the first five years the new rules are in effect the anticipated public benefit will be to clarify the responsibilities of the track superintendent and the brakeman at a greyhound racetrack.

The rules will have no adverse economic effect on small or micro-businesses, and therefore preparation of an economic impact statement and a regulatory flexibility analysis is not required.

There are no negative impacts upon employment conditions in this state as a result of the proposed new rules.

All comments or questions regarding the proposed new rules may be submitted in writing within 30 days following publication of this notice in the *Texas Register* to Carolyn Weiss, Assistant to the Executive Director for the Texas Racing Commission, at P.O. Box 12080, Austin, Texas 78711-2080, telephone (512) 833-6699, or fax (512) 833-6907.

The new rules are proposed under the Texas Revised Civil Statutes, Article 179e, §3.02, which authorizes the Commission to make rules relating exclusively to horse and greyhound racing.

The new rules implement Texas Civil Statutes, Article 179e.

§315.43. Track Superintendent.

(a) The track superintendent shall ensure that the racetrack is properly maintained. The track superintendent shall ensure that all track equipment is operable for all races and during training hours.

(b) The track superintendent may designate a representative to serve in the track superintendent's absence, subject to the approval by the executive secretary.

§315.44. Brakeman.

The brakeman shall ensure that the lure is stopped on the designated revolution on the racetrack at the end of each race.

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 June 24, 2009.

TRD-200902608

Mark Fenner

General Counsel

Texas Racing Commission

Earliest possible date of adoption: August 9, 2009

For further information, please call: (512) 833-6699



TITLE 22. EXAMINING BOARDS

PART 3. TEXAS BOARD OF CHIROPRACTIC EXAMINERS

CHAPTER 75. RULES OF PRACTICE

22 TAC §75.7

The Texas Board of Chiropractic Examiners (Board) proposes an amendment to §75.7, concerning Required Fees and Charges, to adopt two new fees and to increase one existing fee: (1) a new \$150 initial fee for applying for a chiropractic college faculty license; (2) a new \$135 annual renewal fee for renewing a chiropractic college faculty license; and (3) an increase in the annual continuing education course approval fee from \$25 to \$165. The Board also proposes to update the graphic contained in §75.7(a), which lists agency fees, with the fee changes referenced above. The proposed fee changes would become effective 20 days after adoption by the Board. The estimated effective date is estimated to be on or near September 2, 2009.

The Board considered whether it could provide these services without the adoption of additional or increased fees but determined that the fees are necessary for the Board to cover its costs and to generate sufficient revenue as required by the Texas Legislature and to implement House Bill 3450, relating to temporary faculty license for teaching chiropractic.

Glenn Parker, Executive Director, has determined that for the first five-year period the amended rule is in effect there will be no fiscal impact for local government as a result of enforcing or administering the rule. There will be no costs to the general public. There will be no costs to small or micro-businesses other than to Texas Chiropractic College and Parker College of Chiropractic, or to their faculty members, or to groups or individuals that wish to apply for the Board's approval of continuing education courses. The cost to each chiropractic college in Texas (or to individual faculty members) would be \$150 for each original faculty license and \$135 for each annual renewal of a faculty license. The cost to each provider of Board-approved chiroprac-

tic continuing education courses would be an additional \$140 per year for each course approved by the Board.

Mr. Parker has determined that the financial impact on state revenues or expenditures will be an increase of approximately \$175,000 per fiscal year in both General Revenue Fund revenues and expenditures for each fiscal year the fees are in effect.

Mr. Parker has determined that, for the first five-year period the amended rule is in effect, the public benefit of the fees will be to allow the Board to recover costs associated with operations so that it may better implement and enforce the Chiropractic Act.

Comments on the proposed amendments or a request for a public hearing may be submitted to Ms. Mary Feys, Texas Board of Chiropractic Examiners, 333 Guadalupe St., Tower III, Suite 3-825, Austin, Texas 78701 or via e-mail to mary.feys@tbce.state.tx.us or via facsimile to (512) 305-6705 no later than 30 days from the date that these proposed amendments are published in the *Texas Register*.

These amendments are proposed under Texas Occupations Code §201.152, relating to rules, which authorizes the Board to adopt rules necessary to regulate the practice of chiropractic; §201.308, requiring that the Board adopt fees for the issuance and renewal of chiropractic college faculty licenses; and §201.356 relating to continuing education which requires the Board to adopt rules concerning continuing education and allows the Board to require licensees to attend continuing education classes specified by the Board.

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

§75.7. *Required Fees and Changes.*

(a) Current fees required by the board are as follows:

Figure: 22 TAC §75.7(a)

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

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

Filed with the Office of the Secretary of State on June 25, 2009.

TRD-200902619

Glenn Parker

Executive Director

Texas Board of Chiropractic Examiners

Earliest possible date of adoption: August 9, 2009

For further information, please call: (512) 305-6901



PART 5. STATE BOARD OF DENTAL EXAMINERS

CHAPTER 101. DENTAL LICENSURE

22 TAC §101.1

The Texas State Board of Dental Examiners (Board) proposes an amendment to §101.1, concerning the general qualifications for licensure. The amendment will include reference to criminal background check requirements for licensure and will adjust language regarding the jurisprudence assessment requirement to reflect currently used terminology.

Ms. Sherri Sanders Meek, Executive Director of the Texas State Board of Dental Examiners, has determined that for each year of the first five-year period the section is in effect, there will be no fiscal implications for local or state government as a result of enforcing or administering the section.

The public benefit anticipated as a result of enforcement or administering the section will be negligible.

There is no impact on large, small or micro-businesses.

There is no anticipated economic cost to persons as a result of enforcing or administering the section.

Comments on the proposal may be submitted to Ms. Sherri Sanders Meek, Executive Director, Texas State Board of Dental Examiners, 333 Guadalupe Street, Tower 3, Suite 800, Austin, Texas 78701, or by fax at (512) 463-7452. To be considered, all written comments must be received by the Texas State Board of Dental Examiners no later than 30 days from the date that the amended section is published in the *Texas Register*.

The amendment is proposed under Texas Government Code §2001.021 et seq., and Texas Occupations Code §254.001, which provides the Board with the authority to adopt and enforce rules necessary for it to perform its duties.

The proposed amendment affects Title 3, Subtitle D of the Texas Occupations Code and Title 22, Part 5 of the Texas Administrative Code.

§101.1. *General Qualifications for Licensure.*

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

(c) To be eligible for licensure, an applicant must present on or accompanying a licensure application form approved by the Board proof satisfactory to the Board that the applicant:

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

(4) Has taken and passed the jurisprudence assessment [examination] administered by the Board or an entity designated by the Board within one year immediately prior to application; [and,]

(5) Has paid all application, examination and licensing fees required by law and Board rules and regulations; and,

(6) Beginning January 1, 2009, has submitted proof of having applicant's fingerprints collected for the required national fingerprint criminal records check.

(d) - (f) (No change.)

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

Filed with the Office of the Secretary of State on June 29, 2009.

TRD-200902650

Sherri Sanders Meek

Executive Director

State Board of Dental Examiners

Earliest possible date of adoption: August 9, 2009

For further information, please call: (512) 475-0972



22 TAC §101.2

The Texas State Board of Dental Examiners (Board) proposes an amendment to §101.2, concerning licensure by examination. This action is based upon a recommendation from the American

Board of Pediatric Dentistry. The justification for this action will replace the term "board eligible" with clarified terms.

Ms. Sherri Sanders Meek, Executive Director of the Texas State Board of Dental Examiners, has determined that for each year of the first five-year period the section is in effect, there will be no fiscal implications for local or state government as a result of enforcing or administering the section.

The public benefit anticipated as a result of enforcement or administering the section will be negligible.

There is no impact on large, small or micro-businesses.

There is no anticipated economic cost to persons as a result of enforcing or administering the section.

Comments on the proposal may be submitted to Ms. Sherri Sanders Meek, Executive Director, Texas State Board of Dental Examiners, 333 Guadalupe Street, Tower 3, Suite 800, Austin, Texas 78701, or by fax at (512) 463-7452. To be considered, all written comments must be received by the Texas State Board of Dental Examiners no later than 30 days from the date that the amended section is published in the *Texas Register*.

The amendment is proposed under Texas Government Code §2001.021 et seq., and Texas Occupations Code §254.001, which provides the Board with the authority to adopt and enforce rules necessary for it to perform its duties.

The proposed amendment affects Title 3, Subtitle D of the Texas Occupations Code and Title 22, Part 5 of the Texas Administrative Code.

§101.2. *Licensure by Examination.*

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

(c) Licensure by specialty examination. Applicants for licensure by specialty examination must present proof that the applicant:

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

(3) Has either:

(A) (No change.)

(B) been currently or previously certified as a "Board Candidate" or "Diplomate" ["Board Eligible"] by an American Dental Association-approved specialty board.

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

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

Filed with the Office of the Secretary of State on June 29, 2009.

TRD-200902651

Sherri Sanders Meek
Executive Director

State Board of Dental Examiners

Earliest possible date of adoption: August 9, 2009

For further information, please call: (512) 475-0972



22 TAC §101.3

The Texas State Board of Dental Examiners (Board) proposes an amendment to §101.3, concerning licensure by credentials. The proposed language corrects the referenced statute in subsection (a)(9).

Ms. Sherri Sanders Meek, Executive Director of the Texas State Board of Dental Examiners, has determined that for each year of the first five-year period the section is in effect, there will be no fiscal implications for local or state government as a result of enforcing or administering the section.

The public benefit anticipated as a result of enforcement or administering the section will be negligible.

There is no impact on large, small or micro-businesses.

There is no anticipated economic cost to persons as a result of enforcing or administering the section.

Comments on the proposal may be submitted to Ms. Sherri Sanders Meek, Executive Director, Texas State Board of Dental Examiners, 333 Guadalupe Street, Tower 3, Suite 800, Austin, Texas 78701, or by fax at (512) 463-7452. To be considered, all written comments must be received by the Texas State Board of Dental Examiners no later than 30 days from the date that the amended section is published in the *Texas Register*.

The amendment is proposed under Texas Government Code §2001.021 et seq., and Texas Occupations Code §254.001, which provides the Board with the authority to adopt and enforce rules necessary for it to perform its duties.

The proposed amendment affects Title 3, Subtitle D of the Texas Occupations Code and Title 22, Part 5 of the Texas Administrative Code.

§101.3. *Licensure by Credentials.*

(a) In addition to the general qualifications for licensure contained in §101.1 of this chapter (relating to General Qualifications for Licensure), an applicant for licensure by credentials must present proof that the applicant:

(1) - (8) (No change.)

(9) Shows proof of current CPR certification as required by the Texas Dental Practice Act, Chapter 256, §256.101 [~~§256.044~~]; and,

(10) (No change.)

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

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

Filed with the Office of the Secretary of State on June 29, 2009.

TRD-200902652

Sherri Sanders Meek
Executive Director

State Board of Dental Examiners

Earliest possible date of adoption: August 9, 2009

For further information, please call: (512) 475-0972



22 TAC §101.6

(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 State Board of Dental Examiners or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin, Texas.)

The Texas State Board of Dental Examiners (Board) proposes the repeal of §101.6, concerning Emergency Provisional Licensure for Dentists Displaced by Hurricane Katrina. The repeal is

proposed as the provisions of this section expired on August 1, 2006.

Ms. Sherri Sanders Meek, Executive Director of the Texas State Board of Dental Examiners, has determined that for the first five-year period the repeal is in effect, there will be no fiscal implications for local or state government as a result of enforcing or administering the repeal of this section.

The public benefit anticipated as a result of enforcement or administering the repeal of this section will be negligible.

There is no impact on large, small or micro-businesses.

There is no anticipated economic cost to persons as a result of enforcing or administering the repeal of this section.

Comments on the proposal may be submitted to Ms. Sherri Sanders Meek, Executive Director, Texas State Board of Dental Examiners, 333 Guadalupe Street, Tower 3, Suite 800, Austin, Texas 78701, or by fax at (512) 463-7452. To be considered, all written comments must be received by the Texas State Board of Dental Examiners no later than 30 days from the date that the repeal of this section is published in the *Texas Register*.

The repeal is proposed under Texas Government Code §2001.021 et seq.; and Texas Occupations Code §254.001, which provides the Board with the authority to adopt and enforce rules necessary for it to perform its duties.

The proposed repeal affects Title 3, Subtitle D of the Texas Occupations Code and Title 22, Part 5 of the Texas Administrative Code.

§101.6. *Emergency Provisional Licensure for Dentists Displaced by Hurricane Katrina.*

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 June 29, 2009.

TRD-200902653

Sherri Sanders Meek

Executive Director

State Board of Dental Examiners

Earliest possible date of adoption: August 9, 2009

For further information, please call: (512) 475-0972



22 TAC §101.7

The Texas State Board of Dental Examiners (Board) proposes an amendment to §101.7(b), concerning the reinstatement of a retired license. The proposed amendment will adjust language regarding the jurisprudence assessment to reflect currently used terminology.

Ms. Sherri Sanders Meek, Executive Director of the Texas State Board of Dental Examiners, has determined that for each year of the first five-year period the section is in effect, there will be no fiscal implications for local or state government as a result of enforcing or administering the section.

The public benefit anticipated as a result of enforcement or administering the section will be negligible.

There is no impact on large, small or micro-businesses.

There is no anticipated economic cost to persons as a result of enforcing or administering the section.

Comments on the proposal may be submitted to Ms. Sherri Sanders Meek, Executive Director, Texas State Board of Dental Examiners, 333 Guadalupe Street, Tower 3, Suite 800, Austin, Texas 78701, or by fax at (512) 463-7452. To be considered, all written comments must be received by the Texas State Board of Dental Examiners no later than 30 days from the date that the amended section is published in the *Texas Register*.

The amendment is proposed under Texas Government Code §2001.021 et seq.; and Texas Occupations Code §254.001, which provides the Board with the authority to adopt and enforce rules necessary for it to perform its duties.

The proposed amendment affects Title 3, Subtitle D of the Texas Occupations Code and Title 22, Part 5 of the Texas Administrative Code.

§101.7. *Retired License Status.*

(a) (No change.)

(b) Reinstatement. The board may reinstate a retired Texas dental license to active status, provided the license holder submits an application for reinstatement on a form prescribed by the board, pays the appropriate fees due at the time application is made, and meets the requirements of this subsection.

(1) A license holder who, at the time of application for reinstatement, is practicing dentistry in another state, or territory outside of the United States, or had practiced dentistry actively within the two years immediately preceding the date of application, shall provide:

(A) - (B) (No change.)

(C) proof that the licensee has taken and passed the Texas jurisprudence assessment [~~examination~~];

(D) - (E) (No change.)

(2) A license holder who has not actively practiced for at least two years immediately preceding the request for reinstatement of a retired license shall provide:

(A) (No change.)

(B) proof that licensee has taken and passed the Texas jurisprudence assessment [~~examination~~];

(C) - (D) (No change.)

(3) - (5) (No change.)

(c) (No change.)

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

Filed with the Office of the Secretary of State on June 29, 2009.

TRD-200902654

Sherri Sanders Meek

Executive Director

State Board of Dental Examiners

Earliest possible date of adoption: August 9, 2009

For further information, please call: (512) 475-0972



CHAPTER 102. FEES

22 TAC §102.1

The Texas State Board of Dental Examiners (Board) proposes an amendment to §102.1, concerning the Board's fee schedule. The justification for this action is based on the General Appropriations Act for fiscal years 2010 and 2011 which requires the Texas State Board of Dental Examiners to assess fees sufficient to generate \$1,309,310 in excess of \$7,328,204 during the biennium.

Ms. Sherri Sanders Meek, Executive Director of the Texas State Board of Dental Examiners, has determined that for each year of the first five-year period the section is in effect, there will be no fiscal implications for local or state government as a result of enforcing or administering the section.

The public benefit anticipated as a result of enforcement or administering this section will be negligible.

There is no impact on large, small or micro-businesses.

There is no anticipated economic cost to persons as a result of enforcing or administering the section.

Comments on the proposal may be submitted to Ms. Sherri Sanders Meek, Executive Director, Texas State Board of Dental Examiners, 333 Guadalupe Street, Tower 3, Suite 800, Austin, Texas 78701, or by fax at (512) 463-7452. To be considered, all written comments must be received by the Texas State Board of Dental Examiners no later than 30 days from the date that this amended section is published in the *Texas Register*.

The amendment is proposed under Texas Government Code §2001.021 et seq., and Texas Occupations Code §254.001, which provides the Board with the authority to adopt and enforce rules necessary for it to perform its duties.

The proposed amendment affects Title 3, Subtitle D of the Texas Occupations Code and Title 22, Part 5 of the Texas Administrative Code.

§102.1. *Fee Schedule.*

(a) Dentists

(1) Application for licensure by examination:

(A) Initial application/examination--~~\$200~~ [~~\$155~~]; and

(B) (No change.)

(2) Application for licensure by credentials--~~\$2,500~~

[~~\$2,005~~]

(3) Application for temporary licensure by credentials--~~\$700~~ [~~\$500~~]

(4) Annual registration renewal:

(A) Annual registration--~~\$141~~ [~~\$116~~];

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

(5) Duplicate license--~~\$25~~ [~~\$15~~]

(6) Duplicate renewal certificate--~~\$25~~ [~~\$15~~]

(7) Reactivate a retired license--~~\$75~~ [~~\$50~~]

(8) (No change.)

(b) Dental Hygienists

(1) Application for licensure by examination--~~\$100~~ [~~\$75~~]

(2) Application for licensure by credentials--~~\$525~~ [~~\$480~~]

(3) Application for temporary licensure by credentials--~~\$200~~ [~~\$100~~]

(4) Annual registration renewal:

(A) Annual registration--~~\$87~~ [~~\$69~~]; and,

(B) (No change.)

(5) Duplicate license--~~\$25~~ [~~\$15~~]

(6) Duplicate renewal certificate--~~\$25~~ [~~\$15~~]

(7) Reactivate a retired license--~~\$75~~ [~~\$50~~]

(c) Dental Assistants

(1) Dental assistant registration:

(A) Initial application--~~\$30~~ [~~\$50~~].

(B) Annual renewal--~~\$27~~ [~~\$25~~].

(2) (No change.)

(d) Dental Laboratories

(1) (No change.)

(2) Annual registration renewal:

(A) Annual registration--~~\$111~~ [~~\$101~~]; and,

(B) (No change.)

(e) Mobile Dental Facilities or Portable Dental Units

(1) Initial application--~~\$100~~ [~~\$50~~]

(2) (No change.)

(f) Application for dental intern or resident exception tracking (identification) number--~~\$50~~ [~~\$25~~]

(g) Faculty

(1) Dentist faculty registration:

(A) Initial application--~~\$100~~ [~~\$75~~]

(B) Annual renewal--~~\$86~~ [~~\$61~~]

(C) (No change.)

(2) Dental hygienist faculty registration:

(A) Initial application--~~\$100~~ [~~\$75~~]

(B) Annual renewal--~~\$76~~ [~~\$57~~]

(C) (No change.)

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

Filed with the Office of the Secretary of State on June 29, 2009.

TRD-200902641

Sherri Sanders Meek

Executive Director

State Board of Dental Examiners

Earliest possible date of adoption: August 9, 2009

For further information, please call: (512) 475-0972



CHAPTER 103. DENTAL HYGIENE LICENSURE

22 TAC §103.1

The Texas State Board of Dental Examiners (Board) proposes an amendment to §103.1, concerning general qualifications for dental hygiene licensure. The amendment will include reference to criminal background check requirements for licensure and will adjust language regarding the jurisprudence assessment requirement to reflect currently used terminology.

Ms. Sherri Sanders Meek, Executive Director of the Texas State Board of Dental Examiners, has determined that for each year of the first five-year period the section is in effect, there will be no fiscal implications for local or state government as a result of enforcing or administering the section.

The public benefit anticipated as a result of enforcing or administering this section will be negligible.

There is no anticipated impact on large, small or micro-businesses.

There is no anticipated economic cost to persons as a result of enforcing or administering the section.

Comments on the proposal may be submitted to Ms. Sherri Sanders Meek, Executive Director, Texas State Board of Dental Examiners, 333 Guadalupe Street, Tower 3, Suite 800, Austin, Texas 78701, or by fax at (512) 463-7452. To be considered, all written comments must be received by the Texas State Board of Dental Examiners no later than 30 days from the date that this amended section is published in the *Texas Register*.

The amendment is proposed under Texas Government Code §2001.021 et seq., and Texas Occupations Code §254.001, which provides the Board with the authority to adopt and enforce rules necessary for it to perform its duties.

The proposed amendment affects Title 3, Subtitle D of the Texas Occupations Code and Title 22, Part 5 of the Texas Administrative Code.

§103.1. General Qualifications for Licensure.

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

(c) To be eligible for licensure, an applicant must present on or accompanying a form approved by the SBDE proof satisfactory to the SBDE that the applicant:

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

(6) Has taken and passed the jurisprudence assessment [examination] administered by the SBDE or an entity designated by the SBDE within one year immediately prior to application; ~~and,~~

(7) Has paid all application, examination and licensing fees required by law and SBDE rules and regulations; ~~and,~~[-]

(8) Beginning January 1, 2009, has submitted proof of having applicant's fingerprints collected for the required national fingerprint criminal records check.

(d) - (f) (No change.)

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

Filed with the Office of the Secretary of State on June 29, 2009.
TRD-200902645

Sherri Sanders Meek
Executive Director
State Board of Dental Examiners
Earliest possible date of adoption: August 9, 2009
For further information, please call: (512) 475-0972



22 TAC §103.3

The Texas State Board of Dental Examiners (Board) proposes an amendment to §103.3, concerning licensure by credentials. The proposed language corrects the referenced statute in §103.3(a)(9).

Ms. Sherri Sanders Meek, Executive Director of the Texas State Board of Dental Examiners, has determined that for each year of the first five-year period the section is in effect, there will be no fiscal implications for local or state government as a result of enforcing or administering the section.

The public benefit anticipated as a result of enforcement or administering this section will be negligible.

There is no impact on large, small or micro-businesses.

There is no anticipated economic cost to persons as a result of enforcing or administering the section.

Comments on the proposal may be submitted to Ms. Sherri Sanders Meek, Executive Director, Texas State Board of Dental Examiners, 333 Guadalupe Street, Tower 3, Suite 800, Austin, Texas 78701, or by fax at (512) 463-7452. To be considered, all written comments must be received by the Texas State Board of Dental Examiners no later than 30 days from the date that this amended section is published in the *Texas Register*.

The amendment is proposed under Texas Government Code §2001.021 et seq., and Texas Occupations Code §254.001, which provides the Board with the authority to adopt and enforce rules necessary for it to perform its duties.

The proposed amendment affects Title 3, Subtitle D of the Texas Occupations Code and Title 22, Part 5 of the Texas Administrative Code.

§103.3. Licensure by Credentials.

(a) In addition to the general qualifications for licensure contained in §103.1 of this chapter, an applicant for dental hygienist licensure by credentials must present proof that the applicant:

(1) - (8) (No change.)

(9) Shows proof of current CPR certification as required by the Texas Dental Practice Act, Chapter 256, §256.101 [~~§256.0H~~]; and,

(10) (No change.)

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

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

Filed with the Office of the Secretary of State on June 29, 2009.
TRD-200902646
Sherri Sanders Meek
Executive Director
State Board of Dental Examiners
Earliest possible date of adoption: August 9, 2009
For further information, please call: (512) 475-0972

◆ ◆ ◆
22 TAC §103.6

(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 State Board of Dental Examiners or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin, Texas.)

The Texas State Board of Dental Examiners (Board) proposes the repeal of §103.6, concerning emergency provisional licensure for dental hygienists displaced by Hurricane Katrina.

The repeal is necessary as the provisions of this section expired on August 1, 2006.

Ms. Sherri Sanders Meek, Executive Director of the Texas State Board of Dental Examiners, has determined that for each year of the first five-year period the repeal of this section is in effect, there will be no fiscal implications for local or state government as a result of enforcing or administering the repeal of this section.

The public benefit anticipated as a result of enforcing or administering the repeal of this section will be negligible.

There is no anticipated impact on large, small or micro-businesses.

There is no anticipated economic cost to persons as a result of enforcing or administering the repeal of this section.

Comments on the proposal may be submitted to Ms. Sherri Sanders Meek, Executive Director, Texas State Board of Dental Examiners, 333 Guadalupe Street, Tower 3, Suite 800, Austin, Texas 78701, or by fax at (512) 463-7452. To be considered, all written comments must be received by the Texas State Board of Dental Examiners no later than 30 days from the date that the repeal of this section is published in the *Texas Register*.

The repeal is proposed under Texas Government Code §2001.021 et seq., and Texas Occupations Code §254.001, which provides the Board with the authority to adopt and enforce rules necessary for it to perform its duties.

The proposed repeal affects Title 3, Subtitle D of the Texas Occupations Code and Title 22, Part 5 of the Texas Administrative Code.

§103.6. Emergency Provisional Licensure for Dental Hygienists Displaced by Hurricane Katrina.

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 June 29, 2009.

TRD-200902647

Sherri Sanders Meek

Executive Director

State Board of Dental Examiners

Earliest possible date of adoption: August 9, 2009

For further information, please call: (512) 475-0972

◆ ◆ ◆

22 TAC §103.7

The Texas State Board of Dental Examiners (Board) proposes an amendment to §103.7, concerning retired license status. The amendment will adjust language regarding the jurisprudence assessment to reflect currently used terminology.

Ms. Sherri Sanders Meek, Executive Director of the Texas State Board of Dental Examiners, has determined that for each year of the first five-year period the section is in effect, there will be no fiscal implications for local or state government as a result of enforcing or administering the section.

The public benefit anticipated as a result of enforcing or administering this section will be negligible.

There is no anticipated impact on large, small or micro-businesses.

There is no anticipated economic cost to persons as a result of enforcing or administering the section.

Comments on the proposal may be submitted to Ms. Sherri Sanders Meek, Executive Director, Texas State Board of Dental Examiners, 333 Guadalupe Street, Tower 3, Suite 800, Austin, Texas 78701, or by fax at (512) 463-7452. To be considered, all written comments must be received by the Texas State Board of Dental Examiners no later than 30 days from the date that this amended section is published in the *Texas Register*.

The amendment is proposed under Texas Government Code §2001.021 et seq., and Texas Occupations Code §254.001, which provides the Board with the authority to adopt and enforce rules necessary for it to perform its duties.

The proposed amendment affects Title 3, Subtitle D of the Texas Occupations Code and Title 22, Part 5 of the Texas Administrative Code.

§103.7. Retired License Status.

(a) (No change.)

(b) Reinstatement. The board may reinstate a retired Texas dental hygiene license to active status, provided the license holder submits an application for reinstatement on a form prescribed by the board, pays the appropriate fees due at the time application is made, and meets the requirements of this subsection.

(1) A license holder who, at the time of application for reinstatement, is practicing dental hygiene in another state, or territory outside of the United States, or had practiced dental hygiene actively within the two years immediately preceding the date of application, shall provide:

(A) - (B) (No change.)

(C) proof that the licensee has taken and passed the Texas jurisprudence assessment [examination];

(D) - (E) (No change.)

(2) A license holder who has not actively practiced for at least two years immediately preceding the request for reinstatement of a retired license shall provide:

(A) (No change.)

(B) proof that licensee has taken and passed the Texas jurisprudence assessment [examination];

(C) - (D) (No change.)

(3) - (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.

Filed with the Office of the Secretary of State on June 29, 2009.

TRD-200902648

Sherri Sanders Meek
Executive Director
State Board of Dental Examiners
Earliest possible date of adoption: August 9, 2009
For further information, please call: (512) 475-0972



CHAPTER 114. EXTENSION OF DUTIES OF AUXILIARY PERSONNEL--DENTAL ASSISTANTS

22 TAC §114.2

The Texas State Board of Dental Examiners (Board) proposes an amendment to §114.2, concerning the registration and training of dental assistants. The amendment will remove reference to rule sections that have expired and will clarify certain requirements for registration under this chapter.

Ms. Sherri Sanders Meek, Executive Director of the Texas State Board of Dental Examiners, has determined that for each year of the first five-year period the section is in effect, there will be no fiscal implications for local or state government as a result of enforcing or administering the section.

The public benefit anticipated as a result of enforcing or administering the section will be negligible.

There is no anticipated impact on large, small or micro-businesses.

There is no anticipated economic cost to persons as a result of enforcing or administering the section.

Comments on the proposal may be submitted to Ms. Sherri Sanders Meek, Executive Director, Texas State Board of Dental Examiners, 333 Guadalupe Street, Tower 3, Suite 800, Austin, Texas 78701, or by fax at (512) 463-7452. To be considered, all written comments must be received by the Texas State Board of Dental Examiners no later than 30 days from the date that the amended section is published in the *Texas Register*.

The amendment is proposed under Texas Government Code §254.001, which provides the Board with the authority to adopt and enforce rules necessary for it to perform its duties.

The proposed amendment affects Title 3, Subtitle D of the Texas Occupations Code and Title 22, Part 5 of the Texas Administrative Code.

§114.2. *Registration of Dental Assistants.*

(a) Beginning on September 1, 2004, a dental assistant may not position or expose dental x-rays unless the dental assistant holds ~~[either] a certificate of registration issued by the State Board of Dental Examiners under this section[; or was issued a certification under former §115.10 (now recodified as §114.10) prior to September 1, 2004. This section shall expire in its entirety on September 1, 2006].~~

(b) To be eligible for a certificate of registration as a dental assistant this section, an applicant must present on or accompanying an application form approved by the State Board of Dental Examiners proof of satisfactory to the Board that the applicant has:

- (1) - (2) (No change.)
- (3) Either:

(A) taken and passed a course of instruction ~~[an examination]~~ administered by the State Board of Dental Examiners or its designated agent, that covers:

(i) - (iii) (No change.)

(B) if the applicant is certified as a dental assistant by the Dental Assisting National Board, taken and passed a jurisprudence ~~assessment~~ ~~[examination]~~ administered by the State Board of Dental Examiners or its designated agent.

(c) - (g) (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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Sherri Sanders Meek

Executive Director

State Board of Dental Examiners

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22 TAC §114.10

(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 State Board of Dental Examiners or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin, Texas.)

The Texas State Board of Dental Examiners (Board) proposes the repeal of §114.10, concerning the registration of dental assistants performing radiological procedures.

The repeal is necessary as the provisions of this section expired on September 1, 2006.

Ms. Sherri Sanders Meek, Executive Director of the Texas State Board of Dental Examiners, has determined that for each year of the first five-year period the repeal of this section is in effect, there will be no fiscal implications for local or state government as a result of enforcing or administering the repeal of this section.

The public benefit anticipated as a result of enforcing or administering the repeal of this section will be negligible.

There is no anticipated impact on large, small or micro-businesses.

There is no anticipated economic cost to persons as a result of enforcing or administering the repeal of this section.

Comments on the proposal may be submitted to Ms. Sherri Sanders Meek, Executive Director, Texas State Board of Dental Examiners, 333 Guadalupe Street, Tower 3, Suite 800, Austin, Texas 78701 or by fax at (512) 463-7452. To be considered, all written comments must be received by the Texas State Board of Dental Examiners no later than 30 days from the date that the repeal of this section is published in the *Texas Register*.

The repeal is proposed under Texas Government Code §2001.021 et seq.; and Texas Occupations Code §254.001, which provides the Board with the authority to adopt and enforce rules necessary for it to perform its duties.

The proposed repeal affects Title 3, Subtitle D of the Texas Occupations Code and Title 22, Part 5 of the Texas Administrative Code.

§114.10. *Radiologic Procedures.*

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

Filed with the Office of the Secretary of State on June 29, 2009.

TRD-200902657

Sherri Sanders Meek

Executive Director

State Board of Dental Examiners

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For further information, please call: (512) 475-0972



22 TAC §114.20

(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 State Board of Dental Examiners or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin, Texas.)

The Texas State Board of Dental Examiners (Board) proposes the repeal of §114.20, concerning radiologic credentialing for dental assistants.

The repeal is necessary as the provisions of this section became ineffective on September 1, 2007.

Ms. Sherri Sanders Meek, Executive Director of the Texas State Board of Dental Examiners, has determined that for each year of the first five-year period the repeal of this section is in effect, there will be no fiscal implications for local or state government as a result of enforcing or administering the repeal of this section.

The public benefit anticipated as a result of enforcing or administering the repeal of this section will be negligible.

There is no anticipated impact on large, small or micro-businesses.

There is no anticipated economic cost to persons as a result of enforcing or administering the repeal of this section.

Comments on the proposal may be submitted to Ms. Sherri Sanders Meek, Executive Director, Texas State Board of Dental Examiners, 333 Guadalupe Street, Tower 3, Suite 800, Austin, Texas 78701 or by fax at (512) 463-7452. To be considered, all written comments must be received by the Texas State Board of Dental Examiners no later than 30 days from the date that the repeal of this section is published in the *Texas Register*.

The repeal is proposed under Texas Government Code §2001.021 et seq.; the Texas Occupations Code §254.001, which provides the Board with the authority to adopt and enforce rules necessary for it to perform its duties.

The proposed repeal affects Title 3, Subtitle D of the Texas Occupations Code and Title 22, Part 5 of the Texas Administrative Code.

§114.20. *Radiologic Credential.*

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 June 29, 2009.

TRD-200902658

Sherri Sanders Meek

Executive Director

State Board of Dental Examiners

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For further information, please call: (512) 475-0972



22 TAC §114.21

The Texas State Board of Dental Examiners (Board) proposes an amendment to §114.21, concerning the requirements for courses and examinations required to obtain dental assistant radiologic certification. The amendment will remove reference to rule sections that have expired and will clarify certain requirements for course providers under this chapter.

Ms. Sherri Sanders Meek, Executive Director of the Texas State Board of Dental Examiners, has determined that for each year of the first five-year period the section is in effect, there will be no fiscal implications for local or state government as a result of enforcing or administering the section.

The public benefit anticipated as a result of enforcing or administering the section will be negligible.

There is no anticipated impact on large, small or micro-businesses.

There is no anticipated economic cost to persons as a result of enforcing or administering the section.

Comments on the proposal may be submitted to Ms. Sherri Sanders Meek, Executive Director, Texas State Board of Dental Examiners, 333 Guadalupe Street, Tower 3, Suite 800, Austin, Texas 78701 or by fax at (512) 463-7452. To be considered, all written comments must be received by the Texas State Board of Dental Examiners no later than 30 days from the date that the amended section is published in the *Texas Register*.

The amendment is proposed under Texas Government Code §2001.021 et seq.; the Texas Occupations Code §254.001, which provides the Board with the authority to adopt and enforce rules necessary for it to perform its duties.

The proposed amendment affects Title 3, Subtitle D of the Texas Occupations Code and Title 22, Part 5 of the Texas Administrative Code.

§114.21. *Requirements for Dental Assistant Registration Courses and Examinations.*

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

(c) Courses administered to fulfill the requirements [of §114.20] of this chapter must:

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

(d) Course providers administering examinations to fulfill the requirements [of §114.20] of this chapter must:

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

(e) - (g) (No change.)

[(h) The course provider shall submit to the SBDE, within 30 days of the course and examination completion date:]

[(1) the name of the course; course location; course instructor(s); and date of completion;]

~~{(2) a complete roster of course registrants and their raw examination scores; and,}~~

~~{(3) the ratio of examination passing scores to failing scores.}~~

~~(h) [(+)] The course provider shall provide all course registrants with their examination results within 30 days of completion of the examination.~~

~~(i) [(+)] All course providers are subject to audit by the State Board of Dental Examiners for purposes of ensuring compliance with the requirements of this chapter.~~

~~(j) Documentation of course attendance and course completion shall be kept by the course provider for a period of not less than two (2) years.~~

(k) (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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TRD-200902659

Sherri Sanders Meek

Executive Director

State Board of Dental Examiners

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CHAPTER 115. EXTENSION OF DUTIES OF AUXILIARY PERSONNEL--DENTAL HYGIENE

22 TAC §115.6

The Texas State Board of Dental Examiners (Board) proposes new §115.6, concerning records. The new section establishes a reference to the recordkeeping standard of care relating to dental hygiene practice.

Ms. Sherri Sanders Meek, Executive Director of the Texas State Board of Dental Examiners, has determined that for each year of the first five-year period the section is in effect, there will be no fiscal implications for local or state government as a result of enforcing or administering the section.

The public benefit anticipated as a result of enforcing or administering the section will be negligible.

There is no anticipated impact on large, small or micro-businesses.

There is no anticipated economic cost to persons as a result of enforcing or administering the section.

Comments on the proposal may be submitted to Ms. Sherri Sanders Meek, Executive Director, Texas State Board of Dental Examiners, 333 Guadalupe Street, Tower 3, Suite 800, Austin, Texas 78701 or by fax at (512) 463-7452. To be considered, all written comments must be received by the Texas State Board of Dental Examiners no later than 30 days from the date that the section is published in the *Texas Register*.

The new section is proposed under Texas Government Code §2001.021 et seq.; Texas Occupations Code §254.001, which

provides the Board with the authority to adopt and enforce rules necessary for it to perform its duties.

The proposed new section affects Title 3, Subtitle D of the Texas Occupations Code and Title 22, Part 5 of the Texas Administrative Code.

§115.6. Records.

A Texas dental hygiene licensee practicing dental hygiene in Texas shall record treatments delegated by a Texas licensed dentist and performed by the dental hygiene licensee for and upon each dental patient for reference, identification, and protection of the patient, the dentist, and the dental hygienist. Such recordings shall be entered in the dental records maintained and kept by the delegating dentist.

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 June 29, 2009.

TRD-200902643

Sherri Sanders Meek

Executive Director

State Board of Dental Examiners

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For further information, please call: (512) 475-0972



CHAPTER 119. SPECIAL AREAS OF DENTAL PRACTICE

22 TAC §119.9

The Texas State Board of Dental Examiners (Board) proposes new §119.9, concerning Oral and Maxillofacial Radiology. The new section is established to comply with the definition of the specialty recommended and adopted by the American Dental Association in 2001.

Ms. Sherri Sanders Meek, Executive Director, Texas State Board of Dental Examiners, has determined that for each year of the first five-year period the section is in effect, there will be no fiscal implications for local or state government as a result of enforcing or administering the section.

The public benefit anticipated as a result of enforcing or administering the section will be negligible.

There is no anticipated impact on large, small or micro-businesses.

There is no anticipated economic cost to persons as a result of enforcing or administering the section.

Comments on the proposal may be submitted to Ms. Sherri Sanders Meek, Executive Director of the Texas State Board of Dental Examiners, 333 Guadalupe Street, Tower 3, Suite 800, Austin, Texas 78701 or by fax at (512) 463-7452. To be considered all written comments must be received by the Texas State Board of Dental Examiners no later than 30 days from the date that the section is published in the *Texas Register*.

The new section is proposed under Texas Government Code §2001.021 et seq.; the Texas Occupations Code §254.001, which provides the Board with the authority to adopt and enforce rules necessary for it to perform its duties.

The proposed new section affects Title 3, Subtitle D of the Texas Occupations Code and Title 22, Part 5 of the Texas Administrative Code.

§119.9. Oral and Maxillofacial Radiology.

Oral and Maxillofacial Radiology is that specialty of dentistry that discipline of radiology concerned with the production and interpretation of images and data produced by all modalities of radiant energy that are used for the diagnosis and management of diseases, disorders and conditions of the oral and maxillofacial region.

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 June 29, 2009.

TRD-200902639

Sherri Sanders Meek

Executive Director

State Board of Dental Examiners

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For further information, please call: (512) 475-0972



PART 6. TEXAS BOARD OF PROFESSIONAL ENGINEERS

CHAPTER 133. LICENSING

SUBCHAPTER G. EXAMINATIONS

22 TAC §133.63

The Texas Board of Professional Engineers (Board) proposes an amendment to §133.63, concerning Texas Engineering Professional Conduct and Ethics Examination.

The proposed rule changes the passing score on the Texas Engineering Professional Conduct and Ethics Examination from a 70 to a 90.

Lance Kinney, P.E., Deputy Executive Director for the Board, has determined that for the first five-year period the proposed amendment is in effect there is no adverse fiscal impact for the state and local government as a result of enforcing or administering the section as amended. There is no additional cost to licensees or other individuals. There is no adverse fiscal impact to the estimated 1,000 small or 5,300 micro businesses regulated by the Board. A Regulatory Flexibility Analysis is not needed because there is no adverse economic effect to small or micro businesses.

Mr. Kinney also has determined that for the first five years the proposed amendment is in effect, the public benefit anticipated as a result of enforcing the proposed amendment is an improvement in the licensure process and a higher minimum threshold for understanding of engineering ethics and the Board Act and rules.

Comments may be submitted no later than 30 days after the publication of this notice to Lance Kinney, P.E., Deputy Executive Director, Texas Board of Professional Engineers, 1917 IH-35 South, Austin, Texas 78741 or faxed to his attention at (512) 440-0417.

The amendment is proposed pursuant to the Texas Engineering Practice Act, Occupations Code §1001.202, which authorizes

the board to make and enforce all rules and regulations and by-laws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practice of engineering in this state, §1001.207 regarding standards of conduct and ethics, and §1001.304 regarding examinations.

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

§133.63. Texas Engineering Professional Conduct and Ethics Examination.

(a) The Texas Engineering Professional Conduct and Ethics Examination shall be self administered by the applicant and shall be prepared and furnished by the board. Each applicant must submit this examination in a format prescribed by the board with the application and must pass with a score of at least 90 [~~70~~] percent.

(b) No fees or advanced scheduling forms are required for the Texas Engineering Professional Conduct and Ethics Examination.

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 June 29, 2009.

TRD-200902661

Dale Beebe Farrow, P.E.

Executive Director

Texas Board of Professional Engineers

Earliest possible date of adoption: August 9, 2009

For further information, please call: (512) 440-7723



SUBCHAPTER H. REVIEW PROCESS OF APPLICATIONS AND LICENSE ISSUANCE

22 TAC §133.81

The Texas Board of Professional Engineers (Board) proposes an amendment to §133.81, concerning Receipt and Processing of Applications by the Board.

The proposed rule change relates to requirements for applicants for licensure as a professional engineer. The proposal clarifies that the Executive Director can evaluate and determine whether a substantially modified application should be handled as a "new" application with regard to which version of the Board rules shall be used to review the application. The applicant has the ability to appeal this determination to the Licensing Committee of the Board.

Lance Kinney, P.E., Deputy Executive Director for the Board, has determined that for the first five-year period the proposed amendment is in effect there is no adverse fiscal impact for the state and local government as a result of enforcing or administering the section as amended. If an application is determined to be substantially revised, it is possible that an applicant may experience additional expenses associated with complying with new requirements. In that situation, an applicant may also suffer a loss of professional opportunity due to further delay in the processing of the application. There is no adverse fiscal impact to the estimated 1,000 small or 5,300 micro businesses regulated by the Board. A Regulatory Flexibility Analysis is not needed because there is no adverse economic effect to small or micro businesses.

Mr. Kinney also has determined that for the first five years the proposed amendment is in effect, the public benefit anticipated as a result of enforcing the proposed amendment is the implementation of the appropriate licensure requirements for professional engineer applicants.

Comments may be submitted no later than 30 days after the publication of this notice to Lance Kinney, P.E., Deputy Executive Director, Texas Board of Professional Engineers, 1917 IH-35 South, Austin, Texas 78741 or faxed to his attention at (512) 440-0417.

The amendment is proposed pursuant to the Texas Engineering Practice Act, Occupations Code §1001.202, which authorizes the board to make and enforce all rules and regulations and by-laws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practice of engineering in this state, and §1001.303 regarding application for licensure as a professional engineer.

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

§133.81. Receipt and Processing of Applications by the Board.

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

(c) Once an application has entered the review process as described in §133.83 of this chapter (relating to Executive Director Review, Evaluation and Processing of Applications), the executive director may determine that the application has been so altered by the addition of supplemental information that the description of the applicant's qualifications has been substantially revised. If the executive director determines that an application is substantially revised, the application will be treated as a new application and reviewed under the rules in place on the date of the determination. The executive director will provide an applicant with written notice if an application is determined to be substantially revised. If the applicant disagrees with a determination by the Executive Director, the applicant may make an appeal to the Licensing Committee.

(d) [(e)] Once an application has been reviewed and before a license has been issued or denied, the board will not accept a new or amended application from the applicant. This does not prohibit the executive director, a board member, or the board from requesting, when they deem necessary, additional information from an applicant regarding his or her application.

(e) [(d)] In the event that information bearing on the suitability of an applicant is discovered after submission of an application but prior to issuance of a license, the board may rescind or alter any previous decision, or hold the application in abeyance, or may deny an application until the suitability of the applicant is adequately established.

(f) [(e)] An applicant may request an application to be withdrawn from consideration provided that the application has not been approved for licensure subject to passage of an examination and the application has not begun circulation under the Board Review Process under §133.85 of this chapter (relating to Board Review of and Action on Applications). All requests for withdrawal must be submitted to the Board in writing.

(g) [(f)] An applicant may only have one pending application on file with the Board at any time.

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 June 29, 2009.

TRD-200902662

Dale Beebe Farrow, P.E.

Executive Director

Texas Board of Professional Engineers

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For further information, please call: (512) 440-7723



CHAPTER 137. COMPLIANCE AND PROFESSIONALISM

SUBCHAPTER A. INDIVIDUAL AND ENGINEER COMPLIANCE

22 TAC §137.9

The Texas Board of Professional Engineers (Board) proposes an amendment to §137.9, concerning Renewal for Expired License.

The proposed rule change contains two main sections. The first is a clarification of the refund policy concerning license renewal fees, stating that the Board will only refund annual or late renewal fees unless an incorrect fee was assessed by the Board. The second is related to a requirement from the Office of the Attorney General (OAG), as described in Texas Family Code, Chapter 232, that the Board shall not renew a professional engineer license if notified by the OAG that the licensee is delinquent in their child support payments.

Lance Kinney, P.E., Deputy Executive Director for the Board, has determined that for the first five-year period the proposed amendment is in effect there is no adverse fiscal impact for the state and local government as a result of enforcing or administering the section as amended. There is no additional cost to licensees or other individuals, and any adverse fiscal impact as the result of the delay in renewing a license under this rule would be as a result of complying with the requirements of Texas Family Code, Chapter 232. There is no adverse fiscal impact to the estimated 1,000 small or 5,300 micro businesses regulated by the Board. A Regulatory Flexibility Analysis is not needed because there is no adverse economic effect to small or micro businesses.

Mr. Kinney also has determined that for the first five years the proposed amendment is in effect, the public benefit anticipated as a result of enforcing the proposed amendment is the clarification of the license renewal process and licensee compliance with Texas Family Code, Chapter 232.

Comments may be submitted no later than 30 days after the publication of this notice to Lance Kinney, P.E., Deputy Executive Director, Texas Board of Professional Engineers, 1917 IH-35 South, Austin, Texas 78741 or faxed to his attention at (512) 440-0417.

The amendment is proposed pursuant to the Texas Engineering Practice Act, Occupations Code §1001.202, which authorizes the board to make and enforce all rules and regulations and by-laws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practice of engineering in this state, Occupations Code Chapter 1001, Subchapter H, License Renewal, and Texas Family Code, Chapter 232, Suspension of License.

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

§137.9. Renewal for Expired License.

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

(e) Annual renewal fees or late renewal fees will not be refunded unless incorrect fee was assessed through a documented procedural error by Board staff.

(f) [(e)] In strict accordance with the provisions of the Texas Education Code §57.491, pertaining to the loan default proceedings of the Texas Guaranteed Student Loan Corporation (TGSLC), if a license holder's name has been provided by the TGSLC as being in default of a loan, the board shall not renew the license of the license holder on the second renewal date following such notification, unless the TGSLC certifies that the individual has entered into a repayment agreement with TGSLC, or is not in default on a loan. Such license holder shall be provided an opportunity for an informal hearing, similar to that provided by §139.33 of this title (relating to Informal Proceedings), before any action concerning the denial of a renewal of a license is taken under this subsection [paragraph]. A defaulted loan shall not bar the board's issuance of an initial license if the applicant is otherwise qualified for licensure; however, the board shall not renew said license unless the TGSLC certifies the individual has satisfied the requirements of the Texas Education Code §57.491.

(g) In strict accordance with the provisions of the Texas Family Code, Chapter 232, pertaining to delinquent child support, if a license holder's name has been provided by the OAG (Office of the Attorney General) as being in default of child support, the board shall not renew the license of the license holder on the renewal date following such notification. The board shall not renew or reinstate said license unless the OAG certifies the individual has satisfied the requirements of the Texas Family Code, Chapter 232.

(h) [(f)] Pursuant to Texas Occupations Code §55.002, a license holder is exempt from any increased fee or other penalty imposed in this section for failing to renew the license in a timely manner if the license holder provides adequate documentation, including copies of orders, to establish to the satisfaction of the board that the license holder failed to renew in a timely manner because the license holder was serving on active duty in the United States armed forces outside Texas.

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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TRD-200902663

Dale Beebe Farrow, P.E.

Executive Director

Texas Board of Professional Engineers

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For further information, please call: (512) 440-7723



22 TAC §137.17

The Texas Board of Professional Engineers (Board) proposes an amendment to §137.17, concerning Continuing Education Program.

The proposed rule change relates to requirements for licensed engineers who wish to change the status of the license from inactive to active. It clarifies that the licensee shall provide documentation of the required continuing education hours when applying for reactivation.

Lance Kinney, P.E., Deputy Executive Director for the Board, has determined that for the first five-year period the proposed amendment is in effect there is no adverse fiscal impact for the state and local government as a result of enforcing or administering the section as amended. There is no additional impact to license holders as they are currently required to keep and maintain continuing education records. There is no adverse fiscal impact to the estimated 1,000 small or 5,300 micro businesses regulated by the Board. A Regulatory Flexibility Analysis is not needed because there is no adverse economic effect to small or micro businesses.

Mr. Kinney also has determined that for the first five years the proposed amendment is in effect, the public benefit anticipated as a result of enforcing the proposed amendment is the verification of competency requirements for active professional engineers.

Comments may be submitted no later than 30 days after the publication of this notice to Lance Kinney, P.E., Deputy Executive Director, Texas Board of Professional Engineers, 1917 IH-35 South, Austin, Texas 78741 or faxed to his attention at (512) 440-0417.

The amendment is proposed pursuant to the Texas Engineering Practice Act, Occupations Code §1001.202, which authorizes the board to make and enforce all rules and regulations and by-laws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practice of engineering in this state, §1001.210 regarding Continuing Education Program, and §1001.355 regarding Inactive Status.

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

§137.17. Continuing Education Program.

(a) - (n) (No change.)

(o) A license holder may bring an inactive license to active status by obtaining all delinquent PDH units and submitting copies of CEP records demonstrating compliance to the board or its authorized representative for verification purposes. If [- However, if] the total number required to become current exceeds 30 units, then 30 units shall be the maximum number required.

(p) (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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TRD-200902664

Dale Beebe Farrow, P.E.

Executive Director

Texas Board of Professional Engineers

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For further information, please call: (512) 440-7723



SUBCHAPTER B. SEALING REQUIREMENTS

22 TAC §137.31

The Texas Board of Professional Engineers (Board) proposes an amendment to §137.31, concerning Seal Specifications.

The proposed rule change concerns the format of names allowed on professional engineer seals. Current rules allow for given names and initials but do not allow for commonly accepted variations such as "Tim" for "Timothy" or "Bill" for "William". The proposed rule change would permit such commonly accepted variations.

Lance Kinney, P.E., Deputy Executive Director for the Board, has determined that for the first five-year period the proposed amendment is in effect there is no adverse fiscal impact for the state and local government as a result of enforcing or administering the section as amended. There is no additional impact to license holders. There is no adverse fiscal impact to the estimated 1,000 small or 5,300 micro businesses regulated by the Board. A Regulatory Flexibility Analysis is not needed because there is no adverse economic effect to small or micro businesses.

Mr. Kinney also has determined that for the first five years the proposed amendment is in effect, the public benefit anticipated as a result of enforcing the proposed amendment is a clarification of the seal requirements.

Comments may be submitted no later than 30 days after the publication of this notice to Lance Kinney, P.E., Deputy Executive Director, Texas Board of Professional Engineers, 1917 IH-35 South, Austin, Texas 78741 or faxed to his attention at (512) 440-0417.

The amendment is proposed pursuant to the Texas Engineering Practice Act, Occupations Code §1001.202, which authorizes the board to make and enforce all rules and regulations and by-laws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practice of engineering in this state, and §1001.401, Use of Seal.

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

§137.31. Seal Specifications.

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

(d) All seals obtained and used by license holders shall contain any given name, commonly accepted variation of the given name, or initial combination with the surname as currently listed with the board and in the usual written signature. Nicknames shall not be permitted on a seal in lieu of a given name or initial combination.

(e) - (g) (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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Dale Beebe Farrow, P.E.

Executive Director

Texas Board of Professional Engineers

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For further information, please call: (512) 440-7723



CHAPTER 139. ENFORCEMENT
SUBCHAPTER D. SPECIAL DISCIPLINARY
PROVISIONS FOR LICENSE HOLDERS

22 TAC §139.51

The Texas Board of Professional Engineers (Board) proposes new §139.51, concerning License Suspension Based on Delinquent Child Support.

The proposed new rule implements a requirement from the Office of the Attorney General (OAG), as described in Texas Family Code, Chapter 232, that the Board shall suspend a professional engineer license if notified by the OAG that the licensee is delinquent in their child support payments.

Lance Kinney, P.E., Deputy Executive Director for the Board, has determined that for the first five-year period the proposed new rule is in effect there is no adverse fiscal impact for the state and local government as a result of enforcing or administering the new section. There is no additional cost to licensees or other individuals, and any adverse fiscal impact as the result of the suspension of a license under this rule would be as a result of complying with the requirements of Texas Family Code, Chapter 232. There is no adverse fiscal impact to the estimated 1,000 small or 5,300 micro businesses regulated by the Board. A Regulatory Flexibility Analysis is not needed because there is no adverse economic effect to small or micro businesses.

Mr. Kinney also has determined that for the first five years the proposed new rule is in effect, the public benefit anticipated as a result of enforcing the proposal is licensee compliance with Texas Family Code, Chapter 232.

Comments may be submitted no later than 30 days after the publication of this notice to Lance Kinney, P.E., Deputy Executive Director, Texas Board of Professional Engineers, 1917 IH-35 South, Austin, Texas 78741 or faxed to his attention at (512) 440-0417.

The new rule is proposed pursuant to the Texas Engineering Practice Act, Occupations Code §1001.202, which authorizes the board to make and enforce all rules and regulations and by-laws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practice of engineering in this state, Occupations Code Chapter 1001, Subchapter H, License Renewal, and Texas Family Code, Chapter 232, Suspension of License.

No other statutes, articles or codes are affected by the proposed new rule.

§139.51. License Suspension Based on Delinquent Child Support.

Pursuant to Texas Family Code, Chapter 232, on receipt of a final order by the OAG (Office of the Attorney General) regarding delinquent child support, the board must suspend a professional engineer license until the OAG notifies the Board that the obligor has paid the child support, established a repayment schedule, has been granted an exception as part of a court-supervised plan or successfully contested the denial of licensure.

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 June 29, 2009.

TRD-200902672

Dale Beebe Farrow, P.E.

Executive Director

Texas Board of Professional Engineers

Earliest possible date of adoption: August 9, 2009

For further information, please call: (512) 440-7723

PART 9. TEXAS MEDICAL BOARD

CHAPTER 163. LICENSURE

22 TAC §163.4

The Texas Medical Board (Board) proposes amendments to Chapter 163, §163.4, concerning Procedural Rules for Licensure Applicants.

The amendment to §163.4, relating to Licensure Documentation, provides limited conditions under which licensure applications and registrations will be extended.

Nancy Leshikar, General Counsel for the Board, has determined that for the first five-year period the section is in effect there will be no fiscal implications to state or local government as a result of enforcing the section as proposed. There will be no effect to individuals required to comply with the rule as proposed. There will be no effect on small or micro businesses.

Ms. Leshikar has also determined that for each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcing this proposal will be to give certain licensee applicants and holders additional time to file necessary applications with the board and avoid the need to reapply and possibly delay their ability to provide care to the public.

Comments on the proposal may be submitted to Sally Durocher, P.O. Box 2018, Austin, Texas 78768-2018, or e-mail comments to: rules.development@tmb.state.tx.us. A public hearing will be held at a later date.

The amendment is proposed under the authority of the Texas Occupations Code Annotated, §153.001, which provides authority for the Board to adopt rules and bylaws as necessary to: govern its own proceedings; perform its duties; regulate the practice of medicine in this state; enforce this subtitle; and establish rules related to licensure.

Sections 155.0031 and 156.001, Texas Occupations Code, are affected by this proposal.

§163.4. Procedural Rules for Licensure Applicants.

(a) All applicants for licensure:

(1) (No change.)

(2) whose applications have been filed with the board in excess of one year will be considered expired. Any fee previously submitted with that application shall be forfeited unless otherwise provided by §175.5 of this title (relating to Payment of Fees or Penalties). Any further request for licensure will require submission of a new application and inclusion of the current licensure fee. An extension to an application may be granted under certain circumstances, including:

(A) Delay by board staff in processing an application;

(B) Application requires Licensure Committee review after completion of all other processing and will expire prior to the next scheduled meeting;

(C) Licensure Committee requires an applicant to meet specific additional requirements for licensure and the application will expire prior to deadline established by the Committee;

(D) Applicant requires a reasonable, limited additional period of time to obtain documentation after completing all other requirements and demonstrating diligence in attempting to provide the required documentation;

SUBCHAPTER E. HEARINGS

22 TAC §139.63

The Texas Board of Professional Engineers (Board) proposes new §139.63, concerning Extensions of Time.

The proposed new rule delegates to the Executive Director the authority to enter into agreements to modify time limits as provided under the Administrative Procedure Act, Texas Government Code §2001.147. This new rule will allow the Board to better coordinate the presentation of proposed decisions in contested cases at the regularly scheduled quarterly meetings of the Board.

Lance Kinney, P.E., Deputy Executive Director for the Board, has determined that for the first five-year period the proposed new rule is in effect there is no adverse fiscal impact for the state and local government as a result of enforcing or administering the section as proposed. There is no additional impact to license holders. There is no adverse fiscal impact to the estimated 1,000 small or 5,300 micro businesses regulated by the Board. A Regulatory Flexibility Analysis is not needed because there is no adverse economic effect to small or micro businesses.

Mr. Kinney also has determined that for the first five years the proposed new rule is in effect, the public benefit anticipated as a result of enforcing the proposed new rule is better coordination of the presentation of proposed decisions in contested cases at the regularly scheduled quarterly meetings of the Board.

Comments may be submitted no later than 30 days after the publication of this notice to Lance Kinney, P.E., Deputy Executive Director, Texas Board of Professional Engineers, 1917 IH-35 South, Austin, Texas 78741 or faxed to his attention at (512) 440-0417.

The new rule is proposed pursuant to the Texas Engineering Practice Act, Occupations Code §1001.202, which authorizes the board to make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practice of engineering in this state, Occupations Code Chapter 1001, Subchapters J and K; and Texas Government Code §2001.147.

No other statutes, articles or codes are affected by the proposed new rule.

§139.63. Extensions of Time.

The Executive Director may enter into an agreement with parties to a contested case to modify time limits as provided under the APA, Texas Government Code §2001.147.

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 June 29, 2009.

TRD-200902673

Dale Beebe Farrow, P.E.

Executive Director

Texas Board of Professional Engineers

Earliest possible date of adoption: August 9, 2009

For further information, please call: (512) 440-7723

(E) Applicant is delayed due to unanticipated military assignments, medical reasons, or catastrophic events.

(3) - (8) (No change.)

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

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

Filed with the Office of the Secretary of State on June 25, 2009.

TRD-200902614

Mari Robinson, J.D.

Interim Executive Director

Texas Medical Board

Earliest possible date of adoption: August 9, 2009

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



CHAPTER 175. FEES, PENALTIES AND FORMS

22 TAC §§175.1, 175.2, 175.5

The Texas Medical Board (Board) proposes amendments to Chapter 175, §175.1, concerning Application Fees, §175.2, concerning Registration and Renewal Fees and §175.5, concerning Payment of Fees or Penalties.

The amendment to §175.1, relating to Application Fees, increases certain application and registration renewal fees to cover the agency's costs of all mandates adopted by the 81st legislature.

The amendment to §175.2, relating to Registration and Renewal Fees, increases certain registration and renewal fees to cover the agency's costs of all mandates adopted by the 81st legislature, and establish a charge for the review of continuing acupuncture education (CAE) courses on a per course basis.

The amendment to §175.5, relating to Payments of Fees or Penalties, provide limited conditions for when an applicant or licensee may obtain a refund of application or registration fees.

Nancy Leshikar, General Counsel for the Board, has determined that for the first five-year period these sections are in effect there will be no fiscal implications to state or local government as a result of enforcing the sections as proposed. There will be no effect to individuals required to comply with the rules as proposed. There will be no effect on small or micro businesses.

Ms. Leshikar has also determined that for each year of the first five years the sections as proposed are in effect the public benefit anticipated as a result of enforcing §175.1 will be to enable the agency to carry out its statutory mandates related to individuals under its jurisdiction. The public benefit anticipated as a result of enforcing §175.2 will be to enable the agency to carry out its statutory mandates related to individuals under its jurisdiction and to adjust fees on CAE courses commensurate with time spent by staff in reviewing the CAE course applications. The public benefit anticipated as a result of enforcing §175.5 will be to give refunds to individuals who apply for licensure or renewal of their licenses when extraordinary circumstances occur.

Comments on the proposals may be submitted to Sally Durocher, P.O. Box 2018, Austin, Texas 78768-2018, or e-mail comments

to: rules.development@tmb.state.tx.us. A public hearing will be held at a later date.

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

Sections 153.051, 204.103, 205.103, and 206.208 Texas Occupations Code, are affected by this proposal.

§175.1. Application Fees.

The board shall charge the following fees for processing an application for a license or permit:

- (1) Physician Licenses:
 - (A) Full physician license (includes surcharge of \$205)--\$885.
 - (B) Telemedicine license (includes surcharge of \$205)--\$885.
 - (C) Administrative medicine license (includes surcharge of \$205)--\$885.
 - (D) Reissuance of license following revocation (includes surcharge of \$205)--\$885.
 - (E) Temporary license:
 - (i) Distinguished professor--\$50.
 - (ii) State health agency--\$50.
 - (iii) Visiting physician--\$0-
 - (iv) Visiting professor--\$167 [~~\$110~~].
 - (v) National Health Service Corps--\$0-
 - (vi) Faculty temporary license (includes surcharges of \$280)--\$737 [~~\$680~~].
 - (vii) Postgraduate Research Temporary License--\$0-
 - (viii) Medically underserved area--\$50.
 - (ix) Regular--\$107 [~~\$50~~].
 - (F) Licenses and Permits relating to Medical Education:
 - (i) Initial physician in training permit (includes surcharge of \$4)--\$201 [~~\$144~~].
 - (ii) Physician in training permit for program transfer (includes surcharge of \$2)--\$129 [~~\$72~~].
 - (iii) Evaluation or re-evaluation of postgraduate training program--\$250.
- (2) Physician Assistants:
 - (A) Physician assistant license (includes surcharge of \$5)--\$205.
 - (B) Reissuance of license following revocation (includes surcharge of \$5)--\$205.
 - (C) Temporary license--\$107 [~~\$50~~].
 - (3) Acupuncturists/Acudetox Specialists/Continuing Education Providers:

- (A) Acupuncture licensure (includes surcharge of \$5)--\$305.
- (B) Temporary license for an acupuncturist--\$107 [\$50].
- (C) Acupuncturist distinguished professor temporary license--\$50.
- (D) Acudetox specialist certification (includes surcharge of \$2)--\$52.
- (E) Continuing acupuncture education provider--\$50.
- (F) Review of a continuing acupuncture education course--\$25 [\$50].
- (G) Review of continuing acudetox acupuncture education courses--\$50.
- (4) Non-Certified Radiologic Technician permit (includes surcharge of \$2)--\$52.
- (5) Non-Profit Health Organization initial certification--\$2,500.
- (6) Surgical Assistants:
- (A) Surgical assistant licensure--\$300.
- (B) Temporary license--\$50.
- §175.2. Registration and Renewal Fees.*
- The board shall charge the following fees to continue licenses and permits in effect:
- (1) Physician Registration Permits:
- (A) Initial biennial permit (includes surcharges of \$496)--\$813 [\$756].
- (B) Subsequent biennial permit (includes surcharges of \$492)--\$809 [\$752].
- (C) Additional biennial registration fee for office-based anesthesia--\$210 (includes surcharge of \$10).
- (D) Continuing medical education temporary license--\$55.
- (2) Physician Assistant Registration Permits:
- (A) Initial annual permit (includes surcharges of \$10)--\$257.50 [\$229].
- (B) Subsequent annual permit (includes surcharges of \$6)--\$253.50 [\$225].
- (3) Acupuncturists/Acudetox Specialists Registration Permits:
- (A) Initial annual permit for acupuncturist (includes surcharges of \$10)--\$322.50 [\$294].
- (B) Subsequent annual permit for acupuncturist (includes surcharges of \$6)--\$318.50 [\$290].
- (C) Annual renewal for acudetox specialist certification--\$87.50 [\$59].
- (4) Non-Certified Radiologic Technician permit annual renewal (includes surcharge of \$2)--\$114.50 [\$86].
- (5) Non-Profit Health Organization biennial recertification--\$1,125 [\$1,068].
- (6) Surgical Assistants registration permits:

- (A) Initial biennial permit (includes surcharges of \$6)--\$531 [\$474].
- (B) Subsequent biennial permit (includes surcharges of \$2)--\$527 [\$470].

§175.5. Payment of Fees or Penalties.

(a) Method of Payment. Fees paid online must be submitted by credit card, electronic check, or debit card, as required by the online application. All other licensure fees or penalties must be submitted in the form of a money order, personal check, or cashier's check payable on or through a United States bank. Fees and penalties cannot be refunded except as provided in subsection (b) of this section. If a single payment is made for more than one individual permit, it must be made for the same class of permit and a detailed listing, on a form prescribed by the board, must be included with each payment.

(b) Refunds. Refunds of fees may be granted under the following circumstances:

- (1) Administrative error by the Board;
- (2) Licensure applicants who do not appear before the Licensure Committee and who withdraw their applications and request a refund within 30 days of being notified by board staff that they are ineligible for licensure;
- (3) Applicants who withdraw a licensure application after applying for multiple types of licensure at the same time but then either elect to pursue only one type of license or the Board approves one type of license before completing the review of the other applications;
- (4) Applicants who apply for temporary licenses but do not receive a temporary license due to the issuance of full licensure;
- (5) Licensees who retire or request cancellation of their licenses within 90 days of paying the registration fee;
- (6) Applicants or licensees who die within 90 days of having paid a fee.

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 June 25, 2009.

TRD-200902615

Mari Robinson, J.D.

Interim Executive Director

Texas Medical Board

Earliest possible date of adoption: August 9, 2009

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



CHAPTER 183. ACUPUNCTURE

22 TAC §183.14

The Texas Medical Board (Board) proposes amendments to Chapter 183, §183.14, concerning Acudetox Specialists.

The amendment establishes that application and renewal fees for acudetox specialists are provided under §175.1 and §175.2 of this title.

Nancy Leshikar, General Counsel for the Board, has determined that for the first five-year period the section is in effect there will be no fiscal implications to state or local government as a result of enforcing the section as proposed. There will be no effect to

individuals required to comply with the rule as proposed. There will be no effect on small or micro businesses.

Ms. Leshikar has also determined that for each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcing this proposal will be to provide consistent to the provisions that relate to fees for Acudetox Specialists.

Comments on the proposal may be submitted to Sally Durocher, P.O. Box 2018, Austin, Texas 78768-2018, or e-mail comments to: rules.development@tmb.state.tx.us. A public hearing will be held at a later date.

The amendment is proposed under the authority of the Texas Occupations Code Annotated, §153.001, which provides authority for the Board to adopt rules and bylaws as necessary to: govern its own proceedings; perform its duties; regulate the practice of medicine in this state; enforce this subtitle; and establish rules related to licensure.

Section 205.303, Texas Occupations Code, is affected by this proposal.

§183.14. Acudetox Specialist.

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

(f) The fee for certification as an acudetox specialist for the treatment of alcoholism, substance abuse, or chemical dependency shall be set in such an amount as to cover the reasonable cost of administering and enforcing this chapter without recourse to any other funds generated by the Medical or the Acupuncture Board. The application and renewal fees are defined under §175.1 and §175.2 of this title (relating to Application Fees and Registration and Renewal Fees). [~~Such fee shall be \$50 for the initial application for certification and \$25 per renewal.~~]

(g) - (k) (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 June 25, 2009.

TRD-200902616

Mari Robinson, J.D.

Interim Executive Director

Texas Medical Board

Earliest possible date of adoption: August 9, 2009

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



PART 39. TEXAS BOARD OF PROFESSIONAL GEOSCIENTISTS

CHAPTER 851. TEXAS BOARD OF PROFESSIONAL GEOSCIENTISTS LICENSING RULES

SUBCHAPTER A. LICENSING

22 TAC §851.80

The Texas Board of Professional Geoscientists (TBPG or Board) proposes an amendment to 22 TAC §851.80, regarding fees. The proposed amendment raises licensing fees and annual re-

newal fees for licensed individuals; it also raises registration and renewal fees for firms and sole proprietorships.

Mr. Charles Horton, Interim Executive Director of TBPG, has determined that for the first five-year period the section is in effect there will be little or no fiscal impact for state or local government as a result of enforcing or administering the section.

Mr. Horton has also determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be enhancement of the professional practice of geoscience by ensuring that qualified and licensed persons and entities practice geoscience before the public. The proposed increase in fees is required in order to supplement the costs associated with adding additional employees within the agency, ramping up the enforcement division, and upgrading an outdated licensing system. There will be a minimal economic cost to small or micro businesses. There will be a small economic cost to persons who are required to comply with the proposed section.

Comments on this proposal may be submitted in writing to: Molly B. Roman, Administrative Coordinator, Texas Board of Professional Geoscientists, P.O. Box 13225, Austin, Texas 78711, (512) 936-4405. Comments may also be submitted electronically to mroman@tbpg.state.tx.us or faxed to (512) 936-4409. Comments must be submitted no later than 30 days from the date the proposed amendments are posted in the *Texas Register*. All requests for a public hearing on the proposed section submitted under the Administrative Procedure Act must be received by Ms. Roman no more than 15 calendar days after notice of proposed amendments to this section have been published in the *Texas Register*.

This amendment is proposed under the Texas Occupations Code §1002.151, which authorizes the Board to adopt and enforce rules consistent with the Texas Geoscience Practice Act and necessary for the performance of its duties, and §1002.152, which authorizes the Board to set reasonable and necessary fees.

The proposed amendment implements the Texas Occupations Code, §1002.151 and §1002.152.

§851.80. Fees.

(a) All fees are non-refundable.

(b) Application and License fee ~~\$255~~ [\$200].

(c) Examination processing fee of \$25 for all disciplines and examination fee:

(1) Geology--Fundamentals and Practice as determined by ASBOG.

(2) Geophysics--\$175.

(3) Soil Science--Fundamentals and Practice as determined by CSSE.

(d) Issuance of a revised or duplicate license \$25.

(e) Renewal fee ~~\$223~~ [\$168] or as prorated under §851.28(b) of this chapter. The fee for annual renewal of licensure for any person sixty-five (65) years of age or older as of the renewal date shall be half the current renewal fee.

(f) Late Renewal fee \$50.

(g) Fee for affidavit of licensure \$15.

(h) Verification of licensure--\$15.

- (i) Temporary license--\$200.
- (j) Firm Registration--\$300 [~~\$75~~].
- (k) Firm Registration Renewal--\$300 [~~\$150~~].
- (l) Sole Proprietorship Registration--\$50 [~~\$25~~].
- (m) Sole Proprietorship Renewal--\$50 [~~\$25~~].
- (n) Insufficient funds fee--\$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 June 29, 2009.

TRD-200902660

Charles Horton

Interim Executive Director

Texas Board of Professional Geoscientists

Earliest possible date of adoption: August 9, 2009

For further information, please call: (512) 936-4405



TITLE 28. INSURANCE

PART 2. TEXAS DEPARTMENT OF INSURANCE, DIVISION OF WORKERS' COMPENSATION

CHAPTER 164. HAZARDOUS EMPLOYER PROGRAM

28 TAC §§164.1 - 164.12, 164.14 - 164.18

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

The Texas Department of Insurance (Department), Division of Workers' Compensation (Division) proposes the repeal of §§164.1 - 164.12 and §§164.14 - 164.18, relating to rules governing the administration of the Hazardous Employer Program.

Under the Hazardous Employer Program, the Division was required to identify employers as hazardous based on criteria established by the Division. The public employers identified as hazardous were required to develop accident prevention plans and the Division's predecessor, the Texas Workers' Compensation Commission (TWCC), was required to conduct follow-up inspections. Employers classified as hazardous were entitled to request a safety consultation from the TWCC. Each employer identified had the right to administrative review of the findings of the TWCC and to request a hearing to contest the findings of the TWCC.

The rules are proposed for repeal because the statutory authority for the rules, Labor Code Chapter 411, Subchapter D was repealed by House Bill (HB) 7, enacted by the 79th Legislature, Regular Session, effective September 1, 2005.

The Division continues to provide other safety services through the Occupational Safety and Health Consultation (OSHCON) program, pursuant to Labor Code §411.018. These services

include safety training, Occupational Safety and Health Administration (OSHA) consultations and the OSHCON Resource Center.

Karen Puckett, Director for Outreach and Workplace Safety, has determined that, for the first five years the repeal of the sections will be in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal, and there will be no effect on local employment or local economy as result of the proposal.

Ms. Puckett has also determined that, for each year of the first five years the repeal of the sections will be in effect, the public benefit anticipated as a result of the repeal will be the elimination of obsolete regulations. There will be no economic cost to any individuals, or insurers or other Department regulated entities, regardless of size, as a result of the proposed repeal.

In accordance with the Government Code §2006.002(c), the Department has determined that these proposed repeals will not have an adverse economic effect on small or micro business insurance carriers because it is simply the repeal of obsolete rules. Therefore, in accordance with the Government Code §2006.002(c), the Department is not required to prepare a regulatory flexibility analysis.

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

To be considered, written comments on the proposal must be submitted no later than 5:00 p.m. on August 10, 2009. Comments may be submitted via the Internet through the Division's Internet website at <http://www.tdi.state.tx.us/wc/rules/proposedrules/index.html> or by mailing or delivering your comments to Maria Jimenez, Workers' Compensation Counsel, MS-4D, Division of Workers' Compensation, Texas Department of Insurance, 7551 Metro Center Drive, Suite 100, Austin, Texas 78744.

Any request for a public hearing must be submitted separately to the Office of General Counsel, MS-1, 7551 Metro Center Drive, Austin, Texas 78744 by 5:00 p.m. on August 10, 2009. If a hearing is held, written and oral comments presented at the hearing will be considered.

The repeal of the rules is proposed under Labor Code §402.00111 and §402.061. Labor Code §402.00111 provides that the Commissioner of Workers' Compensation shall exercise all executive authority, including rulemaking authority, under Labor Code, Title 5. Labor Code §402.061 provides that the Commissioner of Workers' Compensation shall adopt rules as necessary for the implementation and enforcement of the Texas Workers' Compensation Act.

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

§164.1. *Criteria for Identifying Hazardous Employers.*

§164.2. *Notice to Hazardous Employers.*

§164.3. *Safety Consultation for Public Employers.*

§164.4. *Formulation of Accident Prevention Plan for Public Employers.*

§164.5. *Follow-up Inspection for Public Employers by the Division.*

- §164.6. *Report of Follow-up Inspection, Public Employers.*
- §164.7. *Removal of Public Employers from Hazardous Employer Status.*
- §164.8. *Continuation of Hazardous Employer Status, Public Employers.*
- §164.9. *Approval of Professional Sources for Safety Consultations.*
- §164.10. *Removal from the List of Approved Professional Sources.*
- §164.11. *Request for Safety Consultation from the Division.*
- §164.12. *Reimbursement of Division for Services Provided to Hazardous Employer.*
- §164.14. *Values Assigned for Computation of Hazardous Employer Identification.*
- §164.15. *Administrative Reviews and Hearings Regarding Identification as a Hazardous Employer.*
- §164.16. *Removal of Private Employers from Hazardous Employer Status.*
- §164.17. *Availability of OSHCON Services.*
- §164.18. *Severability.*

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 June 29, 2009.

TRD-200902670

Dirk Johnson

General Counsel

Texas Department of Insurance, Division of Workers' Compensation

Earliest possible date of adoption: August 9, 2009

For further information, please call: (512) 804-4703



CHAPTER 169. WORKERS' HEALTH AND SAFETY--DRUG-FREE WORKPLACE PROGRAM

28 TAC §169.1, §169.2

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

The Texas Department of Insurance (Department), Division of Workers' Compensation (Division) proposes the repeal of §169.1 and §169.2, relating to rules governing the administration of the Drug Free Workplace Program.

Under the Drug Free Workplace Program in §169.1, employers who had 15 or more employees and who maintained workers' compensation insurance coverage were required to adopt a policy for the elimination of drug abuse. Employers were required to provide their employees with a copy of the policy and provide a copy to the Division upon request.

The employer's policy was required to contain a statement that the policy included alcoholic beverages, inhalants and illegal drugs, a statement of the consequences of violation, a description of available treatment programs and a description of drug testing programs that the employer had in force.

The rules are proposed for repeal because the statutory authority for the rules, Labor Code, Chapter 411, Subchapter G was

repealed by House Bill (HB) 7, 79th Legislature, Regular Session, effective September 1, 2005.

The Division continues to provide other safety services through the Occupational Safety and Health Consultation (OSHCON) program, pursuant to Labor Code §411.018. These services include safety training, Occupational Safety and Health Administration (OSHA) consultations and the OSHCON Resource Center.

Karen Puckett, Director for Outreach and Workplace Safety, has determined that, for the first five years the repeal of the sections will be in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal, and there will be no effect on local employment or local economy as result of the proposal.

Ms. Puckett has also determined that, for each year of the first five years the repeal of the sections will be in effect, the public benefit anticipated as a result of the repeal will be the elimination of obsolete regulations. There will be no economic cost to any individuals, or insurers or other Department regulated entities, regardless of size, as a result of the proposed repeal.

In accordance with the Government Code §2006.002(c), the Department has determined that these proposed repeals will not have an adverse economic effect on small or micro business insurance carriers because it is simply the repeal of obsolete rules. Therefore, in accordance with the Government Code §2006.002(c), the Department is not required to prepare a regulatory flexibility analysis.

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

To be considered, written comments on the proposal must be submitted no later than 5:00 p.m. on August 10, 2009. Comments may be submitted via the Internet through the Division's Internet website at <http://www.tdi.state.tx.us/wc/rules/proposedrules/index.html> or by mailing or delivering your comments to Maria Jimenez, Workers' Compensation Counsel, MS-4D, Division of Workers' Compensation, Texas Department of Insurance, 7551 Metro Center Drive, Suite 100, Austin, Texas 78744.

Any request for a public hearing must be submitted separately to the Office of General Counsel, MS-1, 7551 Metro Center Drive, Austin, Texas 78744 by 5:00 p.m. on August 10, 2009. If a hearing is held, written and oral comments presented at the hearing will be considered.

The repeal of the rules is proposed under Labor Code §402.00111 and §402.061. Labor Code §402.00111 provides that the Commissioner of Workers' Compensation shall exercise all executive authority, including rulemaking authority, under Labor Code, Title 5. Labor Code §402.061 provides that the Commissioner of Workers' Compensation shall adopt rules as necessary for the implementation and enforcement of the Texas Workers' Compensation Act.

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

§169.1. *Notification of Drug Abuse Policy.*

§169.2. *Required Elements of Drug Abuse Policy.*

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 June 29, 2009.

TRD-200902669

Dirk Johnson

General Counsel

Texas Department of Insurance, Division of Workers' Compensation

Earliest possible date of adoption: August 9, 2009

For further information, please call: (512) 804-4703



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 1. TEXAS DEPARTMENT OF PUBLIC SAFETY

CHAPTER 28. DNA, CODIS, FORENSIC ANALYSIS, AND CRIME LABORATORIES

SUBCHAPTER F. CODIS USER LABORATORIES

37 TAC §28.93

The Texas Department of Public Safety proposes amendments to §28.93, concerning Policy, Procedure, and Rule Compliance. Amendment to the rule is necessary in order to reduce the number of documents that DNA laboratories are required to submit to the Department of Public Safety (DPS) every two years. DPS does not need the fifty plus page Quality Assurance Audit Document, but merely needs the final determination report by the Federal Bureau of Investigation that the DNA laboratory audited met all of the quality assurance requirements for forensic DNA testing laboratories.

Oscar Ybarra, Chief of Finance, has determined that for each year of the first five-year period the rule is in effect there will be no fiscal implications for state or local government or local economies.

In addition, Mr. Ybarra has also determined that for each year of the first five-year period the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be current and updated rules.

Mr. Ybarra also has determined that there will be no adverse economic effect on small businesses or micro-businesses required to comply with the section as proposed. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed. There is no anticipated negative impact on local employment.

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

vironment or reduce risks to human health from environmental exposure.

The Department has determined that Chapter 2007 of the Texas Government Code does not apply to this rule. Accordingly, the Department is not required to complete a takings impact assessment regarding this rule.

Comments on the proposal may be submitted to D. Pat Johnson, Director, Crime Laboratory Service, MSC 0460, Texas Department of Public Safety, P.O. Box 4143, Austin, Texas 78765-4143, (512) 424-2143.

The amendment is proposed pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Government Code, §§411.0205, 411.144, 411.147, 411.152, and 411.1471, which state the director by rule shall establish an accreditation process for crime laboratories and other entities conducting forensic analyses of physical evidence for use in criminal proceedings.

Texas Government Code, §§411.004(3), 411.0205, 411.144, 411.147, 411.152, and 411.1471 are affected by this proposal.

§28.93. *Policy, Procedure, and Rule Compliance.*

A CODIS user laboratory shall:

- (1) comply with CODIS policy and with this chapter, including the collection, preservation, shipment, and analysis of a sample or specimen and access and use of the DNA database;
- (2) follow the procedures established by the director under this chapter and specified by the FBI, including the use of comparable test procedures, profiles, laboratory equipment, supplies and computer software;
- (3) maintain accreditation under Subchapter H of this chapter; and
- (4) be subject to the provision of the annual audit described by the FBI DNA Quality Assurance Audit Document. The laboratory shall inform the director within 30 days of the completion of such annual audit, and shall provide the director with a copy of the notification, by the FBI, of the determination on all external audits within 30 days of receipt [submit to the director a copy of the audit report along with its response to the audit no later than 30 days after the date a laboratory either receives or completes an audit report].

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 June 29, 2009.

TRD-200902667

Lamar Beckworth

Director

Texas Department of Public Safety

Earliest possible date of adoption: August 9, 2009

For further information, please call: (512) 424-2135



TITLE 43. TRANSPORTATION

PART 1. TEXAS DEPARTMENT OF TRANSPORTATION

CHAPTER 17. VEHICLE TITLES AND
REGISTRATION
SUBCHAPTER B. MOTOR VEHICLE
REGISTRATION

43 TAC §17.21, §17.23

The Texas Department of Transportation (department) proposes amendments to §17.21, Definitions, and §17.23, Temporary Registration Permits, both concerning motor vehicle registration.

EXPLANATION OF PROPOSED AMENDMENTS

The proposed amendments are the result of changes made to Transportation Code, §648.001 and Transportation Code, §648.101, by House Bill 782, 81st Legislature, 2009, which relate to registration exemptions for certain foreign commercial motor vehicles.

Amendments to §17.21, Definitions, add the definition of "foreign commercial vehicles" to specify that the vehicle must be owned by a person domiciled in or who is a citizen of another country. This definition is the same as that contained in Transportation Code, §648.001(4), as amended by House Bill 782.

Amendments to §17.23(h) re-title the subsection from "Exemptions" to "Border commercial zones" and implement changes that were made to Transportation Code, §648.101 by House Bill 782.

Amendments to §17.23(h)(1) state the general rule that a vehicle in a border commercial zone must display a valid Texas registration if the vehicle is owned by a person who owns a leasing facility or leasing terminal in Texas and leases the vehicle to a foreign motor carrier. This paragraph is added as a result of Transportation Code, §648.101(e), as added by House Bill 782, and is not subject to the exemptions provided elsewhere in §17.23(h).

Amendments to §17.23(h)(2), relating to an exemption for the transportation of cargo by brief trips across the border into or from a border commercial zone, remove the exemption for a person who controls, rather than owns, the vehicle and limit the exemption to a vehicle that is registered and licensed as required by the country in which the owner is domiciled or is a citizen. These changes are made in accordance with Transportation Code, §648.101(a), as amended by House Bill 782.

New §17.23(h)(3), exempts a foreign commercial motor vehicle in a border commercial zone from registration if a valid reciprocity agreement between Texas and another state of the United States or a Canadian province exempts currently registered vehicles owned by a resident of this state from registration in the other state or province. These changes are made in accordance with Transportation Code, §648.101(c), as amended by House Bill 782.

FISCAL NOTE

James Bass, Chief Financial Officer, has determined that for each of the first five years the amendments as proposed are in effect, there will be no fiscal implications for state or local governments as a result of enforcing or administering the amendments.

However, there are fiscal implications due to the passage of House Bill 782. An estimated 9,000 Texas-owned trailers are currently operating in the border commercial zone without Texas plates. The fiscal impact of the registration and titling of these vehicles could generate an additional \$346,000 annually to the state and \$176,000 annually to the counties.

Government Code, §2006.002, Adoption of Rules with Adverse Economic Effect, requires that before adopting a rule that may have an adverse economic effect on small businesses, a state agency must prepare an economic impact statement and a regulatory flexibility analysis unless the rule is adopted to comply with legislatively mandated language. Government Code, §2006.002, also requires that agencies prepare a regulatory flexibility analysis to analyze alternatives to the proposed rule unless the rule is adopted to comply with a legislative mandate. The title and registration of trailers is mandated by House Bill 782, 2009.

Rebecca Davio, Director, Vehicle Titles and Registration, has certified that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the amendments.

PUBLIC BENEFIT AND COST

Ms. Davio has also determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of enforcing or administering the amendments will be the registration and titling of trailers in Texas.

However, there are anticipated economic costs due to the passage of House Bill 782. Persons required to comply with the statute will pay \$15 for the token trailer fee, \$.30 for the reflectorization fee, and local fees such as the county road and bridge fee. Title application fees are generally \$33 per trailer for counties in nonattainment and surrounding areas, and \$28 per trailer in other counties. Of that fee, \$5 is distributed to the county, and the remainder to the state.

SUBMITTAL OF COMMENTS

Written comments on the proposed amendments to §17.21 and §17.23 may be submitted to Rebecca Davio, Director, Vehicle Titles and Registration, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483. The deadline for receipt of comments is 5:00 p.m. on August 10, 2009.

STATUTORY AUTHORITY

The amendments are proposed under Transportation Code, §201.101, which provides the Texas Transportation Commission with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §648.002 which authorizes the commission to adopt rules to carry out Transportation Code, Chapter 684.

CROSS REFERENCE TO STATUTE

Transportation Code, Chapter 684, Subchapter C.

§17.21. *Definitions.*

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

(1) - (25) (No change.)

(26) Foreign commercial motor vehicle--A commercial motor vehicle, as defined by 49 C.F.R. §390.5, that is owned by a person or entity that is domiciled in or a citizen of a country other than the United States.

(27) ~~[(26)]~~ Gross weight--The sum of the empty weight of a commercial vehicle (or vehicles, if operated in combination), combined with its maximum carrying capacity, rounded up to the next 100 pounds.

(28) [(27)] Highway construction project--That section of the highway between the warning signs giving notice of a construction area.

(29) [(28)] International symbol of access--The symbol adopted by Rehabilitation International in 1969 at its Eleventh World Congress of Rehabilitation of the Disabled.

(30) [(29)] Legally blind--Having not more than 20/200 visual acuity in the better eye with correcting lenses, or visual acuity greater than 20/200 but with a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(31) [(30)] Light truck--As defined in Transportation Code, §541.201, any truck with a manufacturer's rated carrying capacity not to exceed two thousand pounds, including those trucks commonly known as pickup trucks, panel delivery trucks, and carryall trucks.

(32) [(31)] Make--The trade name of the vehicle manufacturer.

(33) [(32)] Motor bus--A motor-propelled vehicle used to transport persons on public highways for compensation, other than a street or suburban bus.

(34) [(33)] Motorized mobility device--A device designed for transportation of persons with physical disabilities that:

- (A) has three or more wheels;
- (B) is propelled by a battery-powered motor;
- (C) has not more than one forward gear; and
- (D) is not capable of speeds exceeding eight miles per hour.

(35) [(34)] Net carrying capacity--150 pounds multiplied by the seating capacity as determined by the manufacturer's rated seating capacity, exclusive of the driver's or operator's seat, or in the case of a vehicle that is not rated by the manufacturer, as determined by an allowance of one passenger for each sixteen inches, exclusive of the driver's or operator's seat.

(36) [(35)] Nonprofit organization--An unincorporated association or society or a corporation that is incorporated or holds a certificate of authority under the Business Organizations Code.

(37) [(36)] Owner--A person who holds the legal title to a vehicle, has the legal right to possess a vehicle, or has the legal right to control a vehicle.

(38) [(37)] Passenger car--In accordance with Transportation Code, §502.001, any motor vehicle other than a motorcycle, golf cart, or a bus, designed or used primarily for the transportation of persons.

(39) [(38)] Political subdivision--A county, municipality, local board, or other body of this state having authority to provide a public service.

(40) [(39)] Registration period--A designated period during which registration is valid. A registration period always begins on the first day of a calendar month and ends on the last day of a calendar month.

(41) [(40)] Rental fleet--A fleet of five or more vehicles that are owned by the same owner, offered for rent or rented without drivers, and designated by the owner in the manner prescribed by the department as a rental fleet.

(42) [(41)] Rental trailer--A utility trailer that has a gross weight of 4,000 pounds or less and is part of a rental fleet.

(43) [(42)] Road tractor--A vehicle designed for the purpose of mowing the right of way of a public highway or a motor vehicle designed or used for drawing another vehicle or a load and not constructed to carry:

- (A) an independent load; or
- (B) a part of the weight of the vehicle and load to be drawn.

(44) [(43)] Service agreement--A contractual agreement that allows individuals or businesses to access the department's vehicle registration records.

(45) [(44)] Specialty license plate--A special design license plate issued by the department under statutory authority.

(46) [(45)] Specialty license plate fee--Statutorily or department required fee payable on submission of an application for a specialty license plate, symbol, tab, or other device, and collected in addition to statutory motor vehicle registration fees.

(47) [(46)] Special district--A political subdivision of the state established to provide a single public service within a specific geographical area.

(48) [(47)] Sponsoring entity--An institution, college, university, sports team, or any other individual or group that desires to support a particular specialty license plate by coordinating the collection and submission of the prescribed applications and associated license plate fees or deposits for that particular license plate.

(49) [(48)] Street or suburban bus--A vehicle, other than a passenger car, used to transport persons for compensation exclusively within the limits of a municipality or a suburban addition to a municipality.

(50) [(49)] Tandem axle group--Two or more axles spaced 40 inches or more apart from center to center having at least one common point of weight suspension.

(51) [(50)] Token trailer--[-]

(A) A semitrailer that has a gross weight of more than 6,000 pounds and is operated in combination with a truck; or

(B) a truck tractor that has been issued an apportioned license plate, a combination license plate, or a forestry vehicle license plate.

(52) [(51)] Tow truck--A motor vehicle equipped with a mechanical device adapted or used to tow, winch, or otherwise move another motor vehicle.

(53) [(52)] Travel trailer--A house trailer-type vehicle or a camper trailer that is less than eight feet in width or 40 feet in length, exclusive of any hitch installed on the vehicle, and is designed primarily for use as temporary living quarters in connection with recreational, camping, travel, or seasonal use and not as a permanent dwelling.

(54) [(53)] Unconventional vehicle--A vehicle built entirely as machinery from the ground up, that is permanently designed to perform a specific function, and is not designed to transport property.

(55) [(54)] Vehicle--A device in or by which a person or property is or may be transported or drawn on a public highway, other than a device used exclusively on stationary rails or tracks.

(56) [(55)] Vehicle classification--The grouping of vehicles in categories for the purpose of registration, based on design, carrying capacity, or use.

(57) [(56)] Vehicle description--Information regarding a specific vehicle, including, but not limited to, the vehicle make, model year, body style, and vehicle identification number.

(58) [(57)] Vehicle identification number--A number assigned by the manufacturer of a motor vehicle or the department that describes the motor vehicle for purposes of identification.

(59) [(58)] Vehicle inspection sticker--A sticker issued by the Texas Department of Public Safety signifying that a vehicle has passed all applicable safety and emissions tests.

(60) [(59)] Vehicle registration insignia--A license plate, symbol, tab, or other device issued by the department evidencing that all applicable fees have been paid for the current registration period and allowing the vehicle to be operated on the public highways.

(61) [(60)] Vehicle registration record--Information contained in the department's files that reflects, but is not limited to, the make, vehicle identification number, model year, body style, license number, and the name of the registered owner.

(62) [(61)] Volunteer fire department--An association that is organized for the purpose of answering fire alarms, extinguishing fires, and providing emergency medical services.

§17.23. *Temporary Registration Permits.*

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

(h) Border commercial zones. [Exemptions. A foreign commercial vehicle operating in accordance with Transportation Code, Chapter 648 is exempt from the display of a temporary registration permit if:]

(1) Texas registration required. A vehicle located in a border commercial zone must display a valid Texas registration if the vehicle is owned by a person who: [the vehicle is engaged solely in the transportation of cargo across the border into or from a border commercial zone;]

(A) owns a leasing facility or a leasing terminal located in Texas; and

(B) leases the vehicle to a foreign motor carrier.

(2) Exemption for trips of short duration. Except as provided by paragraph (1) of this subsection, a foreign commercial vehicle operating in accordance with Transportation Code, Chapter 648 is exempt from the display of a temporary registration permit if [for each load of cargo transported the vehicle remains in this state for]:

(A) the vehicle is engaged solely in the transportation of cargo across the border into or from a border commercial zone; [not more than 24 hours; or]

(B) for each load of cargo transported the vehicle remains in this state for [not more than 48 hours; if]:

(i) not more than 24 hours; or [the vehicle is unable to leave this state within 24 hours because of circumstances beyond the control of the motor carrier operating the vehicle; and]

(ii) not more than 48 hours, if: [all financial responsibility requirements applying to this vehicle are satisfied;]

(I) the vehicle is unable to leave this state within 24 hours because of circumstances beyond the control of the motor carrier operating the vehicle; and

(II) all financial responsibility requirements applying to this vehicle are satisfied;

(C) the vehicle is registered and licensed as required by the [law of another state or] country in which the person that owns the vehicle is domiciled or is a citizen as evidenced by a valid metal license plate attached to the front or rear exterior of the vehicle; and

(D) the country in which the person who owns [or controls] the vehicle is domiciled or is a citizen[-;] provides a reciprocal exemption for commercial motor vehicles owned [or controlled] by residents of Texas.

(3) Exemption due to reciprocity agreement. Except as provided by paragraph (1) of this subsection, a foreign commercial motor vehicle in a border commercial zone in this state is exempt from the requirement of obtaining a Texas registration if the vehicle is currently registered in another state of the United States or a province of Canada with which this state has a reciprocity agreement that exempts a vehicle that is owned by a resident of this state and that is currently registered in this state from registration in the other state or province.

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 June 26, 2009.

TRD-200902625

Bob Jackson

General Counsel

Texas Department of Transportation

Earliest possible date of adoption: August 9, 2009

For further information, please call: (512) 463-8683



WITHDRAWN RULES

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

TITLE 22. EXAMINING BOARDS

PART 5. STATE BOARD OF DENTAL EXAMINERS

CHAPTER 115. EXTENSION OF DUTIES OF AUXILIARY PERSONNEL--DENTAL HYGIENE

22 TAC §115.6

The State Board of Dental Examiners withdraws the proposed new §115.6 which appeared in the February 20, 2009, issue of the *Texas Register* (34 TexReg 1170).

Filed with the Office of the Secretary of State on June 29, 2009.

TRD-200902675

Sherri Sanders Meek

Executive Director

State Board of Dental Examiners

Effective date: June 29, 2009

For further information, please call: (512) 475-0972



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 16. ECONOMIC REGULATION

PART 8. TEXAS RACING COMMISSION

CHAPTER 309. RACETRACK LICENSES AND OPERATIONS

SUBCHAPTER A. RACETRACK LICENSES

16 TAC §309.8

The Texas Racing Commission (Commission) adopts amendments to 16 TAC §309.8, Racetrack License Fees, relating to the fees charged to pari-mutuel racetrack license holders, without changes. The proposed amendments were published in the March 13, 2009, issue of the *Texas Register* (34 TexReg 1772). The Commission proposed the amendments in conjunction with the emergency adoption of the identical amendments as published in the March 13, 2009, issue of the *Texas Register* (34 TexReg 1769).

The purpose of the amendments is to provide additional revenue to the Commission to administer the Texas Racing Act and support the regulation of live and simulcast racing. The amendments increase the annual license fee for licensed but inactive pari-mutuel racetracks by \$25,000 annually.

At the meeting of the Commission's Rules Committee on April 2, 2009, representatives of three inactive racetrack license holders expressed interest in substituting higher annual inactive fees for the use of security bonds. However, at the Committee's meeting on June 3, 2009, the racetracks expressed no opposition to adoption of the rule as proposed, and the Commission received no written comments in response to publication in the *Texas Register*. The amendments are therefore adopted without change to the proposal as published.

The amendments are adopted under the Texas Revised Civil Statutes, Article 179e, §3.02, which authorizes the Commission to adopt rules for conducting horse or greyhound racing involving wagering and other rules to administer the Texas Racing Act, and §5.01, which requires the Commission to set fees by rule in amounts reasonable and necessary to cover the Commission's costs of regulating, overseeing, and licensing live and simulcast racing at racetracks.

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 June 24, 2009.
TRD-200902609

Mark Fenner
General Counsel
Texas Racing Commission
Effective date: July 14, 2009
Proposal publication date: March 13, 2009
For further information, please call: (512) 833-6699



16 TAC §309.11, §309.12

The Texas Racing Commission (Commission) adopts new 16 TAC §309.11, Fees for Requests to Approve a Transfer of Pecuniary Interests, with changes and 16 TAC §309.12, Fees for Requests to Approve Change of Location, without changes. Section 309.11 relates to the fees that a racing association must pay in order for the Commission to review a request to transfer an ownership interest in the association and for the Commission to reimburse the Department of Public Safety for the required background investigation. Section 309.12 relates to the fees that a racing association must pay in order for the Commission to review a request to change the association's location. The proposed amendments were published in the March 13, 2009, issue of the *Texas Register* (34 TexReg 1773).

The new rules allow the Commission to recover the costs of reviewing and approving requests for changes in ownership and location of racetrack licenses. New §309.11 requires that the association pay a processing fee and a background investigation fee when requesting Commission approval to transfer an ownership interest. New §309.12 requires that the association pay a processing fee when requesting Commission approval to change location.

The proposal for new §309.11 was discussed at the Commission's Rules Committee meetings on April 2 and June 3, 2009. The racetracks asked for clarification as to whether the fee applied to each transfer, or whether multiple transfers for a track could be consolidated into a single request and have only one fee. The tracks also expressed concern that the fee was too high for transfers of less than 1% interest in a track. As a result, new §309.11 is adopted with a revision that clarifies that each transfer requires a separate payment of the appropriate fee. The revision also reduced the cost for ownership transfers of less than 1% to \$25.

The proposal for new §309.12 was also discussed at the Rules Committee meetings on April 2 and June 3, 2009. Some racetracks asked whether it would be appropriate to have the same fee for both Class 1 and Class 2 racetracks, as they require similar amounts of effort by staff to review requested changes in location. Staff agreed that the efforts are similar, but observed that the rules generally charge higher fees to Class 1 licenses than for Class 2 licenses, and that regardless of class, the designated amounts are not a determination of the final fee. As a

result, new §309.12 is adopted without changes to the proposal as published.

The new rules are adopted under the Texas Revised Civil Statutes, Article 179e, §3.02, which authorizes the Commission to adopt rules for conducting horse or greyhound racing involving wagering and other rules to administer the Texas Racing Act, and §5.01, which requires the Commission to set fees by rule in amounts reasonable and necessary to cover the Commission's costs of regulating, overseeing, and licensing live and simulcast racing at racetracks.

§309.11. Fees for Requests to Approve a Transfer of Pecuniary Interests.

(a) General Provisions. A license holder who requests Commission approval to transfer a pecuniary interest in a racetrack license must submit with the request a fee in an amount set by the Commission.

(b) Fees.

(1) The request fee is composed of a variable processing charge and investigation charge. The processing charge is the amount needed by the Commission to cover the administrative costs of processing the request. The investigation charge is the amount needed by the Commission to cover the costs incurred by the Department of Public Safety and Commission staff for conducting the background investigation on the proposed transferee. A license holder must pay all charges contemporaneously with filing the request. The Commission will take no action on a request under this section unless the requestor submits the total amount of the request fee with the request. The Commission shall hold the request fee in the state treasury in a suspense account. The Commission may transfer the processing funds due to the Commission to the Texas Racing Commission Fund as costs are incurred. If the actual costs to the Commission of processing the request or conducting the investigation exceed the amount deposited for the applicable charge, the requestor shall pay the remaining amount not later than 10 business days after receipt of a bill from the Commission. If the costs of processing the request or conducting the investigation are less than the amount of the charge, the Commission shall refund the excess not later than 10 business days after the Commission's decision on the request becomes final.

(2) The fees for a request for Commission approval to approve a transfer of pecuniary interests in a racetrack license that effects a change in the controlling interest of that license are as follows:

(A) The amount to be deposited for the processing charge for a horse racetrack request is:

- (i) for a Class 1 racetrack, \$50,000;
- (ii) for a Class 2 racetrack, \$25,000;
- (iii) for a Class 3 racetrack, \$10,000; and
- (iv) for a Class 4 racetrack, \$2,500.

(B) The amount to be deposited for the investigation charge for a horse racetrack request is:

- (i) for a Class 1 racetrack, \$25,000;
- (ii) for a Class 2 racetrack, \$10,000;
- (iii) for a Class 3 racetrack, \$1,500; and
- (iv) for a Class 4 racetrack, \$1,000.

(C) The amount to be deposited for the processing charge for a greyhound racetrack request is \$50,000.

(D) The amount to be deposited for the investigation charge for a greyhound racetrack request is \$25,000.

(3) The fees for a request for Commission approval to approve a transfer of pecuniary interests of 5.0% or more in a racetrack license, but that does not effect a change in the controlling interest of that license, are as follows:

(A) The amount to be deposited for the processing charge for a horse racetrack request is:

- (i) for a Class 1 racetrack, \$500;
- (ii) for a Class 2 racetrack, \$250;
- (iii) for a Class 3 racetrack, \$100; and
- (iv) for a Class 4 racetrack, \$50.

(B) For each proposed transfer of pecuniary interests of 5.0% or more, the amount to be deposited for the investigation charge for a horse racetrack request is:

- (i) for a Class 1 racetrack, \$1,000;
- (ii) for a Class 2 racetrack, \$500;
- (iii) for a Class 3 racetrack, \$250; and
- (iv) for a Class 4 racetrack, \$125.

(C) The amount to be deposited for the processing charge for a greyhound racetrack request is \$500.

(D) The amount to be deposited for the investigation charge for a greyhound racetrack license request is \$1,000.

(4) The fees for a request for Commission approval to approve a transfer of pecuniary interests of more than 1.0% and less than 5.0% in a racetrack license and that does not effect a change in the controlling interest of that license are as follows:

(A) The amount to be deposited for the processing charge for a horse racetrack request is:

- (i) for a Class 1 racetrack, \$100;
- (ii) for a Class 2 racetrack, \$100;
- (iii) for a Class 3 racetrack, \$50; and
- (iv) for a Class 4 racetrack, \$25.

(B) For each proposed transfer of pecuniary interests of more than 1.0% and less than 5.0%, the amount to be deposited for the investigation charge for a horse racetrack request is:

- (i) for a Class 1 racetrack, \$500;
- (ii) for a Class 2 racetrack, \$250;
- (iii) for a Class 3 racetrack, \$125; and
- (iv) for a Class 4 racetrack, \$50.

(C) The amount to be deposited for the processing charge for a greyhound racetrack request is \$100.

(D) The amount to be deposited for the investigation charge for a greyhound racetrack request is \$500.

(5) The fees for a request for Commission approval to approve a transfer of pecuniary interests of 1.0% or less in a racetrack license and that does not effect a change in the controlling interest of that license are as follows:

(A) The amount to be deposited for the processing charge for a horse racetrack request is \$25.

(B) For each proposed transfer of pecuniary interests of 1.0% or less, the amount to be deposited for the investigation charge for a horse racetrack request is \$50.

(C) The amount to be deposited for the processing charge for a greyhound racetrack request is \$25.

(D) The amount to be deposited for the investigation charge for a greyhound racetrack request is \$50.

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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Mark Fenner

General Counsel

Texas Racing Commission

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For further information, please call: (512) 833-6699



CHAPTER 311. OTHER LICENSES

SUBCHAPTER B. SPECIFIC LICENSES

16 TAC §311.104

The Texas Racing Commission (Commission) adopts amendments to 16 TAC §311.104, Trainers, relating to the qualifications and responsibilities of trainers with changes to the proposed text as published in the March 13, 2009, issue of the *Texas Register* (34 TexReg 1775). The amendments are adopted with one correction to the text as published. The correction provides that an applicant who fails a second practical examination may not reschedule another practical examination for 365 days after the day the applicant failed the second, instead of the first, practical examination.

The amendments will provide additional revenue to the Commission to administer the Texas Racing Act and to support the regulation of live and simulcast racing. They will also reduce unnecessary expenses caused by trainer candidates who have requested examinations before being adequately prepared and who have missed scheduled examinations without adequate notice. The changes to §311.104 create a \$50 fee for administering the written and practical examination to become a trainer. They also provide that failure to timely reschedule a missed exam will result in loss of the testing fee.

The Commission received no written comments in response to the publication. The proposed amendments were also discussed at the Commission's Rules Committee meetings on April 2 and June 3, 2009, where no attendee objected to their adoption.

The amendments are adopted under the Texas Revised Civil Statutes, Article 179e, §3.02, which authorizes the Commission to adopt rules for conducting horse or greyhound racing involving wagering and other rules to administer the Texas Racing Act, and §5.01, which requires the Commission to set fees by rule in amounts reasonable and necessary to cover the Commission's costs of regulating, overseeing, and licensing live and simulcast racing at racetracks.

§311.104. *Trainers.*

(a) Licensing.

(1) Except as otherwise provided by this subsection, a trainer must obtain a trainer's license before the trainer may enter a horse or greyhound in a race. A trainer may enter a horse or greyhound in a stakes race without first obtaining a license, but must obtain a license before the horse or greyhound may start in the stakes race. Except as otherwise provided by this section, to be licensed by the Commission as a trainer, a person must:

(A) be at least 18 years old;

(B) satisfactorily complete a written examination prescribed by the Commission; and

(C) satisfactorily complete a practical examination prescribed by the Commission and administered by the stewards or racing judges or designee of the stewards or racing judges.

(2) The standard for passing the written examination must be printed on the examination. A \$50 non-refundable testing fee is assessed for administering the written and practical examinations. The fee is due and payable at the time the first examination appointment is scheduled. A minimum of 48 hours advance notice is required to reschedule an examination appointment without loss of the testing fee. An applicant who fails to timely reschedule an examination appointment must pay a new testing fee to reschedule the appointment. An applicant who fails the written examination may not take the examination again before the 60th day after the date the applicant failed the examination. An applicant who fails the practical examination may not reschedule the practical examination again before the 180th day after the applicant failed the practical examination. An applicant who fails the practical examination for a second time may not reschedule another practical examination for 365 calendar days after the day the applicant failed the second practical examination and the applicant must pay an additional \$50 non-refundable testing fee. The Commission may waive the requirement of a written and/or practical examination for a person who has a current license issued by another pari-mutuel racing jurisdiction. If a person for whom the examination requirement was waived demonstrates an inability to adequately perform the duties of a trainer, through excessive injuries, rulings, or other behavior, the stewards or racing judges may require the person to take the written examination. If such a person fails the examination, the stewards or racing judges shall suspend the person's license for 60 days with reinstatement contingent upon passing the written examination.

(3) A trainer must use the trainer's legal name to be licensed as a trainer. A trainer who is also an owner may use a stable name or kennel name in the capacity of owner.

(4) To be licensed as an assistant trainer, a person must qualify in all respects for a trainer's license and be in the employ of a licensed trainer. An assistant trainer's license carries all the privileges and responsibilities of a trainer's license.

(b) Absolute Insurer.

(1) A trainer shall ensure the health and safety of each horse or greyhound that is in the care and custody of the trainer.

(2) A trainer shall ensure that a horse or greyhound that runs a race while in the care and custody of the trainer or kennel owner is free from all prohibited drugs, chemicals, or other substances.

(3) A trainer who allows a horse or greyhound to be brought to the paddock or lockout kennel warrants that the horse or greyhound:

(A) is qualified for the race;

(B) is ready to run;

(C) is in a physical condition to exert its best efforts;
and

(D) is entered with the intent to win.

(c) Health Reports.

(1) A trainer shall immediately notify the Commission veterinarian or designee of unusual symptoms in a horse or greyhound that is in the trainer's care and custody.

(2) Not later than one hour after finding a dead horse or greyhound on association grounds, a trainer shall notify the stewards or racing judges and the Commission veterinarian, or their designee, of the death. In the absence of regulatory personnel, the trainer shall notify security personnel on the association grounds.

(d) Owner Suspended. A trainer may not retain a horse or greyhound in the trainer's care and custody if the Commission has suspended or revoked the license of the owner of the horse or greyhound.

(e) An individual who is licensed to work for a trainer is not permitted in the stable or kennel area on association grounds unless the licensee is employed by and doing work for a trainer on the association grounds. An individual in the stable or kennel area on association grounds who is not in the employ of and doing work for a trainer may be ejected from the stable or kennel area on the association grounds.

(f) Restrictions on Racing. A trainer may not enter a race animal or cause a race animal to be entered in a race at a racetrack if:

(1) the owner or trainer is employed by the racetrack association in a management or supervisory position that is capable of affecting the conduct of races or pari-mutuel wagering at the racetrack; or

(2) the owner or trainer is involved in any way with the sale or publication of tip sheets on association grounds.

(g) Trainer Employees.

(1) A trainer may not employ an individual who is less than 16 years of age to work for the trainer on an association's grounds.

(2) A trainer may not employ a jockey to prevent the jockey from riding in a race.

(h) Trainer Absent. If a trainer must be absent because of illness or any other cause, the trainer shall appoint another licensed trainer to fulfill his or her duties, and promptly report the appointment to the stewards or racing judges for approval. The absent trainer and substitute trainer have joint responsibility for the condition of the race animals normally trained by the absent trainer.

(i) Suspended, Revoked or Ineligible Horse Trainers.

(1) A person may not assume the responsibilities of a horse trainer who is ineligible to be issued a license or whose license is suspended or revoked if the person is related to the trainer within the first degree of consanguinity or affinity.

(2) A person who assumes the care, custody, or control of the horses of a suspended, revoked or ineligible horse trainer may not:

(A) receive any compensation regarding those horses from the suspended, revoked or ineligible trainer;

(B) pay any compensation regarding those horses to the suspended, revoked or ineligible trainer;

(C) solicit or accept a loan of anything of value from the suspended, revoked or ineligible trainer; or

(D) use the farm or individual name of the suspended, revoked or ineligible trainer when billing customers.

(3) A person who assumes the care, custody, or control of the horses of a suspended, revoked or ineligible trainer is directly responsible for all financial matters relating to the care, custody, or control of the horses.

(4) On request by the Commission, a suspended, revoked or ineligible trainer or a person who assumes the care, custody, or control of the horses of a suspended, revoked or ineligible trainer shall permit the Commission to examine all financial or business records to ensure compliance with this section.

(j) Reporting to Clocker. When taking a horse onto a racetrack to work, a horse trainer or an assistant of the trainer shall report the horse's name and the distance to be worked to the morning clocker or an assistant clocker or shall instruct the jockey or exercise rider to transmit the information to the clocker or assistant clocker.

(k) Other Responsibilities - A trainer is responsible for:

(1) the condition and contents of stalls/kennels, tack rooms, feed rooms, and other areas which have been assigned by the association;

(2) maintaining the assigned stable/kennel area in a clean, neat and sanitary condition at all times;

(3) ensuring that fire prevention rules are strictly observed in the assigned stable/kennel area;

(4) training all animals owned wholly or in part by the trainer that are participating at the race meeting;

(5) ensuring that, at the time of arrival at a licensed racetrack, each animal in the trainer's care is accompanied by a valid health certificate/certificate of veterinary inspection;

(6) using the services of those veterinarians licensed by the Commission to attend animals that are on association grounds;

(7) promptly notifying the official veterinarian of any reportable disease and any unusual incidence of a communicable illness in any animal in the trainer's charge;

(8) immediately reporting to the stewards/judges and the official veterinarian if the trainer knows, or has cause to believe, that a animal in the trainer's custody, care or control has received any prohibited drugs or medication;

(9) maintaining a knowledge of the medication record and status of all animals in the trainer's care;

(10) ensuring the fitness of a animal to perform creditably at the distance entered; and

(11) ensuring that the trainer's horse is properly shod, bandaged and equipped.

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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Mark Fenner
General Counsel
Texas Racing Commission
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For further information, please call: (512) 833-6699



CHAPTER 315. OFFICIALS AND RULES FOR GREYHOUND RACING

SUBCHAPTER A. OFFICIALS

DIVISION 1. APPOINTMENT OF OFFICIALS

16 TAC §315.1

The Texas Racing Commission (Commission) adopts amendments to 16 TAC §315.1, Required Officials, relating to the officials that must be present at each pari-mutuel greyhound race. The amendments are adopted without changes to the proposed text as published in the March 13, 2009, issue of the *Texas Register* (34 TexReg 1776).

The amendment allows the Commission to reduce costs by designating three judges for the meet as a whole, but providing only two judges for specific performances. While three judges would be available to sit on a panel in case of a ruling, the duties of overseeing many race performances may be satisfied with only two judges.

The Commission received no written comments in response to the publication. The proposal was also discussed at the Commission's Rules Committee meetings on April 2 and June 3, 2009, where no attendee objected to its adoption.

The amendments are adopted under the Texas Revised Civil Statutes, Article 179e, §3.02, which authorizes the Commission to adopt rules for conducting horse or greyhound racing involving wagering and other rules to administer the Texas Racing Act.

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

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Mark Fenner

General Counsel

Texas Racing Commission

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TITLE 22. EXAMINING BOARDS

PART 6. TEXAS BOARD OF PROFESSIONAL ENGINEERS

CHAPTER 131. ORGANIZATION AND ADMINISTRATION

SUBCHAPTER F. ADMINISTRATION

22 TAC §131.85

The Texas Board of Professional Engineers (Board) adopts an amendment to §131.85, relating to Board Rules Procedures, with changes to the proposed text as published in the April 10, 2009, issue of the *Texas Register* (34 TexReg 2351). The text of the rule will be republished.

The adopted amendment is related to minimum requirements for the Board to accept a petition from the public for the development or adoption of a Board rule.

The adopted rule requires the Board to accept a petition for proposal, adoption, deletion, or amendment of a Board rule submitted by a minimum of 25 individuals or an association representing at least 25 individuals. The 25 person minimum is in line with Government Code §2001.029 regarding public hearings.

One comment was received from the public suggesting the removal of redundant language regarding submitting a petition and this language was incorporated into the rule.

The amendment is adopted pursuant to the Texas Engineering Practice Act (Act), Occupations Code §1001.202, which authorizes the Board to make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practice of engineering in this state.

§131.85. Board Rules Procedures.

(a) Amendments, Deletions, and Additions of Rules. Proposed amendments, deletions, or additions to the board rules of practice and procedure may be submitted by the staff or any board member. Board action to accept or amend the proposal shall require a majority vote when a quorum is present at a meeting. A proposal or amended proposal, as accepted by the board, can be promulgated as an amendment, deletion, or addition to board rules by following the procedures set out in Chapters 2001 and 2002, Texas Government Code.

(b) Petition for Adoption of Rules. The board shall accept a petition submitted by at least 25 persons or by an association having at least 25 members to adopt, delete, or amend a rule. The petition must be filed with the executive director at least 30 days and not more than 60 days prior to a regular board meeting at which board action will be taken. Such a petition will include, but need not be limited to, the following.

(1) Identity information. Full name and complete mailing address and telephone number of the petitioner on whose behalf the petition is filed.

(2) Reference. Reference to the rule which it is proposed to make, change or amend, or delete, so that it may be identified and prepared in a manner to indicate the word, phrase, or sentence to be added, changed, or deleted from the current text, if any. The proposed rule should be presented in the exact form in which it is to be published, adopted, or promulgated.

(3) A suggested effective date. The desired effective date should be stated.

(4) Justification. Justification for the proposed action in narrative form with sufficient particularity to fully inform the board and any interested party of the facts upon which the petitioner relies, including the statutory authority for the promulgation of the proposed rule.

(5) Desired effect of proposal. Include a brief statement detailing the desired effect to be achieved by the proposed rule, change, or amendment or deletion.

(6) Summary. A concise summary of the proposed rule, change, or amendment.

(7) Signatures. Signatures on the petition of the petitioners and/or the attorney or representative of the petitioners.

(8) Fee. Any fee required by statute or board rules.

(c) Petition Decision by Board. Within 60 days after submission of a petition requesting the adoption of a rule the board either shall deny the petition in writing, stating its reasons for the denial, or shall initiate rule making proceedings in accordance with subsection (a) of this section and by law.

(d) Suspension of Rules. In any case in which a public emergency or imperative public necessity so requires, the board may suspend the operation of these sections to the extent authorized by law.

(e) Invalid Portions and Saving Provisions.

(1) If any subcategory, rule, section, subsection, sentence, clause, or phrase of these rules is for any reason held invalid, such decision shall not affect the validity of the remaining portions of these sections. The board hereby declares that it would have adopted these sections and such subcategories, rules, sections, subsections, sentences, clauses, or phrases thereof irrespective of the fact that any one or more of the subcategories, rules, sections, subsections, sentences, clauses, or phrases be declared invalid.

(2) Since individual board rules are adopted, changed, or deleted periodically, each rule herein will apply only to acts occurring on or after the effective date of the rule. An act occurring before the effective date of one or more of these rules will be governed by the rules existing before the effective date, which rules are continued in effect for this purpose as if these rules were not in force. Any proceeding pending before the board on the effective date of one or more of these rules is governed by the rules existing before the effective date of these rules, which rules are continued in effect for this purpose as if these rules were not in force.

(3) If there is any conflict between the agency's rules and statutory provisions, and the rules cannot be harmonized with the statute in a timely manner, the statutory provisions shall control. The board shall issue a statement describing the irregularity, expected schedule for correction, and necessary action by an effected party.

(f) Effective Date. The effective date of each rule or subdivision of each rule shall be that date published as the effective date of the rule or subdivision of the rule in the *Texas Register* as a result of the rule making procedures set out in Chapters 2001 and 2002, Texas Government Code.

(g) Rules Identification and Format. The board reserves the right to revise the format of these rules of practice and procedure to comply with statutory requirements, and such required revision shall not invalidate any portion or change the effective date of the rules of practice and procedure as adopted by the board.

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

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Dale Beebe Farrow, P.E.

Executive Director

Texas Board of Professional Engineers

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For further information, please call: (512) 440-7723



CHAPTER 133. LICENSING

The Texas Board of Professional Engineers (Board) adopts amendments to §133.11, relating to Types of Licenses; §133.23, relating to Applications for Former Standard License Holders; §133.33, relating to Proof of Educational Qualifications for Non-Accredited/Non-Approved Programs; and §133.43, relating to Experience Evaluation for Applicants, without changes to the proposed text as published in the April 10, 2009, issue of the *Texas Register* (34 TexReg 2352) and will not be republished.

The adopted change to §133.11 relates to temporary licenses obtained via international agreements such as the North American Free Trade Agreement (NAFTA). Certain applicants have attempted to use the temporary licensure process to obtain a de facto permanent license, either through continual reapplication and renewal of the temporary license or by claiming a temporary license qualifies for licensure as a Former Texas License Holder. In addition, the adopted rule clarifies that a temporary license has a maximum duration of three years and that once a temporary license has expired, a former temporary license holder cannot apply for a subsequent temporary license. In addition, the holder of a temporary license can start the standard license process while still holding a temporary license.

The adopted change to §133.23 clarifies that the re-licensure rule was intended for applicants that held a standard license and not those that were licensed via the emergency temporary or temporary international licensure process. These changes limit the use of this licensure process to former holders of a standard license only. The adopted rule clarifies that a temporary license has a maximum duration of three years and that once a temporary license has expired, a former temporary license holder cannot apply for a subsequent temporary license. In addition, the holder of a temporary license can start the standard license process while still holding a temporary license.

The adopted change to §133.33 removes a reference to an organization that no longer exists and clarifies that a foreign degree evaluation must indicate that a degree is equivalent to a degree from a U.S. educational institution.

The adopted change to §133.43 allows the Board to consider if an applicant intends to perform or offer engineering services in Texas when evaluating engineering experience. The Board is also adopting additional editorial changes to clarify and simplify the language used in the rule.

No public comments were received regarding adoption of the rules.

SUBCHAPTER B. PROFESSIONAL ENGINEER LICENSES

22 TAC §133.11

The amendment is adopted pursuant to the Texas Engineering Practice Act, Occupations Code §1001.202, which authorizes the board to make and enforce all rules and regulations and by-

laws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practice of engineering in this state.

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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Dale Beebe Farrow, P.E.

Executive Director

Texas Board of Professional Engineers

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For further information, please call: (512) 440-7723



SUBCHAPTER C. PROFESSIONAL ENGINEER LICENSE APPLICATION REQUIREMENTS

22 TAC §133.23

The amendment is adopted pursuant to the Texas Engineering Practice Act, Occupations Code §1001.202, which authorizes the board to make and enforce all rules and regulations and by-laws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practice of engineering in this state.

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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Dale Beebe Farrow, P.E.

Executive Director

Texas Board of Professional Engineers

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For further information, please call: (512) 440-7723



SUBCHAPTER D. EDUCATION

22 TAC §133.33

The amendment is adopted pursuant to the Texas Engineering Practice Act, Occupations Code §1001.202, which authorizes the board to make and enforce all rules and regulations and by-laws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practice of engineering in this state.

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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Dale Beebe Farrow, P.E.

Executive Director

Texas Board of Professional Engineers

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For further information, please call: (512) 440-7723



SUBCHAPTER E. EXPERIENCE

22 TAC §133.43

The amendment is adopted pursuant to the Texas Engineering Practice Act, Occupations Code §1001.202, which authorizes the board to make and enforce all rules and regulations and by-laws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practice of engineering in this state.

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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Dale Beebe Farrow, P.E.

Executive Director

Texas Board of Professional Engineers

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TITLE 25. HEALTH SERVICES

PART 11. CANCER PREVENTION AND RESEARCH INSTITUTE OF TEXAS

CHAPTER 702. RELATIONSHIP BETWEEN COUNCIL AND PRIVATE ORGANIZATIONS AND DONORS

25 TAC §§702.1 - 702.4

The Cancer Prevention and Research Institute of Texas (Institute), formerly the Texas Cancer Council, adopts the repeal of §§702.1 - 702.4, concerning the relationship between the council and private organizations and donors. The repeal is adopted without changes to the proposal as published in the March 20, 2009, issue of the *Texas Register* (34 TexReg 1938).

The 2007 Legislature enacted House Bill 14, which amended Chapter 102 of the Health and Safety Code, abolished the Texas Cancer Council, created the Institute, and expressly directs the Institute's Oversight Committee to adopt conflict of interest rules to apply to the Oversight Committee. The rules currently in Chapter 702 are not adequate to address the rules required by the law. The matters addressed by the repealed provisions will be incorporated into a new Chapter 702. The new Chapter 702 has been adopted as new rules in the Adopted Rules section of this issue of the *Texas Register* concurrently with this repeal.

No comments were received regarding the proposed repeal.

The repeal is adopted under the authority of Texas Health and Safety Code Annotated, §102.101(e) and §102.106, which provide the Institute with the authority to govern members of the Oversight Committee and its own activities, and which direct the Oversight Committee to adopt rules relating to conflict of interest.

There is no other statute, article or code that is affected by this adopted repeal.

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

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TRD-200902576

William H. Gimson

Executive Director

Cancer Prevention and Research Institute of Texas

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Proposal publication date: March 20, 2009

For further information, please call: (512) 463-3190



CHAPTER 702. INSTITUTE STANDARDS ON ETHICS AND CONFLICTS, INCLUDING RELATIONSHIPS BETWEEN THE INSTITUTE AND PRIVATE ORGANIZATIONS AND DONORS

25 TAC §§702.1, 702.3, 702.5, 702.7, 702.9, 702.11, 702.13, 702.15

The Cancer Prevention and Research Institute of Texas (Institute) adopts new §§702.1, 702.3, 702.5, 702.7, 702.9, 702.11, 702.13, and 702.15, concerning the institute standards on ethics and conflicts, including relationships between the institute and private organizations and donors, without changes to the proposed text as published in the March 20, 2009, issue of the *Texas Register* (34 TexReg 1939).

These rules are based on the federal regulations applicable to scientific peer review of research grant applications and research and development contract projects of the National Institutes of Health (NIH). The federal NIH regulations are found at 42 CFR 52h. These rules incorporate the matters addressed in the prior Chapter 702 rules, which have been repealed in their entirety and are being replaced with these rules. The rules will be incorporated into the Institute's ethics policy manual.

No public comments were received regarding the proposal.

The new rules are adopted under the Texas Health and Safety Code, §102.106 which directs the Institute's Oversight Committee to adopt such rules to apply to the Oversight Committee. In addition, these rules are adopted pursuant to and in satisfaction of the provisions of Texas Government Code, Chapters 572 and 2255, Texas Health and Safety Code, Chapter 102, and other relevant statutes.

There is no other statute, article or code that is affected by the rules.

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

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William H. Gimson

Executive Director

Cancer Prevention and Research Institute of Texas

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For further information, please call: (512) 463-3190



TITLE 31. NATURAL RESOURCES AND CONSERVATION

PART 2. TEXAS PARKS AND WILDLIFE DEPARTMENT

CHAPTER 65. WILDLIFE

SUBCHAPTER P. ALLIGATOR PROCLAMATION

31 TAC §65.357

The Texas Parks and Wildlife Commission adopts an amendment to §65.357, concerning Purchase and Sale of Alligators, without changes to the proposed text as published in the April 24, 2009, issue of the *Texas Register* (34 TexReg 2597).

The amendment clarifies 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 amendment clarifies 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" 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.

The rule will function by clearly stating that an alligator taken on a wildlife management area must be tagged with a commercial hide tag issued by the department to be lawful for sale

The department received 12 comments opposing adoption of the proposed amendment. Of the 12 commenters, six offered a specific reason or rationale for opposing adoption. Those comments, accompanied by the department's response to each, follow.

One commenter opposed adoption and stated that hunters should not have to purchase a hide tag if they are selling to another individual. The department disagrees with the comment and responds that the issue is not to whom an alligator is sold, but the fact that the alligator is being sold, bartered, or exchanged for anything of value. Unlike game animals and game birds, which cannot be sold, alligators are a publicly owned resource that may be used in commercial activities, subject to applicable state and federal law. The department does not charge hunters for a hide tag if they intend to retain a harvested alligator for personal use; however, the department believes that if a person engages in a commercial activity with a public resource, especially one taken on public lands that are managed at public expense, the person should contribute to the management costs of that resource. No changes were made as a result of the comment.

One commenter opposed adoption and stated that there should be a provision in law for hunters to purchase a Convention on International Trade in Endangered Species (CITES) tags if they decide to sell an alligator. The department agrees with the comment and responds that the rule as adopted accomplishes that goal. No changes were made as a result of the comment.

One commenter opposed adoption and stated that the proposed rule "is poorly worded and will increase confusion on the necessity of a commercial tag." The department disagrees with the comment and responds that the rule is clearly worded to provide that a person who kills an alligator on a wildlife management area must purchase a commercial hide tag if he or she wants to sell or trade the alligator. No changes were made as a result of the comment.

One commenter opposed adoption and stated that a CITES tag should not be required if the alligator is not going to leave the country, since CITES affects only international trade. The department disagrees with the comment and responds that a universal tagging requirement is necessary to identify lawfully taken alligators. No changes were made as a result of the comment. While the alligator is not endangered or threatened anywhere in the U.S., it is covered by CITES due to its similarity of appearance to other endangered crocodylian species.

One commenter opposed adoption and stated that the amendment is unnecessary because it costs money. The department disagrees with the comment and responds that the amendment does not alter the current obligation of a person who sells or trades an alligator to purchase a commercial hide tag, but merely clarifies that this requirement also applies to an alligator harvested on a wildlife management area.

The department received 39 comments supporting adoption of the proposed amendment.

No groups or associations commented in support of or opposition to adoption of the proposed amendment.

The rule is adopted under the authority of Parks and Wildlife Code, §65.003, which authorizes the commission to regulate 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.

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 June 22, 2009.

TRD-200902574

Ann Bright

General Counsel

Texas Parks and Wildlife Department

Effective date: July 12, 2009

Proposal publication date: April 24, 2009

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



TITLE 34. PUBLIC FINANCE

PART 10. TEXAS PUBLIC FINANCE AUTHORITY

CHAPTER 221. DISTRIBUTION OF BOND PROCEEDS

34 TAC §§221.2 - 221.6

The Texas Public Finance Authority (Authority) adopts amendments to §§221.2 - 221.6, relating to the distribution of bond proceeds, without changes to the proposed text as published in the April 3, 2009, issue of the *Texas Register* (34 TexReg 2230).

The purpose of the amendments is to update technical information, such as legal citations, and to make the procedures as efficient as possible.

No comments were received regarding the adoption of the amendments.

The amendments are adopted under the authority of Texas Government Code, Chapter 1232, which provides the Texas Public Finance Authority the authority to adopt rules necessary to administer Chapter 1232.

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 June 24, 2009.

TRD-200902597

Dwight Burns

Executive Director

Texas Public Finance Authority

Effective date: July 14, 2009

Proposal publication date: April 3, 2009

For further information, please call: (512) 463-3143



CHAPTER 223. HISTORICALLY UNDERUTILIZED BUSINESS PROGRAM

34 TAC §223.1

The Texas Public Finance Authority (Authority) adopts amendments to §223.1, relating to Historically Underutilized Businesses, without changes to the proposed text as published in the April 3, 2009, issue of the *Texas Register* (34 TexReg 2234).

The purpose of the amendments is update legal cites for the state's historically underutilized business program.

No comments were received regarding the adoption of the amendments.

The amendments are adopted under the authority of Texas Government Code, §2161.003, which requires state agencies to adopt the Comptroller of Public Accounts rules as the agency's own rules.

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 June 24, 2009.

TRD-200902598

Dwight Burns

Executive Director

Texas Public Finance Authority

Effective date: July 14, 2009

Proposal publication date: April 3, 2009

For further information, please call: (512) 463-3143



CHAPTER 225. MASTER LEASE PURCHASE PROGRAM

34 TAC §§225.1, 225.3, 225.5

The Texas Public Finance Authority (Authority) adopts amendments to §§225.1, 225.3, and 225.5, relating to the Master Lease Purchase Program, without changes to the proposed text as published in the April 3, 2009, issue of the *Texas Register* (34 TexReg 2235).

The purpose of the amendments is to update technical information, such as legal citations, and to make the procedures for financing agencies projects as efficient as possible.

No comments were received regarding the adoption of the amendments.

The amendments are adopted under the authority of Texas Government Code, Chapter 1232, which authorizes the Texas Public Finance Authority to adopt rules necessary to implement the chapter.

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 June 24, 2009.

TRD-200902599

Dwight Burns

Executive Director

Texas Public Finance Authority

Effective date: July 14, 2009

Proposal publication date: April 3, 2009

For further information, please call: (512) 463-3143



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 1. TEXAS DEPARTMENT OF PUBLIC SAFETY

CHAPTER 3. TEXAS HIGHWAY PATROL

SUBCHAPTER A. CRASH INVESTIGATIONS

37 TAC §§3.7 - 3.9

The Texas Department of Public Safety adopts the repeal of §§3.7 - 3.9, concerning Crash Investigations, without changes to the proposed text as published in the April 17, 2009, issue of the *Texas Register* (34 TexReg 2451).

Adoption of repeal of the sections is necessary due to the transfer of the powers and duties for crash reports from the Texas Department of Public Safety to the Texas Department of Transportation.

No comments were received regarding adoption of the repeals.

The repeals are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Senate Bill 766, Acts 2007, 80th Legislature, Regular Session.

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 June 29, 2009.

TRD-200902668

Lamar Beckworth

Director

Texas Department of Public Safety

Effective date: July 19, 2009

Proposal publication date: April 17, 2009

For further information, please call: (512) 424-2135



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 1. DEPARTMENT OF AGING AND DISABILITY SERVICES

CHAPTER 79. LEGAL SERVICES

SUBCHAPTER OO. GUARDIANSHIPS

40 TAC §§79.4001 - 79.4006

The Health and Human Services Commission (HHSC), on behalf of the Department of Aging and Disability Services (DADS), adopts the repeal of Subchapter OO, consisting of §§79.4001 - 79.4006, concerning guardianships, in Chapter 79, Legal Services, without changes to the proposal as published in the April 17, 2009, issue of the *Texas Register* (34 TexReg 2508).

The repeal is adopted to eliminate rules governing guardianships in the Aid to Families with Dependent Children Program (AFDC) program. The AFDC program, now known as Temporary Assistance for Needy Families (TANF), is administered by HHSC, and, therefore, DADS no longer needs these rules in the rule base.

DADS received no comments regarding adoption of the repeal.

The repeal is adopted under Texas Government Code, §531.0055, which provides that the HHSC executive commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, including DADS; and Texas Human Resources Code, §161.021, which provides that the Aging and Disability Services Council shall study and make recommendations to the HHSC executive commissioner and the DADS commissioner regarding rules governing the delivery of services to persons who are served or regulated by DADS.

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 June 26, 2009.

TRD-200902628

Kenneth L. Owens

General Counsel

Department of Aging and Disability Services

Effective date: July 16, 2009

Proposal publication date: April 17, 2009

For further information, please call: (512) 438-3734



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 Department of Licensing and Regulation

Title 16, Part 4

The Texas Department of Licensing and Regulation (Department) files this notice of intent to review and consider for re-adoption, revision, or repeal Title 16, Texas Administrative Code, Chapter 61, Combative Sports. This review and consideration is being conducted in accordance with the requirements of Texas Government Code, §2001.039.

An assessment will be made by the Department as to whether the reasons for adopting or readopting these rules continue to exist. Each rule will be reviewed to determine whether it is obsolete, whether the rule reflects current legal and policy considerations, and whether the rule reflects current procedures of the Department.

Any questions or written comments pertaining to this rule review may be submitted by mail to Caroline Jackson, Legal Assistant, General Counsel's Office, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711, or by facsimile to (512) 475-3032, or electronically to erule.comments@license.state.tx.us. The deadline for comments is 30 days after publication in the *Texas Register*.

Proposed changes to these rules as a result of the rule review will be published in the Proposed Rule Section of the *Texas Register*. The proposed rules will be open for public comment prior to final adoption or repeal by the Department, in accordance with the requirements of the Administrative Procedure Act, Texas Government Code, Chapter 2001.

- §61.1. Authority.
- §61.10. Definitions.
- §61.20. General Licensing Requirements.
- §61.21. Licensing Requirements--Referees.
- §61.22. Licensing Requirements--Judges.
- §61.23. General Prohibitions.
- §61.24. Practice Requirements--General.
- §61.30. Responsibilities and Authority of the Department.
- §61.40. Responsibilities of the Promoter.
- §61.41. Responsibilities of the Referee.
- §61.42. Responsibilities of Judges.
- §61.43. Responsibilities of Seconds.
- §61.44. Responsibilities of Managers.

- §61.45. Responsibilities of Timekeepers.
 - §61.46. Responsibilities of Ringside Physicians.
 - §61.47. Responsibilities of Contestants.
 - §61.48. Responsibilities of Amateur Combative Sports Associations.
 - §61.49. Certain Amateur Events.
 - §61.80. Fees.
 - §61.91. Sanctions and Penalties.
 - §61.105. Weight Categories and Weigh-in--Boxing and Kickboxing.
 - §61.106. Ring and Glove Requirements--Boxing and Kickboxing Contests.
 - §61.107. Boxing.
 - §61.108. Kickboxing.
 - §61.110. Martial Arts.
 - §61.111. Mixed Martial Arts.
 - §61.112. Muay Thai Fighting.
 - §61.120. Medical Advisory Committee.
- TRD-200902676
William H. Kuntz, Jr.
Executive Director
Texas Department of Licensing and Regulation
Filed: June 29, 2009

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The Texas Department of Licensing and Regulation (Department) files this notice of intent to review and consider for re-adoption, revision, or repeal Title 16, Texas Administrative Code, Chapter 64, Temporary Common Worker Employers. This review and consideration is being conducted in accordance with the requirements of Texas Government Code, §2001.039.

An assessment will be made by the Department as to whether the reasons for adopting or readopting these rules continue to exist. Each rule will be reviewed to determine whether it is obsolete, whether the rule reflects current legal and policy considerations, and whether the rule reflects current procedures of the Department.

Any questions or written comments pertaining to this rule review may be submitted by mail to Caroline Jackson, Legal Assistant, General Counsel's Office, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711, or by facsimile to (512) 475-3032,

or electronically to erule.comments@license.state.tx.us. The deadline for comments is 30 days after publication in the *Texas Register*.

Proposed changes to these rules as a result of the rule review will be published in the Proposed Rule Section of the *Texas Register*. The proposed rules will be open for public comment prior to final adoption or repeal by the Department, in accordance with the requirements of the Administrative Procedure Act, Texas Government Code, Chapter 2001.

§64.1. Authority.

§64.10. Definitions.

§64.20. Licensing Requirements General.

§64.70. Duties of a License Holder.

§64.72. Licensee Labor Hall Responsibilities.

§64.80. Fees.

TRD-200902677

William H. Kuntz, Jr.

Executive Director

Texas Department of Licensing and Regulation

Filed: June 29, 2009



The Texas Department of Licensing and Regulation (Department) files this notice of intent to review and consider for re-adoption, revision, or repeal Title 16, Texas Administrative Code, Chapter 67, Auctioneers. This review and consideration is being conducted in accordance with the requirements of Texas Government Code, §2001.039.

An assessment will be made by the Department as to whether the reasons for adopting or readopting these rules continue to exist. Each rule will be reviewed to determine whether it is obsolete, whether the rule reflects current legal and policy considerations, and whether the rule reflects current procedures of the Department.

Any questions or written comments pertaining to this rule review may be submitted by mail to Caroline Jackson, Legal Assistant, General Counsel's Office, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711, or by facsimile to (512) 475-3032, or electronically to erule.comments@license.state.tx.us. The deadline for comments is 30 days after publication in the *Texas Register*.

Proposed changes to these rules as a result of the rule review will be published in the Proposed Rule Section of the *Texas Register*. The proposed rules will be open for public comment prior to final adoption or repeal by the Department, in accordance with the requirements of the Administrative Procedure Act, Texas Government Code, Chapter 2001.

§67.1. Authority.

§67.10. Definitions.

§67.20. License Requirements--Auctioneer.

§67.21. License Requirements--Associate Auctioneers.

§67.22. License Requirements--Examinations.

§67.23. Pre-licensure Education.

§67.24. License Renewal.

§67.25. Continuing Education.

§67.40. Education and Recovery Fund.

§67.65. Advisory Board.

§67.70. Requirements--Auctioneer.

§67.71. Requirements--Sponsoring Auctioneer.

§67.72. Requirements--Associate Auctioneers.

§67.80. Fees.

§67.94. Sanctions--Revocation, Suspension, or Denial Because of a Criminal Conviction.

TRD-200902678

William H. Kuntz, Jr.

Executive Director

Texas Department of Licensing and Regulation

Filed: June 29, 2009



The Texas Department of Licensing and Regulation (Department) files this notice of intent to review and consider for re-adoption, revision, or repeal Title 16, Texas Administrative Code, Chapter 68, Elimination of Architectural Barriers. This review and consideration is being conducted in accordance with the requirements of Texas Government Code, §2001.039.

An assessment will be made by the Department as to whether the reasons for adopting or readopting these rules continue to exist. Each rule will be reviewed to determine whether it is obsolete, whether the rule reflects current legal and policy considerations, and whether the rule reflects current procedures of the Department.

Any questions or written comments pertaining to this rule review may be submitted by mail to Caroline Jackson, Legal Assistant, General Counsel's Office, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711, or by facsimile to (512) 475-3032, or electronically to erule.comments@license.state.tx.us. The deadline for comments is 30 days after publication in the *Texas Register*.

Proposed changes to these rules as a result of the rule review will be published in the Proposed Rule Section of the *Texas Register*. The proposed rules will be open for public comment prior to final adoption or repeal by the Department, in accordance with the requirements of the Administrative Procedure Act, Texas Government Code, Chapter 2001.

§68.1. Authority.

§68.10. Definitions.

§68.20. Buildings and Facilities Subject to Compliance with the Texas Accessibility Standards.

§68.30. Exemptions.

§68.31. Variance Procedures.

§68.50. Submission of Construction Documents.

§68.51. Review of Construction Documents.

§68.52. Inspections.

§68.53. Corrective Modifications Following Inspection.

§68.54. Review and Inspection of Buildings and Facilities with an Estimated Construction Cost of Less than \$50,000 or Not Subject to the Act.

§68.55. Preliminary Plan Reviews.

§68.60. Notice of Substantial Compliance.

§68.65. Advisory Committee.

§68.70. Registered Accessibility Specialists--Qualifications for Certification.
§68.73. Registration Requirements--Renewal.
§68.74. Continuing Education.
§68.75. Responsibilities of the Registered Accessibility Specialist.
§68.76. Standards of Conduct for the Registered Accessibility Specialist.
§68.79. Contract Providers.
§68.80. Fees.
§68.90. Administrative Sanctions or Penalties.
§68.93. Complaints, Investigations, and Audits.
§68.100. Technical Standards and Technical Memoranda.
§68.101. State Leases.
§68.102. Public Right-of-Way Projects.
§68.103. Detention and Correctional Facilities.
§68.104. Elements, Spaces and Accessible Routes at Fire Stations.

TRD-200902679

William H. Kuntz, Jr.

Executive Director

Texas Department of Licensing and Regulation

Filed: June 29, 2009



The Texas Department of Licensing and Regulation (Department) files this notice of intent to review and consider for re-adoption, revision, or repeal Title 16, Texas Administrative Code, Chapter 74, Elevators, Escalators, and Related Equipment. This review and consideration is being conducted in accordance with the requirements of Texas Government Code, §2001.039.

An assessment will be made by the Department as to whether the reasons for adopting or readopting these rules continue to exist. Each rule will be reviewed to determine whether it is obsolete, whether the rule reflects current legal and policy considerations, and whether the rule reflects current procedures of the Department.

Any questions or written comments pertaining to this rule review may be submitted by mail to Caroline Jackson, Legal Assistant, General Counsel's Office, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711, or by facsimile to (512) 475-3032, or electronically to erule.comments@license.state.tx.us. The deadline for comments is 30 days after publication in the *Texas Register*.

Proposed changes to these rules as a result of the rule review will be published in the Proposed Rule Section of the *Texas Register*. The proposed rules will be open for public comment prior to final adoption or repeal by the Department, in accordance with the requirements of the Administrative Procedure Act, Texas Government Code, Chapter 2001.

§74.1. Authority.

§74.10. Definitions.

§74.20. Inspector Registration Requirements.

§74.25. Contractor Registration Requirements.

§74.26. Reporting Requirements--Contractor.

§74.30. Exemptions.

§74.50. Reporting Requirements--Building Owner.

§74.55. Reporting Requirements--Inspector.

§74.60. Standards of Conduct for Inspector or Contractor Registrants.

§74.65. Advisory Board.

§74.70. Responsibilities of the Building Owner.

§74.75. Responsibilities of the Inspector.

§74.80. Fees.

§74.85. Responsibilities of the Department.

§74.90. Sanctions.

§74.100. Technical Requirements.

TRD-200902680

William H. Kuntz, Jr.

Executive Director

Texas Department of Licensing and Regulation

Filed: June 29, 2009



The Texas Department of Licensing and Regulation (Department) files this notice of intent to review and consider for re-adoption, revision, or repeal Title 16, Texas Administrative Code, Chapter 75, Air Conditioning and Refrigeration. This review and consideration is being conducted in accordance with the requirements of Texas Government Code, §2001.039.

An assessment will be made by the Department as to whether the reasons for adopting or readopting these rules continue to exist. Each rule will be reviewed to determine whether it is obsolete, whether the rule reflects current legal and policy considerations, and whether the rule reflects current procedures of the Department.

Any questions or written comments pertaining to this rule review may be submitted by mail to Caroline Jackson, Legal Assistant, General Counsel's Office, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711, or by facsimile to (512) 475-3032, or electronically to erule.comments@license.state.tx.us. The deadline for comments is 30 days after publication in the *Texas Register*.

Proposed changes to these rules as a result of the rule review will be published in the Proposed Rule Section of the *Texas Register*. The proposed rules will be open for public comment prior to final adoption or repeal by the Department, in accordance with the requirements of the Administrative Procedure Act, Texas Government Code, Chapter 2001.

§75.1. Authority.

§75.10. Definitions.

§75.20. Licensing Requirements--Application and Experience Requirements.

§75.21. Licensing Requirements--Examinations.

§75.22. General License Provisions.

§75.23. Licensing Requirements--Temporary Licenses.

§75.24. Licensing and Registration Requirements--Renewal.

§75.25. Continuing Education.

§75.26. Sale and Use of Refrigerants--Certificate of Registration.

§75.27. Air Conditioning and Refrigeration Technician Registration--Application.

§75.28. Air Conditioning and Refrigeration Technician--Certification.
§75.30. Exemptions.
§75.40. Insurance Requirements.
§75.65. Advisory Board.
§75.70. Responsibilities of the Licensee.
§75.71. Responsibilities of the Air Conditioning and Refrigeration Contracting Company.
§75.73. Air Conditioning and Refrigeration Technician--Responsibilities
§75.80. Fees.
§75.90. Sanctions--Administrative Sanctions/Penalties.
§75.100. Technical Requirements.
TRD-200902681
William H. Kuntz, Jr.
Executive Director
Texas Department of Licensing and Regulation
Filed: June 29, 2009



The Texas Department of Licensing and Regulation (Department) files this notice of intent to review and consider for re-adoption, revision, or repeal Title 16, Texas Administrative Code, Chapter 78, Talent Agencies. This review and consideration is being conducted in accordance with the requirements of Texas Government Code, §2001.039.

An assessment will be made by the Department as to whether the reasons for adopting or readopting these rules continue to exist. Each rule will be reviewed to determine whether it is obsolete, whether the rule reflects current legal and policy considerations, and whether the rule reflects current procedures of the Department.

Any questions or written comments pertaining to this rule review may be submitted by mail to Caroline Jackson, Legal Assistant, General Counsel's Office, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711, or by facsimile to (512) 475-3032, or electronically to erule.comments@license.state.tx.us. The deadline for comments is 30 days after publication in the *Texas Register*.

Proposed changes to these rules as a result of the rule review will be published in the Proposed Rule Section of the *Texas Register*. The proposed rules will be open for public comment prior to final adoption or repeal by the Department, in accordance with the requirements of the Administrative Procedure Act, Texas Government Code, Chapter 2001.

§78.1. Authority.
§78.10. Definitions.
§78.20. Registration Requirements--General.
§78.21. Registration and Renewal Requirements--Certificates of Registration.
§78.30. Exemptions.
§78.40. Financial Security Requirements.
§78.70. Responsibilities of the Registrant--General.
§78.72. Responsibilities of Registrant--Treatment of Monies.
§78.73. Responsibilities of the Registrant--Financial Recordkeeping.
§78.75. Responsibilities of the Registrant--Prohibited Acts.

§78.80. Fees.
§78.90. Sanctions--Administrative Sanctions/Penalties.
TRD-200902682
William H. Kuntz, Jr.
Executive Director
Texas Department of Licensing and Regulation
Filed: June 29, 2009



Adopted Rule Reviews

State Board of Dental Examiners

Title 22, Part 5

The State Board of Dental Examiners adopts the review of the rules contained in the Texas Administrative Code, Title 22, Part 5, Chapter 100, concerning General Provisions, in accordance with §2001.039 of the Texas Government Code. The proposed review was published in the November 21, 2008, issue of the *Texas Register* (33 TexReg 9515).

No comments were received regarding this rule review.

As a result of the agency's review process, the State Board of Dental Examiners readopts §§100.1 - 100.5, 100.10, and 100.20 as the need for these rules continues to exist.

This concludes the review of Chapter 100, General Provisions.

TRD-200902629
Sherri Sanders Meek
Executive Director
State Board of Dental Examiners
Filed: June 29, 2009



The State Board of Dental Examiners adopts the review of the rules contained in the Texas Administrative Code, Title 22, Part 5, Chapter 101, concerning Dental Licensure, in accordance with §2001.039 of the Texas Government Code. The proposed review was published in the August 8, 2008, issue of the *Texas Register* (33 TexReg 6397).

No comments were received regarding this rule review.

As a result of the agency's review process the State Board of Dental Examiners proposes amendments to §§101.1 - 101.3 and 101.7; the repeal of §101.6; and the re-adoption of §§101.4, 101.5, and 101.8. The text of the proposed amendments and repeal can be found in this issue of the *Texas Register*.

The agency finds that the reasons for originally adopting the rules continue to exist.

This concludes the review of Chapter 101, Dental Licensure.

TRD-200902649
Sherri Sanders Meek
Executive Director
State Board of Dental Examiners
Filed: June 29, 2009



The State Board of Dental Examiners (SBDE) adopts the review of the rules contained in Texas Administrative Code, Title 22, Part 5, Chapter 102, concerning Fees, in accordance with §2001.039 of the Texas Government Code. The proposed review was published in the December 12, 2008, issue of the *Texas Register* (33 TexReg 10193).

The SBDE received two comments from the Texas Dental Hygienists' Association (TDHA). A summary of comments and the Board's response are set out as follows:

The TDHA suggested that §102.1 include a fee for Pit and Fissure Sealant certification and a fee for Nitrous Oxide Monitoring Certification.

The TDHA suggested that §102.2 include a cost for copying information onto compact disc (CD). Staff appreciates these comments from TDHA. However, no changes were made to §102.1 as there is no fee assessed for a registered dental hygienist to request sealant certification. No changes were made to §102.2 as the SBDE rarely receives requests for information to be placed on CD, and when this format is requested there is no separate fee imposed.

As a result of the agency's review process the State Board of Dental Examiners proposes amendments to §102.1 and the readoption of §102.2. The text of the proposed amendment can be found in this issue of the *Texas Register*.

The agency finds that the reasons for originally adopting the rules continue to exist.

This concludes the review of Chapter 102, Fees.

TRD-200902640
Sherri Sanders Meek
Executive Director
State Board of Dental Examiners
Filed: June 29, 2009



The State Board of Dental Examiners adopts the review of the rules contained in the Texas Administrative Code, Title 22, Part 5, Chapter 103, concerning Dental Hygiene Licensure, in accordance with §2001.039 of the Texas Government Code. The proposed review was published in the August 8, 2008, issue of the *Texas Register* (33 TexReg 6397).

No comments were received regarding this rule review.

As a result of the agency's review process the State Board of Dental Examiners proposes amendments to §§103.1, 103.3 and 103.7; the repeal of §103.6; and the readoption of §§103.2, 103.4, and 103.5. The text of the proposed amendments and repeal can be found in this issue of the *Texas Register*.

The agency finds that the reasons for originally adopting the rules continue to exist.

This concludes the review of Chapter 103, Dental Hygiene Licensure.

TRD-200902644
Sherri Sanders Meek
Executive Director
State Board of Dental Examiners
Filed: June 29, 2009



The State Board of Dental Examiners adopts the review of the rules contained in the Texas Administrative Code, Title 22, Part 5, Chapter 107, concerning Dental Board Procedures, in accordance with §2001.039 of the Texas Government Code. The proposed review was published in the October 31, 2008, issue of the *Texas Register* (33 TexReg 8947).

No comments were received regarding this rule review.

As a result of the agency's review process, the State Board of Dental Examiners readopts §§107.1, 107.11 - 107.18, 107.20, 107.21, 107.29, 107.31, 107.48 - 107.60, 107.62 - 107.68, 107.100 - 107.103, 107.110, 107.202, and 107.300 as the need for these rules continues to exist.

This concludes the review of Chapter 107, Dental Board Procedures.

TRD-200902630
Sherri Sanders Meek
Executive Director
State Board of Dental Examiners
Filed: June 29, 2009



The State Board of Dental Examiners adopts the review of the rules contained in the Texas Administrative Code, Title 22, Part 5, Chapter 108, concerning Professional Conduct, in accordance with §2001.039 of the Texas Government Code. The proposed review was published in the October 31, 2008, issue of the *Texas Register* (33 TexReg 8948).

A comment was received regarding §108.8(c)(2)(B). The commenter noted that a publication referred to in this rule is no longer published. Staff is researching an appropriate publication to substitute.

As a result of the agency's review process, the State Board of Dental Examiners readopts §§108.1 - 108.9, 108.11, 108.20 - 108.25, 108.30 - 108.35, 108.40 - 108.43, 108.50 - 108.61, and 108.70 - 108.72 as the need for these rules continues to exist.

This concludes the review of Chapter 108, Professional Conduct.

TRD-200902631
Sherri Sanders Meek
Executive Director
State Board of Dental Examiners
Filed: June 29, 2009



The State Board of Dental Examiners adopts the review of the rules contained in the Texas Administrative Code, Title 22, Part 5, Chapter 110, concerning Enteral Conscious Sedation, in accordance with §2001.039 of the Texas Government Code. The proposed review was published in the October 31, 2008, issue of the *Texas Register* (33 TexReg 8949).

No comments were received regarding this rule review.

As a result of the agency's review process, the State Board of Dental Examiners readopts §§110.1 - 110.4 as the need for these rules continues to exist.

This concludes the review of Chapter 110, Enteral Conscious Sedation.

TRD-200902632
Sherri Sanders Meek
Executive Director
State Board of Dental Examiners
Filed: June 29, 2009



The State Board of Dental Examiners adopts the review of the rules contained in the Texas Administrative Code, Title 22, Part 5, Chapter 112, concerning Visual Dental Health Inspections, in accordance with §2001.039 of the Texas Government Code. The proposed review was published in the August 22, 2008, issue of the *Texas Register* (33 TexReg 7005).

No comments were received regarding this rule review.

As a result of the agency's review process, the State Board of Dental Examiners readopts §112.1 and §112.2 as the need for these rules continues to exist.

This concludes the review of Chapter 112, Visual Dental Health Inspections.

TRD-200902633
Sherri Sanders Meek
Executive Director
State Board of Dental Examiners
Filed: June 29, 2009



The State Board of Dental Examiners adopts the review of the rules contained in the Texas Administrative Code, Title 22, Part 5, Chapter 113, concerning Requirements for Dental Offices, in accordance with §2001.039 of the Texas Government Code. The proposed review was published in the December 12, 2008, issue of the *Texas Register* (33 TexReg 10193).

No comments were received regarding this rule review.

As a result of the agency's review process the State Board of Dental Examiners readopts §113.1 and §113.2 as the need for these rules continues to exist.

This concludes the review of Chapter 113, Requirements for Dental Offices.

TRD-200902634
Sherri Sanders Meek
Executive Director
State Board of Dental Examiners
Filed: June 29, 2009



The State Board of Dental Examiners adopts the review of the rules contained in the Texas Administrative Code, Title 22, Part 5, Chapter 114, concerning Extension of Duties of Auxiliary Personnel--Dental Assistants, in accordance with §2001.039 of the Texas Government Code. The proposed review was published in the August 22, 2008, issue of the *Texas Register* (33 TexReg 7005).

No comments were received regarding this rule review.

As a result of the agency's review process the State Board of Dental Examiners proposes amendments to §114.2 and §114.21; the repeal of §114.10 and §114.20; and readopts §§114.1, 114.3, 114.4, 114.11, 114.22, and 114.23. The proposed amendments and repeal can be found in this issue of the *Texas Register*.

The agency finds that the reasons for originally adopting the rules continue to exist.

This concludes the review of Chapter 114, Extension of Duties of Auxiliary Personnel--Dental Assistants.

TRD-200902655
Sherri Sanders Meek
Executive Director
State Board of Dental Examiners
Filed: June 29, 2009



The State Board of Dental Examiners adopts the review of the rules contained in the Texas Administrative Code, Title 22, Part 5, Chapter 115, concerning Extension of Duties of Auxiliary Personnel--Den-

tal Hygiene, in accordance with §2001.039 of the Texas Government Code. The proposed review was published in the August 22, 2008, issue of the *Texas Register* (33 TexReg 7005).

No comments were received regarding this rule review.

As a result of the agency's review process the State Board of Dental Examiners proposes new §115.6 pertaining to Records and readopts §§115.1 - 115.5 and 115.20. The proposed new rule can be found in this issue of the *Texas Register*.

This agency finds that the reasons for originally adopting these rules continue to exist.

This concludes the review of Chapter 115, Extension of Duties of Auxiliary Personnel--Dental Hygiene.

TRD-200902642
Sherri Sanders Meek
Executive Director
State Board of Dental Examiners
Filed: June 29, 2009



The State Board of Dental Examiners adopts the review of the rules contained in the Texas Administrative Code, Title 22, Part 5, Chapter 116, concerning Dental Laboratories, in accordance with §2001.039 of the Texas Government Code. The proposed review was published in the August 22, 2008, issue of the *Texas Register* (33 TexReg 7006).

No comments were received regarding this rule review.

As a result of the agency's review process the State Board of Dental Examiners readopts §§116.1 - 116.6, 116.10, and 116.20 as the need for these rules continues to exist.

This concludes the review of Chapter 116, Dental Laboratories.

TRD-200902635
Sherri Sanders Meek
Executive Director
State Board of Dental Examiners
Filed: June 29, 2009



The State Board of Dental Examiners adopts the review of the rules contained in the Texas Administrative Code, Title 22, Part 5, Chapter 117, concerning Faculty and Students in Accredited Dental Schools, in accordance with §2001.039 of the Texas Government Code. The proposed review was published in the August 22, 2008, issue of the *Texas Register* (33 TexReg 7006).

No comments were received regarding this rule review.

As a result of the agency's review process the State Board of Dental Examiners readopts §§117.1 - 117.3 as the need for these rules continues to exist.

This concludes the review of Chapter 117, Faculty and Students in Accredited Dental Schools.

TRD-200902636
Sherri Sanders Meek
Executive Director
State Board of Dental Examiners
Filed: June 29, 2009



The State Board of Dental Examiners adopts the review of the rules contained in the Texas Administrative Code, Title 22, Part 5, Chapter 119, concerning Special Areas of Dental Practice, in accordance with §2001.039 of the Texas Government Code. The proposed review was published in the November 21, 2008, issue of the *Texas Register* (33 TexReg 9515).

No comments were received regarding this rule review.

As a result of the agency's review process the State Board of Dental Examiners proposes new §119.9 pertaining to Oral and Maxillofacial Radiology and readopts §§119.1 - 119.8. The text of the proposed new rule can be found in this issue of the *Texas Register*.

The agency finds that the reasons for originally adopting the rules continue to exist.

This concludes the review of Chapter 119, Special Areas of Dental Practice.

TRD-200902638
Sherri Sanders Meek
Executive Director
State Board of Dental Examiners
Filed: June 29, 2009

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The State Board of Dental Examiners adopts the review of the rule contained in the Texas Administrative Code, Title 22, Part 5, Chapter 125, concerning Applications for Special Consideration or Exception to Board Rules, in accordance with §2001.039 of the Texas Government Code. The proposed review was published in the November 21, 2008, issue of the *Texas Register* (33 TexReg 9515).

No comments were received regarding this rule review.

As a result of the agency's review process the State Board of Dental Examiners readopts §125.1 as the need for this rule continues to exist.

This concludes the review of Chapter 125, Applications for Special Consideration or Exception to Board Rules.

TRD-200902637
Sherri Sanders Meek
Executive Director
State Board of Dental Examiners
Filed: June 29, 2009

TABLES & GRAPHICS

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

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

Figure: 22 TAC §75.7(a)

Schedule of Fees

	FeeDescription	Board Fee	Professional Fee (78th Leg)	Texas Online	Patient Protection	Total Fee
1.	DC Initial Application (includes \$50 transcript verification)	\$185.00	\$200.00	\$0.00	\$0.00	\$385.00
2.	DC Jurisprudence Examination (Repeat Exam)	135.00	200.00	0.00	0.00	335.00
3.	DC Initial License - Prorated	125.00	0.00	0.00	5.00	130.00
4.	DC License Renewal - On Time	135.00	200.00	5.00	1.00	341.00
5.	DC License Renewal - Late under 90 days	202.50	200.00	5.00	1.00	408.50
6.	DC License Renewal - Late 90 days to 1 year	270.00	200.00	5.00	1.00	476.00
7.	DC License Renewal - Late up to 3 Years for Good Cause	Calculated	Calculated	0.00	0.00	Calculated
8.	DC License Reinstatement - Out of State	135.00	200.00	0.00	0.00	335.00
9.	DC License - Put on Inactive Status	None	None	None	None	None
10.	DC License - Reactivate from Inactive Status	135.00	200.00	0.00	0.00	335.00
11.	DC License - Duplicate Copy (Replacement)	25.00	0.00	0.00	0.00	25.00
12.	DC Annual Certificate - Duplicate Copy (Replacement)	10.00	0.00	0.00	0.00	10.00
13.	Facility License - Initial Registration	65.00	0.00	0.00	5.00	70.00
14.	Facility License Renewal - On Time	65.00	0.00	2.00	1.00	68.00
15.	Facility License Renewal - Late under 90 days	115.00	0.00	2.00	1.00	118.00
16.	Facility License Renewal - Late 90 days to one year	165.00	0.00	2.00	1.00	168.00
17.	Facility License - Duplicate Copy (Replacement)	25.00	0.00	0.00	0.00	25.00
18.	Radiologic Technician Initial Registration	35.00	0.00	0.00	0.00	35.00

19.	Radiologic Technician Annual Renewal	35.00	0.00	0.00	1.00	36.00
20.	Continuing Education Course Approval Fee (annual)	<u>165.00</u> [25.00]	0.00	0.00	0.00	<u>165.00</u> [25.00]
21.	TBCE Online Jurisprudence CE Course	55.00	0.00	0.00	0.00	55.00
22.	Application for Approval of Chiropractic Specialty (Proposed)	750.00	0.00	0.00	0.00	750.00
23.	Newsletter Fee - One Year (Proposed)	8.00	0.00	0.00	0.00	8.00
24.	Certification of DC license (to another state board)	25.00	0.00	0.00	0.00	25.00
25.	Verification of DC license (not certification letter) + postage	2.00	0.00	0.00	0.00	2.00
26.	Verification of Educational Courses/Grades	50.00	0.00	0.00	0.00	50.00
27.	Printed copy of Statutes and Rules	10.00	0.00	0.00	0.00	10.00
28.	Returned Check Fee	25.00	0.00	0.00	0.00	25.00
29.	<u>College Faculty License - Original</u>	<u>150.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>150.00</u>
30.	<u>College Faculty License - Renewal</u>	<u>135.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>135.00</u>

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ADDITION

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

Texas Department of Agriculture

Request for Qualifications: Intellectual Property/Trademark
Outside Counsel Services

Purpose and Scope.

The Texas Department of Agriculture (the Department), an agency of the state of Texas, is publishing this Request for Qualifications (RFQ) seeking to employ an Intellectual Property and Copyright/Trademark Counsel to assist the Department with legal services in the intellectual property and copyright/trademark areas of law in the implementation of programs under the Texas Agriculture Code.

The Department has been granted the authority by the Texas Legislature to promote various products and commodities associated with Texas enterprises through marketing programs that include the use of copyrighted material and registered trademarks owned by the state of Texas. The Department is also authorized to establish programs to promote economic development in rural Texas and has also utilized registered trademarks for those programs.

The Department has implemented the GO TEXAN certification mark, registration number 2485720 for the products identified under said registration number. The Department is in the process of applying for and/or developing certification marks for retirement communities and rural communities in the State of Texas. The Department may implement other trademarks or service marks which are registered trademarks, as well as other copyrighted material, in the implementation of product promotion programs such as: the GO TEXAN Partner Program, the Texas Oyster Program, the Texas Shrimp Marketing Assistance Program, the Texas Wine Marketing Assistance Program, and its Food and Nutrition Program and other programs pertaining to the promotion of healthy foods. In addition, the Department may implement registered certification marks, trademarks, or service marks for its rural economic development programs.

Statement of Duties for the Counsel.

The counsel's responsibilities for intellectual and copyright/trademark work will include, but will not be limited to, securing state and federal trademark/certification registrations, advising the Department on protection of property rights while registrations are pending, and advising or assisting with any matter directly related to securing registration and protection of the Department's interests in the property.

With respect to intellectual property and copyright/trademark issues, counsel, in consultation with the staff of the Department, will prepare all legal documents required by the U.S. Patent and Trademark Office, the Texas Secretary of State's Office, Comptroller of Public Accounts, Attorney General, or outside parties; protect Department interests in such property and obtain registrations and certifications from the appropriate authorities; and review actions and render opinions on the legality of pending, existing or proposed copyrighted materials, certification marks, trademarks, and/or service marks.

The counsel shall also perform other legal services, if requested by the Department, that do not come within the functions of registration or certification of copyrighted material, trademarks, certification marks, or service marks, but are needed for the implementation and adminis-

tration of such copyrighted material and marks within the context of the Department's promotional, nutrition and rural economic development programs. Such services shall include, without limitation, the following: consultation concerning planning and development of copyrighted material certification marks, trademarks, and/or service marks for programs of the Department; review of applications and registrations; advice and services concerning legislation affecting such programs; and advising on potential claims by the Department against other parties in relation to copyrighted material, trademarks, certification marks, service marks, and other intellectual property.

Proposal Contents.

Responses to this RFQ should include, at least, the following: a thorough description of your firm's ability to represent the Department in the stated job duties; a description of your firm's past experience as intellectual property and copyright/trademark counsel for other state agencies; a description of your firm's general experience as intellectual property and copyright/trademark counsel; a designation of the individuals who might be assigned to the work of the Department; examples of similar programs in which your firm has assisted as legal counsel; a quotation of your proposed fee structure including flat fees and/or hourly rates for filing applications and follow up documentation with the U.S. Copyright and Trademark Offices; a statement addressing the effort made by your firm to encourage and develop the participation of women and minorities in your firm; affirmation that the firm does not, and shall not during the term of the contract, represent any plaintiff in a proceeding seeking monetary damages from the State of Texas or any of its agencies; and a statement of willingness to comply with policies, directives, and guidelines of the Department and the Attorney General of the State of Texas.

Statement of Evaluation Process.

Responses to this RFQ will be evaluated and ranked according to the information provided, and summarized for the Commissioner of Agriculture's review. Staff will rank the proposals and make a recommendation to the Commissioner. The Department intends to select the proposal that demonstrates the highest degree of competency and the necessary qualifications and experience in providing the requested legal services at a fair and reasonable price.

Proposal Requirements.

A duly authorized representative of the firm must execute the submitted response. An unsigned response will not be accepted. Issuance of this RFQ in no way constitutes a commitment by the Department to award a contract, or to pay for any services incurred either in the preparation of a response to this RFQ or for the production of any contract for services. All communications with the Department concerning this RFQ and the selection of counsel should be directed to Dolores Alvarado Hibbs, General Counsel, on behalf of the Department. **Any contact by a submitting firm, its employees or representatives, with any staff member of the Department for the purposes of soliciting or encouraging a favorable review may be considered grounds for disqualification.**

Proposal Submission.

All proposals must be received no later than 5:00 p.m., August 1, 2009. Proposal responses, modifications or addenda to an original response received by the Department after the specified time and date for closing will not be considered. Each firm is responsible for ensuring that its response reaches the Department before the due date. Firms should **submit one unbound original and three (3) copies of their proposal to: Dolores Alvarado Hibbs, General Counsel, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711, Street Address: 1700 N. Congress, Stephen F. Austin Bldg., 11th Floor, Austin, Texas 78701.**

Please mark the envelopes containing proposals with the following note in the lower left-hand corner: **IN RESPONSE TO PROPOSAL REQUEST: INTELLECTUAL PROPERTY AND COPYRIGHT/TRADEMARK COUNSEL.** All proposals become the property of the Department. Proposals must set forth full, accurate and complete information as required by this request. Oral responses, instructions or offers will not be considered. The Department reserves the right to reject any and all responses.

Term of the Agreement.

The contract term shall be for the period beginning September 1, 2009, through August 31, 2010, with one option to renew from the period of September 1, 2010 through August 31, 2011.

Proposal Modification.

Any response may be modified or withdrawn even after received by the Department at any time prior to the proposal due date. No material changes will be allowed after the expiration of the proposal due date; however, non-substantive corrections or deletions may be made with the approval of staff of the Department. The Department reserves the exclusive right to review proposals and make an appropriate selection from such proposals. The Department is not bound to accept any proposal by virtue of this RFQ.

Cost Incurred in Responding.

All costs directly or indirectly related to preparation of a response to the RFQ or any oral presentation required to supplement and/or clarify the RFQ which may be required by the Department shall be the sole responsibility of, and shall be borne by your firm.

Release of Information and Open Records.

All proposals shall be deemed, once submitted, to be the property of the Department. Information submitted in response to this RFQ shall not be released by the Department during the proposal evaluation process or prior to the awarding of a contract. After the Department completes the process and a contract is awarded, proposals and information included therein may be subject to public disclosure under the Texas Public Information Act.

TRD-200902721

Dolores Alvarado Hibbs
General Counsel

Texas Department of Agriculture

Filed: July 1, 2009

Office of the Attorney General

Request for Applications for the Sexual Assault Prevention and Crisis Services Program

The Crime Victim Services Division (CVSD) of the Office of the Attorney General (OAG) is soliciting applications from qualified Statewide non-profit organizations to utilize funds to provide: (1) services to prevent sexual violence; (2) outreach programs; and (3) technical assis-

tance to support youth and rape crisis centers working to prevent sexual violence.

Applicable Funding Source: The source of state funds is a biennial appropriation by the Texas Legislature. All funding is contingent upon the appropriation of funds by the Texas Legislature. The OAG makes no commitment that an application, once submitted, or a grant, once funded, will receive subsequent funding.

Eligibility Requirements: To be eligible, an applicant must (1) be a statewide non-profit organization exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code of 1986; and (2) have a primary purpose of ending sexual violence in this state. A statewide program is an entity that actively offers or provides services in six or more Council of Government (COG) regions.

The OAG will initially screen each application for eligibility. Applications will be deemed ineligible if the application is submitted by an ineligible applicant; the application is not filed in the manner and form required by the Request for Applications (RFA) or the Application Kit; the application is filed after the deadline established in the RFA or the Application Kit; or the application does not meet other requirements as stated in the RFA or the Application Kit.

How to Obtain Application Kit: The OAG will post the Application Kit on the OAG's official agency website at <http://www.oag.state.tx.us/victims/grants.shtml>. Updates and other helpful reminders about the application process will also be posted at this location. Potential applicants are encouraged to refer to this site regularly.

Deadlines and Filing Instructions for the Grant Application: Refer to the Application Kit for the complete application requirements and instructions.

Deadline: The applicant must submit its application to the OAG and the OAG must receive the submitted application and all required attachments by 5:00 p.m. CST July 23, 2009 to be considered timely filed.

Filing Instructions: To be considered filed, the Applicant must submit the application by email to: CVSGrantsApplications@oag.state.tx.us.

The OAG will not consider an Application if it is not filed by the due date, 5:00 p.m. CST July 23, 2009.

Minimum and Maximum Amounts of Funding Available: For the initial grant contract period (term) the minimum amount of funding statewide programs may apply for is \$20,000 and the maximum amount is \$200,000.

The amount of the award is determined solely by the OAG. The OAG may award a grant at an amount above or below the established funding level and is not obligated to fund a grant at the amount requested. Based on available funding, the grant contract may be amended for an additional term with an additional amount of funding at the sole discretion of the OAG.

Start Date and Length of Grant Contract Period: The term of this grant contract is up to two years from September 1, 2009 through August 31, 2011, subject to and contingent on funding and approval by the OAG. If the grant contract period extends for more than one state fiscal year, the grantee may be required to submit additional documentation relating to the second fiscal year of the grant contract period, including an updated budget. The OAG may base its decision for the second fiscal year funding amounts on the grantee's first year performance, including but not limited to: the timeliness and thoroughness of reporting, effective and efficient use of grant funds and the success of the project in meeting its goals.

No Match Requirements: There are no match requirements for this funding opportunity.

Volunteer Requirements: A volunteer component is required. Specific requirements for the volunteer component will be stated in the Application Kit.

Award Criteria: The OAG will make funding decisions that support the efficient and effective use of public funds. Scoring components may include, but are not limited to, information provided by the applicant on the organization's capacity, infrastructure, current knowledge, efforts, expertise and experience, and on the proposed project activities and budget.

Prohibitions on Use of Grant Funds: OAG grant funds may not be used to support or pay the costs of overtime, dues, or lobbying; any portion of the salary or any other compensation for an elected government official; the purchase of food and beverages except as allowed under Texas State Travel Guidelines; the purchase or lease of vehicles; the purchase of promotional items or recreational activities; out of state travel or costs of travel that are unrelated to the direct delivery of services that support the OAG funded program; the costs for consultants or vendors who participate directly in writing a grant application; or for any unallowable costs set forth in applicable state or federal law, rules, regulations, guidelines, policies, procedures or cost principles. Grant funds may not be used to purchase any other products or services the OAG identifies as inappropriate or unallowable within this RFA or the Application Kit.

OAG Contact Person: If additional information is needed, contact Jennifer McShane at CVSGrantsApplications@oag.state.tx.us or (512) 936-1278.

For information regarding this publication, contact Zindia Thomas, Agency Liaison, at (512) 936-9901.

TRD-200902674
Stacey Napier
Deputy Attorney General
Office of the Attorney General
Filed: June 29, 2009

Comptroller of Public Accounts

Notice of Contract Award

Pursuant to Chapter 2107, §2107.003(c), Texas Government Code, the Comptroller of Public Accounts (Comptroller) announces under its Request for Proposals (RFP #192c) the award of the following contract:

A contract is awarded to NCO Financial Systems, Inc., 800 Wilcrest, Suite 300, Houston, Texas 77042 (Contractor). The total contract amount is based on a percentage of the amounts collected on delinquent tax accounts referred to the Contractor that are below the minimum threshold for referral to the Office of the Attorney General of Texas. No minimum amount is guaranteed.

The Comptroller's Request for Proposals #192c related to this contract award was published in the March 6, 2009, issue of the *Texas Register* (34 TexReg 1732).

The primary term of the contract is June 29, 2009 through August 31, 2011 and may be extended two (2) times for one (1) year at a time.

TRD-200902719

Pamela Smith
Deputy General Counsel for Contracts
Comptroller of Public Accounts
Filed: July 1, 2009

Notice of Intent to Amend Contract

Pursuant to Chapter 403 and Chapter 2254, Subchapter B, Texas Government Code, the Comptroller of Public Accounts (Comptroller), on behalf of the Texas Prepaid Higher Education Tuition Board (Board), announces the following notice of intent to increase a major consulting services contract with Ennis Knupp & Associates, Inc. as follows:

The contract with Ennis Knupp & Associates, Inc., will be amended and increased from not-to-exceed \$200,000.00, to not-to-exceed \$300,000.00. The term of the contract is from August 27, 2008, through August 31, 2010. There are two (2) options to renew for one (1) additional one (1) year terms to be exercised one (1) year at a time.

The notice of request for proposals was published in the May 2, 2008, issue of the *Texas Register* (33 TexReg 3670) (RFP #185a).

The contractor will provide additional consulting and technical advice and assistance to the Comptroller and the Texas Prepaid Higher Education Tuition Board in the evaluation, selection, and ongoing administration of the Texas Prepaid Guaranteed Tuition Program, Texas College Savings Plan, Lonestar 529 Plan, and Texas Tomorrow Fund II Prepaid Undergraduate Tuition Program.

TRD-200902671
William Clay Harris
Assistant General Counsel, Contracts
Comptroller of Public Accounts
Filed: June 29, 2009

Notice of Request for Proposals

Pursuant to Chapters 403; 2254, Subchapter A; and Chapter 2305, §2305.032, Texas Government Code, the Comptroller of Public Accounts (Comptroller), State Energy Conservation Office (SECO) announces its Request for Proposals (RFP #195b) and invites proposals from qualified, interested engineering firms and individuals to provide professional energy engineering services for the LoanSTAR Revolving Loan Program. The Comptroller reserves the right to award more than one contract under the RFP. If a contract award is made under the terms of this RFP, 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 St., 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, July 10, 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, July 10, 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, July 17, 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, July 24, 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, July 31, 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 Comptroller will make the final decision. The Comptroller reserves the right to accept or reject any or all proposals submitted. The Comptroller is not obligated to execute a contract on the basis of this notice or the distribution of any RFP. The Comptroller 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 - July 10, 2009, after 10:00 a.m. CZT; Non-Mandatory Letters of Intent and Questions Due - July 17, 2009, 2:00 p.m. CZT; Official Responses to Questions posted - July 24, 2009; Proposals Due - July 31, 2009, 2:00 p.m. CZT; Contract Execution - September 1, 2009, or as soon thereafter as practical; Commencement of Services - September 1, 2009.

TRD-200902707
William Clay Harris
Assistant General Counsel, Contracts
Comptroller of Public Accounts
Filed: July 1, 2009

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Office of Consumer Credit Commissioner

Notice of Rate Ceilings

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

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 07/06/09 - 07/12/09 is 18% for Consumer¹/Agricultural/Commercial²/credit through \$250,000.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 07/06/09 - 07/12/09 is 18% for Commercial over \$250,000.

¹Credit for personal, family or household use.

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

TRD-200902687
Leslie L. Pettijohn
Commissioner
Office of Consumer Credit Commissioner
Filed: June 29, 2009

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Commission on State Emergency Communications

Notice of Workshop Regarding the Texas Next Generation 9-1-1 Migration Path

The Commission on State Emergency Communications (CSEC) will hold a workshop regarding the Texas Next Generation 9-1-1 Migration Path on **July 21, 2009, from 1:00 p.m. to 4:00 p.m.**, at 333 Guadalupe Street, Room 100, Austin, Texas 78701.

The CSEC is holding this workshop to coordinate its application for federal E9-1-1 grants funds authorized under the "Ensuring Needed Help Arrives Near Callers Employing 911 Act of 2004" (ENHANCE 911 Act) with local governments, tribal organizations and PSAPs within the state, and to involve the 9-1-1 telecommunications service providers and 9-1-1 vendors in the migration to an IP-enabled emergency services network.

The primary purpose of the workshop is to present the Texas Next Generation 9-1-1 (NG9-1-1) Migration Path and to seek input from 9-1-1 vendors, other interested parties, and the public. The Migration Path will be the foundation of the CSEC's application for federal E9-1-1 grant funds. The Migration Path will be incorporated into the CSEC NG9-1-1 Master Plan, version 2.0. Upon CSEC board authorization at its meeting on July 14, 2009, the plan will be made available on the CSEC website.

The workshop agenda is as follows:

- I. Welcoming Remarks by CSEC Staff
- II. Overview of the Migration
- III. Review Comments
- IV. Open Discussion
- V. Closing

Written comments on the Migration Path are invited and may be submitted in writing to CSEC before and/or after the workshop, but no later than July 29, 2009.

Comments may be sent to:

Commission on State Emergency Communications
Attention: NG9-1-1 Workshop Comments
333 Guadalupe Street, Suite 2-212, Austin, Texas 78701

- or -

comments@csec.state.tx.us

Questions concerning the workshop or this notice should be referred to Susan Seet at (512) 305-6917 or **susan.seet@csec.state.tx.us**.

Persons planning on participating in the workshop, please register by contacting Elizabeth Baker at (512) 305-6928 or **elizabeth.baker@csec.state.tx.us**.

Hearing and speech-impaired individuals with a telecommunications device for the deaf may contact CSEC at (512) 305-6925.

CSEC will not be broadcasting the workshop or allowing telephonic participation.

TRD-200902706
Patrick Tyler
General Counsel
Commission on State Emergency Communications
Filed: June 30, 2009

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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 **August 10, 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 August 10, 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: 100 Century Oaks, Limited; DOCKET NUMBER: 2009-0430-EAQ-E; IDENTIFIER: RN105676555; LOCATION: San Antonio, Bexar County; TYPE OF FACILITY: land development construction site; RULE VIOLATED: 30 Texas Administrative Code (TAC) §213.4(a)(1), by failing to obtain approval of a Water Pollution Abatement Plan; PENALTY: \$2,250; ENFORCEMENT COORDINATOR: Lanae Foard, (512) 239-2554; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(2) COMPANY: Alumax Mill Products, Inc.; DOCKET NUMBER: 2009-0094-AIR-E; IDENTIFIER: RN100215250; LOCATION: Texarkana, Bowie County; TYPE OF FACILITY: aluminum production plant; RULE VIOLATED: 30 TAC §§113.750, 116.115(c), and 122.143(4), 40 Code of Federal Regulations (CFR) §63.1506(g)(4), Air Permit Number 9476, Special Condition (SC) Number 6, Federal Operating Permit (FOP) Number O-01413, Special Terms and Conditions (STC) Number 8, and Texas Health and Safety Code (THSC), §382.085(b), by failing to maintain the three hour block average inlet temperature for each fabric filter; 30 TAC §§113.750, 116.115(c), and 122.143(4), 40 CFR §63.1506(g)(1)(i), Air Permit Number 9476, SC Number 6, FOP Number O-01413, STC Number 8, and THSC, §382.085(b), by failing to maintain the three hour block average temperature of each after burner at the incinerator at or above the average temperature established during the performance test; 30 TAC §122.143(4) and §122.145(2)(A), FOP Number O-01413, General Terms and Conditions (GTC), and THSC, §382.085(b), by failing to report each instance of a deviation in the semi-annual deviation report; and 30 TAC §116.115(c) and §122.143(4), Air Permit Number 9476, SC Number 13, FOP Number O-01413, STC Number 8, and THSC, §382.085(b), by failing to condition, by the batch decoat-ing/delacquering/drying system incinerator, an aluminum blind that

was painted on one side that was received from an outside source; PENALTY: \$11,929; ENFORCEMENT COORDINATOR: Suzanne Walrath, (512) 239-2134; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(3) COMPANY: American Airlines, Inc.; DOCKET NUMBER: 2009-0352-AIR-E; IDENTIFIER: RN100222231; LOCATION: Fort Worth, Tarrant County; TYPE OF FACILITY: aircraft maintenance plant; RULE VIOLATED: 30 TAC §122.146(2) and THSC, §382.085(b), by failing to submit the annual permit compliance certification; 30 TAC §101.20(1), 40 CFR §60.48c(f)(1)(i) and (ii), and THSC, §382.085(b), by failing to include information in the fuel supplier certification; and 30 TAC §122.145(2) and THSC, §382.085(b), by failing to submit a semi-annual deviation report; PENALTY: \$5,457; ENFORCEMENT COORDINATOR: Terry Murphy, (512) 239-5025; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(4) COMPANY: Michael Arena; DOCKET NUMBER: 2009-0901-OSI-E; IDENTIFIER: RN101967206; LOCATION: Sour Lake, Hardin County; TYPE OF FACILITY: scrap and waste materials; RULE VIOLATED: 30 TAC §30.5(a), by failing to obtain a required occupational license; PENALTY: \$210; ENFORCEMENT COORDINATOR: Kirk Schoppe, (512) 239-0489; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(5) COMPANY: BASF Corporation; DOCKET NUMBER: 2009-0572-AIR-E; IDENTIFIER: RN100218049; LOCATION: Freeport, Brazoria County; TYPE OF FACILITY: chemical manufacturing plant; RULE VIOLATED: 30 TAC §116.115(c), Air Permit Number 1733A, SC Number 1, and THSC, §382.085(b), by failing to prevent unauthorized emissions; and 30 TAC §101.201(a)(1)(B) and (c) and THSC, §382.085(b), by failing to submit the initial notification for Incident Number 119861 within 24 hours of discovery and by failing to submit the final report within two weeks after the end of the event; PENALTY: \$6,507; ENFORCEMENT COORDINATOR: Nadia Hameed, (713) 767-3500; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(6) COMPANY: Bell's Conversions, Inc.; DOCKET NUMBER: 2009-0373-AIR-E; IDENTIFIER: RN103213484; LOCATION: Garland, Dallas County; TYPE OF FACILITY: automotive refinishing shop; RULE VIOLATED: 30 TAC §116.110(a) and THSC, §382.0518(a) and §382.085(b), by failing to obtain a permit or meet the conditions of a permit by rule prior to constructing and operating a surface coating operation; PENALTY: \$4,280; ENFORCEMENT COORDINATOR: Suzanne Walrath, (512) 239-2134; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(7) COMPANY: BNSF Railway Company; DOCKET NUMBER: 2009-0365-IWD-E; IDENTIFIER: RN102863537; LOCATION: Houston, Harris County; TYPE OF FACILITY: locomotive maintenance and washing; RULE VIOLATED: 30 TAC §305.125(1), Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0002039000, Effluent Limitations and Monitoring Requirements Number 1, and the Code, §26.121(a), by failing to comply with permitted effluent limits for chemical oxygen demand, oil and grease, flow, and five-day biochemical oxygen demand (BOD.); PENALTY: \$8,745; ENFORCEMENT COORDINATOR: Cheryl Thompson, (817) 588-5800; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(8) COMPANY: Bright Star-Salem Special Utility District; DOCKET NUMBER: 2009-0470-MWD-E; IDENTIFIER: RN103179446; LOCATION: Wood County; TYPE OF FACILITY: well water treatment; RULE VIOLATED: 30 TAC §305.125(1), TPDES Permit Number

WQ0014220001, Effluent Limitations and Monitoring Requirements Number 1, and the Code, §26.121(a), by failing to comply with the permitted effluent limitations for total suspended solids (TSS); PENALTY: \$2,700; ENFORCEMENT COORDINATOR: Lanae Foard, (512) 239-2554; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(9) COMPANY: El Dorado Utility District; DOCKET NUMBER: 2009-0403-MWD-E; IDENTIFIER: RN101607299; LOCATION: Harris County; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §305.125(1), TPDES Permit Number WQ0011302001, Permit Condition Numbers 2.d. and 2.g., and the Code, §26.121(a), by failing to prevent unauthorized discharges from the collection system and the wastewater treatment plant; PENALTY: \$6,500; ENFORCEMENT COORDINATOR: Craig Fleming, (512) 239-5806; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(10) COMPANY: Curtis White dba El Pinon Estates Water System; DOCKET NUMBER: 2009-0439-PWS-E; IDENTIFIER: RN102675303; LOCATION: San Augustine County; TYPE OF FACILITY: public water supply (PWS); RULE VIOLATED: 30 TAC §290.113(f)(4) and THSC, §341.0315(c), by failing to comply with the maximum contaminant level (MCL) for total trihalomethanes (TTHM); and 30 TAC §290.113(f)(5) and THSC, §341.0315(c), by failing to comply with the MCL for haloacetic acids; PENALTY: \$610; ENFORCEMENT COORDINATOR: Chris Keffer, (512) 239-5610; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(11) COMPANY: Enbridge Pipelines (NE Texas) L.P.; DOCKET NUMBER: 2009-0571-AIR-E; IDENTIFIER: RN100223783; LOCATION: Pittsburg, Camp County; TYPE OF FACILITY: natural gas processing plant; RULE VIOLATED: 30 TAC §116.115(c), New Source Review (NRS) Number 8986, SC Number 1, and THSC, §382.085(b), by failing to comply with permitted emissions limits; PENALTY: \$3,000; ENFORCEMENT COORDINATOR: Martina Kusniadi, (713) 767-3500; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(12) COMPANY: Exxon Mobil Corporation; DOCKET NUMBER: 2009-0217-AIR-E; IDENTIFIER: RN102212925; LOCATION: Baytown, Harris County; TYPE OF FACILITY: chemical plant; RULE VIOLATED: 30 TAC §116.715(a), Flexible Permit Number 3452, SC Number 1, and THSC, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$18,725; Supplemental Environmental Project (SEP) offset amount of \$7,490 applied to Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program; ENFORCEMENT COORDINATOR: John Muennink, (361) 825-3100; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(13) COMPANY: ExxonMobil Oil Corporation; DOCKET NUMBER: 2009-0314-AIR-E; IDENTIFIER: RN100542844; LOCATION: Beaumont, Jefferson County; TYPE OF FACILITY: petrochemical manufacturing plant; RULE VIOLATED: 30 TAC §101.20(3) and §116.115(c), NSR Permit Number 18838/PSD-TX-843, SC Numbers 1 and 22, and THSC, §382.085(b), by failing to comply with permitted emissions limits; PENALTY: \$9,925; SEP offset amount of \$3,970 applied to Jefferson County: Retrofit/Replacement of Heavy Equipment and Vehicles with Alternative Fueled Equipment and Vehicles; ENFORCEMENT COORDINATOR: Terry Murphy, (512) 239-5025; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(14) COMPANY: Firestone Polymers, LLC; DOCKET NUMBER: 2009-0623-AIR-E; IDENTIFIER: RN100224468; LOCATION:

Orange, Orange County; TYPE OF FACILITY: petrochemical manufacturing plant; RULE VIOLATED: 30 TAC §§101.221(a), 113.100, 113.260, 116.715(a), (c)(7) and (9), and 122.143(4), 40 CFR §60.18(c)(2) and §63.11(b)(5), Flexible Permit Number 292, SC Numbers 1 and 8, FOP Number O1271, GTC and SC Number 11, and THSC, §382.085(b), by failing to prevent unauthorized emissions and maintain a flare pilot flame; PENALTY: \$5,475; ENFORCEMENT COORDINATOR: Nadia Hameed, (713) 767-3500; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(15) COMPANY: Flournoy Construction Company, L.L.C.; DOCKET NUMBER: 2009-0873-WQ-E; IDENTIFIER: RN105727838; LOCATION: Bexar County; TYPE OF FACILITY: construction company; RULE VIOLATED: 30 TAC §281.25(a)(4), by failing to obtain a construction general permit; PENALTY: \$700; ENFORCEMENT COORDINATOR: Harvey Wilson, (512) 239-0321; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(16) COMPANY: Humberto Gonzalez; DOCKET NUMBER: 2009-0419-PST-E; IDENTIFIER: RN101652824; LOCATION: Socorro, El Paso County; TYPE OF FACILITY: inactive underground storage tanks (USTs); RULE VIOLATED: 30 TAC §334.7(d)(3), by failing to provide an amended registration for any change or additional information regarding the USTs; 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; and 30 TAC §334.22(a) and the Code, §5.702, by failing to pay outstanding UST fees and associated late fees; PENALTY: \$3,500; ENFORCEMENT COORDINATOR: Mike Pace, (817) 588-5800; REGIONAL OFFICE: 401 East Franklin Avenue, Suite 560, El Paso, Texas 79901-1212, (915) 834-4949.

(17) COMPANY: Invista S.a.r.l.; DOCKET NUMBER: 2009-0364-AIR-E; IDENTIFIER: RN102663671; LOCATION: Victoria, Victoria County; TYPE OF FACILITY: chemical production; RULE VIOLATED: 30 TAC §101.201(a) and §122.143(4), FOP Number O-01904, Special Terms and Conditions (STC) Number 2F, and THSC, §382.085(b), by failing to report an emissions event within twenty-four hours after the discovery; and 30 TAC §§101.20(3), 116.115(c), and 122.143(4), NSR Permit Number 7186, SC Number 1, FOP Number O-01904, STC Numbers 1 and 2, and THSC, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$10,300; SEP offset amount of \$4,120 applied to Texas Association of Resource Conservation and Development Areas, Inc. - Clean School Buses; ENFORCEMENT COORDINATOR: Kirk Schoppe, (512) 239-0489; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5839, (361) 825-3100.

(18) COMPANY: City of Lott; DOCKET NUMBER: 2009-0347-MWD-E; IDENTIFIER: RN103119046; LOCATION: Falls County; TYPE OF FACILITY: wastewater treatment system; RULE VIOLATED: 30 TAC §305.125(1), TPDES Permit Number WQ0010017001, Effluent Limitations and Monitoring Requirements Numbers 1 and 3, and the Code, §26.121(a), by failing to comply with permitted effluent limitations for BOD₅, TSS, and pH; PENALTY: \$6,140; ENFORCEMENT COORDINATOR: Carlie Konkol, (361) 825-3100; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(19) COMPANY: Julian J. Pena; DOCKET NUMBER: 2009-0598-WOC-E; IDENTIFIER: RN103456810; LOCATION: Val Verde County; TYPE OF FACILITY: PWS; RULE VIOLATED: 30 TAC §30.5(a) and §30.381(b), the Code, §37.003, and THSC, §341.034(b), by failing to have a valid PWS operator license; PENALTY: \$225; ENFORCEMENT COORDINATOR: Tel Croston, (512) 239-5717;

REGIONAL OFFICE: 707 East Calton Road, Suite 304, Laredo, Texas 78041-3887, (956) 791-6611.

(20) COMPANY: City of Petrolia; DOCKET NUMBER: 2009-0458-PWS-E; IDENTIFIER: RN102677937; LOCATION: Petrolia, Clay County; TYPE OF FACILITY: PWS; RULE VIOLATED: 30 TAC §290.39(j), by failing to obtain commission approval prior to changing the disinfection process at the surface water treatment facility; and 30 TAC §290.41(c)(3)(N), by failing to provide each well with a flow measuring device to measure production yields and provide for the accumulation of water production data; PENALTY: \$1,008; ENFORCEMENT COORDINATOR: Rebecca Clausewitz, (210) 490-3096; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (325) 698-9674.

(21) COMPANY: SHINTECH INCORPORATED; DOCKET NUMBER: 2009-0402-AIR-E; IDENTIFIER: RN100213198; LOCATION: Freeport, Brazoria County; TYPE OF FACILITY: polyvinyl chloride resins production plant; RULE VIOLATED: 30 TAC §122.143(4) and §122.145(2)(A), Operating Permit Number O-01361, GTC, and THSC, §382.085(b), by failing to submit accurate information detailing the units and all instances of deviations including the cause and corrective actions or preventative measures taken; PENALTY: \$3,500; ENFORCEMENT COORDINATOR: Michael Meyer, (512) 239-4492; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(22) COMPANY: Terbo Construction, L.P.; DOCKET NUMBER: 2009-0927-WQ-E; IDENTIFIER: RN105733489; LOCATION: near Hockley, Waller County; TYPE OF FACILITY: construction company; RULE VIOLATED: 30 TAC §281.25(a)(4), by failing to obtain a construction general permit; PENALTY: \$700; ENFORCEMENT COORDINATOR: Harvey Wilson, (512) 239-0321; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(23) COMPANY: University Behavioral Health of El Paso; DOCKET NUMBER: 2009-0919-PST-E; IDENTIFIER: RN101654333; LOCATION: El Paso County; TYPE OF FACILITY: mental health center; RULE VIOLATED: 30 TAC §334.8(c)(5)(A)(i), by failing to possess a valid TCEQ delivery certificate prior to receiving fuel; and 30 TAC §334.8(c), by failing to submit initial/renewal UST registration and self-certification form; PENALTY: \$2,450; ENFORCEMENT COORDINATOR: Keith Frank, (512) 239-1203; REGIONAL OFFICE: 401 East Franklin Avenue, Suite 560, El Paso, Texas 79901-1212, (915) 834-4949.

(24) COMPANY: U.S. Department of Agriculture; DOCKET NUMBER: 2009-0438-PWS-E; IDENTIFIER: RN101228625; LOCATION: Angelina County; TYPE OF FACILITY: PWS; RULE VIOLATED: 30 TAC §290.113(f)(4) and THSC, §341.0315(c), by failing to comply with the MCL for TTHM; PENALTY: \$825; ENFORCEMENT COORDINATOR: Stephen Thompson, (512) 239-2558; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(25) COMPANY: WHITE OAK UTILITIES, INC.; DOCKET NUMBER: 2009-0367-MWD-E; IDENTIFIER: RN102335825; LOCATION: Montgomery County; TYPE OF FACILITY: wastewater treatment plant; RULE VIOLATED: 30 TAC §305.125(1), TPDES Permit Number 14133001, Effluent Limitations and Monitoring Requirements Number 1, and the Code, §26.121(a), by failing to comply with the permitted effluent limitations for ammonia-nitrogen and TSS; PENALTY: \$8,010; ENFORCEMENT COORDINATOR: Jennifer Graves, (956) 425-6010; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

TRD-200902688

Kathleen C. Decker
Director, Litigation Division
Texas Commission on Environmental Quality
Filed: June 30, 2009



Notice of District Petition

Notices issued June 10, 2009 through June 18, 2009.

TCEQ Internal Control No. 02202009-D02; Manvel Town Center, Ltd., Manvel North 40 Acres, Ltd., Manvel South 32 Acres, Ltd., Hemisphere Holdings, Inc., and JAA Investments, LLC (collectively, the "Petitioner") filed a petition for creation of Brazoria County Municipal Utility District No. 42 (the "District") with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, Section 59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code (TAC) Chapter 293; and the procedural rules of the TCEQ. The petition was filed with the county clerk in Brazoria County, pursuant to 30 TAC §293.11(d). The petition states the following: (1) the Petitioner is the owner of a majority in value of the land to be included in the proposed District; (2) the proposed District will contain approximately 191.732 acres located in Brazoria County, Texas; and (3) the proposed District is within the corporate boundaries and extraterritorial jurisdiction of the City of Manvel, Texas, and no portion of land within the proposed District is within the corporate limits or extraterritorial jurisdiction of any other city, town or village in Texas. The petition indicates that there five lienholders, Manvel 6.448 J.V., South Six 8.005 J.V., Arcola 13.435 J.V., Manvel 4.2 J.V., and Bank of the Ozarks, on the property to be included in the proposed District. The Petitioner has provided the TCEQ with certificates evidencing the lien holder's consent to the creation of the proposed District. By Resolution No. 2009-R-1, effective January 26, 2009, the City of Manvel, Texas, gave its consent to the creation of the proposed District, pursuant to Texas Water Code §54.016. According to the petition, the Petitioner has conducted a preliminary investigation to determine the cost of the project and from the information available at the time, the cost of the project is estimated to be approximately \$22,250,000.

TCEQ Internal Control No. 12292008-D01; Wellborn Special Utility District of Brazos County (the "District") filed an application with the Texas Commission on Environmental Quality (TCEQ) for authority to levy impact fees of \$2,100 per equivalent single-family connection for water facilities. The District's service area boundaries are shown on the map that follows this notice and is marked as Exhibit "A." The District files this application under the authority of Chapter 395 of the Local Government Code, 30 TAC Chapter 293, and the procedural rules of the TCEQ. The purpose of impact fees is to generate revenue to recover the costs of capital improvements or facility expansions made necessary by and attributable to serving new development in the District's service area. At the direction of the District, a registered engineer has prepared a capital improvements plan for the system that identifies the capital improvements or facility expansions and their costs for which the impact fees will be assessed.

TCEQ Internal Control No. 11032008-D01; A petition from Lavon 593 Land Investment Partners, L.P. (Petitioner) for creation of Collin County Water Control and Improvement District No. 3 (District) was filed with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, Section 59 of the Constitution of the State of Texas; Chapters 49 and 51 of the Texas Water Code; 30 TAC Chapter 293; and the procedural rules of the TCEQ. The petition states the following: (1) the Petitioners are the holders of title to a majority in value of the land to be included in the proposed District;

(2) there is one lien holder - The First National Bank of Jacksboro - on the land to be included in the proposed District; (3) the proposed District will contain approximately 593 acres located within Collin County, Texas; and (4) portions of the proposed District are within the extraterritorial jurisdiction of the City of Lucas and the Town of Saint Paul, Texas, and no portion of land within the proposed District is within the extraterritorial jurisdiction or corporate limits of any other city, town or village in Texas. Additionally, other materials submitted states that a portion of the proposed District is located within the extraterritorial jurisdiction of The City of Wylie. According to the petition, the Petitioners have conducted a preliminary investigation to determine the cost of the project and from the information available at the time, the cost of the project is estimated to be approximately \$45,700,000.

INFORMATION SECTION

To view the complete issued notice, view the notice on our web site at www.tceq.state.tx.us/comm_exec/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the web site, type in the issued date range shown at the top of this document to obtain search results.

The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en Español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our web site at www.tceq.state.tx.us.

TRD-200902716

LaDonna Castañuela

Chief Clerk

Texas Commission on Environmental Quality

Filed: July 1, 2009



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

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. Section 7.075 requires that before the commission may approve the AOs, the commission shall allow the public an op-

portunity to submit written comments on the proposed AOs. Section 7.075 requires that notice of the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **August 10, 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 A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the attorney designated for the AO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on August 10, 2009**. Comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The designated attorney is available to discuss the AO and/or the comment procedure at the listed phone number; however, §7.075 provides that comments on an AO shall be submitted to the commission in **writing**.

(1) COMPANY: CITGO Refining and Chemicals Company L.P.; DOCKET NUMBER: 2008-1193-AIR-E; TCEQ ID NUMBER: RN102555166; LOCATION: 1801 Nueces Bay Boulevard, Corpus Christi, Nueces County; TYPE OF FACILITY: petroleum refinery; RULES VIOLATED: Texas Health and Safety Code (THSC), §382.085(b), 30 TAC §116.115(c), and New Source Review (NSR) Permit 3119A, Special Condition (SC) Number 1, by failing to prevent unauthorized emissions; THSC, §382.085(b) and 30 TAC §101.201(a)(1), by failing to submit the initial notification of Incident Number 102832 within 24 hours of discovery; and THSC, §382.085(b) and 30 TAC §101.201(b), (c), and (g), by failing to list all compounds and quantities associated with Incident Number 102832 in the final report; PENALTY: \$10,482; STAFF ATTORNEY: Anna Treadwell, Litigation Division, MC 175, (512) 239-0974; REGIONAL OFFICE: Corpus Christi Regional Office, 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5839, (361) 825-3100.

(2) COMPANY: Destructors, Inc.; DOCKET NUMBER: 2008-1012-AIR-E; TCEQ ID NUMBER: RN102824737; LOCATION: 478 Limestone County Road 374, Groesbeck, Limestone County; TYPE OF FACILITY: portable rock crusher; RULES VIOLATED: 30 TAC §116.110(a)(1) and THSC, §382.0518(a) and §382.085(b), by failing to obtain a permit prior to performing rock crushing activities; PENALTY: \$60,000; STAFF ATTORNEY: Anna Treadwell, Litigation Division, MC 175, (512) 239-0974; REGIONAL OFFICE: Waco Regional Office, 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(3) COMPANY: Hwy 2243 Grocery, Inc. dba Jiffy Mart 2; DOCKET NUMBER: 2008-0656-MLM-E; TCEQ ID NUMBER: RN101499655; LOCATION: 2200 South Austin Avenue, Georgetown, Williamson County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.7(d)(3), by failing to notify the agency of any change or addition within 30 days from the date of the occurrence of the change or addition, or within 30 days from the date on which the owner or operator first became aware of the change or addition; 30 TAC §334.49(c)(2)(C) and (4) and TWC, §26.3475(d), by failing to inspect the impressed current

cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly and by failing to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years; 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 according to the underground storage tank registration and self-certification form; and 30 TAC §213.5(d)(1), by failing to provide a functioning continuous monitoring leak detection system that is capable of immediately alerting of possible leakages; PENALTY: \$14,059; STAFF ATTORNEY: Phillip Goodwin, Litigation Division, MC 175, (512) 239-0675; REGIONAL OFFICE: Austin Regional Office, 2800 South Interstate Highway 35, Suite 100, Austin, Texas 78704-5712, (512) 339-2929.

(4) COMPANY: Industrial Scrap Materials, Inc.; DOCKET NUMBER: 2009-0008-MSW-E; TCEQ ID NUMBER: RN105078679; LOCATION: 3708 North Commerce Street, Fort Worth, Tarrant County; TYPE OF FACILITY: scrap metal and salvage yard; RULES VIOLATED: 30 TAC §330.15(c), by failing to prevent the unauthorized disposal of municipal solid waste; PENALTY: \$2,040; STAFF ATTORNEY: Mike Fishburn, Litigation Division, MC 175, (512) 239-0635; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(5) COMPANY: Lehigh Cement Company; DOCKET NUMBER: 2007-1345-AIR-E; TCEQ ID NUMBER: RN100218254; LOCATION: 100 South Wickson Road, Woodway, McLennan County; TYPE OF FACILITY: cement manufacturing company; RULES VIOLATED: 30 TAC §122.145(2) and §122.146(1) and THSC, §382.085(b), by failing to submit annual compliance certifications and associated deviation reports; 30 TAC §§101.20(3), 116.115(c), 122.143(4), and 122.145(1)(A), THSC, §382.085(b), NSR Permit Number 9399/PSD-TX-624, SC Number 13, and Federal Operating Permit Number O-1035, Special Terms and Conditions Number 7, by failing to submit Continuous Emission Monitoring System Excess Emission reports; 30 TAC §101.20(1) and §122.143(4), 40 Code of Federal Regulations (CFR) §60.63, Federal Operating Permit Number O-1035, Special Terms and Conditions Number 3, and THSC, §382.085(b), by failing to conduct monthly visual opacity emission readings; 30 TAC §113.690 and §122.143(4), 40 CFR §63.1344(a), THSC, §382.085(b), and Federal Operating Permit Number O-1035, Special Terms and Conditions Number 1D, by failing to comply with the exhaust gas temperature standard; 30 TAC §117.283(a) and THSC, §382.085(b), by failing to comply with nitrogen oxide limits currently under a State Implementation Plan; and 30 TAC §117.283(c) and THSC, §382.085(b), by failing to submit State Implementation Plan Annual Emission Reports; PENALTY: \$160,140, Supplemental Environmental Project offset amount \$55,590; STAFF ATTORNEY: Anna Treadwell, Litigation Division, MC 175, (512) 239-0974; REGIONAL OFFICE: Waco Regional Office, 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(6) COMPANY: Ruth Ann Smith dba Smiths Hardware & More; DOCKET NUMBER: 2007-0943-PST-E; TCEQ ID NUMBER: RN102263332; LOCATION: 4783 Farm-to-Market Road 10, Gary, Panola County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.72, by failing to report a suspected release to the agency within 24 hours of discovery; 30 TAC §334.74, by failing to investigate a suspected release within 30 days of discovery; and 30 TAC §334.10(b), by failing to maintain underground storage tank records and immediately make available for inspection upon request by agency personnel; PENALTY: \$22,000; STAFF ATTORNEY: Tracy Chandler, Litigation Division, MC 175,

(512) 239-0629; REGIONAL OFFICE: Tyler Regional Office, 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(7) COMPANY: SLC Construction, LLC FKA SLC Construction, LP; DOCKET NUMBER: 2008-1583-WQ-E; TCEQ ID NUMBER: RN105600837; LOCATION: 1165 Rodeo Drive, Aransas Pass, Aransas County; TYPE OF FACILITY: sand mining operation; RULES VIOLATED: 30 TAC §281.25(a)(4) and 40 CFR §122.26(c), by failing to obtain authorization to discharge storm water associated with industrial activities under a Texas Pollutant Discharge Elimination System Multi-Sector General Permit; and TWC, §26.121(a)(1), by failing to prevent the discharge of wastewater into or adjacent to water in the State without authorization; PENALTY: \$4,000; STAFF ATTORNEY: Tracy Chandler, Litigation Division, MC 175, (512) 239-0629; REGIONAL OFFICE: Corpus Christi Regional Office, 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5839, (361) 825-3100.

TRD-200902697

Kathleen C. Decker

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: June 30, 2009



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

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Default Orders (DOs). The commission staff proposes a DO when the staff has sent an executive director's preliminary report and petition (EDPRP) to an entity outlining the alleged violations; the proposed penalty; and the proposed technical requirements necessary to bring the entity back into compliance; and the entity fails to request a hearing on the matter within 20 days of its receipt of the EDPRP or requests a hearing and fails to participate at the hearing. Similar to the procedure followed with respect to Agreed Orders entered into by the executive director of the commission, in accordance with Texas Water Code (TWC), §7.075 this notice of the proposed order and the opportunity to comment is published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **August 10, 2009**. The commission will consider any written comments received and the commission may withdraw or withhold approval of a DO if a comment discloses facts or considerations that indicate that consent to the proposed DO is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction, or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed DO is not required to be published if those changes are made in response to written comments.

A copy of each proposed DO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about the DO should be sent to the attorney designated for the DO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on August 10, 2009**. Comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The commission's attorneys are available to discuss the DOs and/or the comment procedure at the listed phone numbers; however, §7.075 provides that comments on the DOs shall be submitted to the commission in **writing**.

(1) COMPANY: Arnold Trucking, Inc.; DOCKET NUMBER: 2008-1578-WQ-E; TCEQ ID NUMBER: RN105483317; LOCATION: north side of Loop 390 west of United States Highway 59 North, Marshall, Harrison County; TYPE OF FACILITY: sand and gravel mining operation; RULES VIOLATED: 30 TAC §281.25(a)(4) and 40 Code of Federal Regulations §122.26(c), by failing to obtain authorization to discharge storm water associated with industrial activities under a Texas Pollutant Discharge Elimination System (TPDES) Multi-Sector General Permit; PENALTY: \$3,150; STAFF ATTORNEY: Becky Combs, Litigation Division, MC 175, (512) 239-6939; REGIONAL OFFICE: Tyler Regional Office, 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(2) COMPANY: Derdeyn/Ford, Inc. dba Tejas Village; DOCKET NUMBER: 2008-0974-PWS-E; TCEQ ID NUMBER: 2008-0974-PWS-E; LOCATION: 509 Tejas Road, Jefferson, Marion County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.271(b) and §290.274(a) and (c), by failing to mail or directly deliver one copy of the Consumer Customer Report (CCR) to each bill paying customer by July 1st of each year and by failing to submit a copy of the annual CCR and certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with compliance monitoring data to the TCEQ by July 1st of each year; PENALTY: \$585; STAFF ATTORNEY: Tommy Tucker Henson II, Litigation Division, MC 175, (512) 239-0946; REGIONAL OFFICE: Tyler Regional Office, 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(3) COMPANY: Imkan Enterprises, Inc. dba Rose Hill Country Store; DOCKET NUMBER: 2008-0660-PST-E; TCEQ ID NUMBER: RN101192136; LOCATION: 17835 Farm-to-Market Road 2920, Tomball, Harris County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §115.246(4) and (6) 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 upon request by agency personnel; 30 TAC §334.8(c)(4)(A)(vii) and (5)(B)(ii), by failing to timely renew a previously issued underground storage tanks (USTs) delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date; 30 TAC §334.8(c)(5)(A)(i) and TWC, §26.3467(a), by failing to make available to a common carrier a valid, current delivery certificate before accepting delivery of a regulated substance into the USTs; 30 TAC §334.49(c)(2)(C) and (4) and TWC, §26.3475(d), by failing to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly and by failing to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years; 30 TAC §334.50(b)(1)(A), (d)(1)(B)(ii), (iii)(I) and TWC, §26.3475(c)(1), by failing to ensure that all USTs are monitored in a manner which will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring), by failing to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons, and by failing to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day; and 30 TAC §115.242(3)(A) and THSC, §382.085(b), by failing to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order, and free of defects that would impair the effectiveness of the system, including, but not limited to absence or

disconnection of any component that is a part of the approved system; PENALTY: \$29,386; STAFF ATTORNEY: Gary Shiu, Litigation Division, MC R-12, (713) 422-8916; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023, (713) 767-3500.

(4) COMPANY: James C. Dunn dba Fillmore Cleaners; DOCKET NUMBER: 2006-0992-DCL-E; TCEQ ID NUMBER: RN104029194; LOCATION: 619 North Fillmore Street, Amarillo, Potter County; TYPE OF FACILITY: dry cleaning facility; RULES VIOLATED: 30 TAC §337.11(e) and THSC, §374.102, by failing to renew the facility's registration by completing and submitting the required registration form to the TCEQ for a dry cleaning and/or drop station facility; and 30 TAC §337.14(c) and TWC, §5.702, by failing to pay outstanding dry cleaner and late fees for TCEQ Financial Account Number 24001447 for Fiscal Year 2006; PENALTY: \$3,185; STAFF ATTORNEY: Tommy Tucker Henson II, Litigation Division, MC 175, (512) 239-0946; REGIONAL OFFICE: Amarillo Regional Office, 3918 Canyon Drive, Amarillo, Texas 79109-4933, (806) 353-9251.

(5) COMPANY: Michael Soza dba Water Valley Water Co-Op; DOCKET NUMBER: 2008-0993-PWS-E; TCEQ ID NUMBER: RN101451110; LOCATION: south of State Highway 71, approximately one mile east of Wolf Lane, east of Garfield, near the City of Cedar Creek, Travis County; TYPE OF FACILITY: public water supply for compensation; RULES VIOLATED: 30 TAC §290.271(b) and §290.274(a) and (c), by failing to directly deliver one copy of the CCR to each bill paying customer by July 1st of each year and by failing to submit a copy of the annual CCR and certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with compliance monitoring data to the TCEQ by July 1st of each year; and 30 TAC §290.51(a)(6), by failing to pay all annual and late Public Health Service fees for TCEQ Financial Administration Account Number 92270030 for Fiscal Years 2003 - 2008 to the TCEQ; PENALTY: \$1,630; STAFF ATTORNEY: Jacquelyn Boutwell, Litigation Division, MC 175, (512) 239-5846; REGIONAL OFFICE: Austin Regional Office, 2800 South Interstate Highway 35, Suite 100, Austin, Texas 78704-5712, (512) 339-2929.

(6) COMPANY: Paul McGregor; DOCKET NUMBER: 2008-1206-LII-E; TCEQ ID NUMBER: RN105532865; LOCATION: 17424 West Grand Parkway South, Suite 208, Sugar Land, Harris County; TYPE OF FACILITY: landscaping business; RULES VIOLATED: 30 TAC §344.58(b), TWC, §37.003, and Texas Occupations Code, §1903.251, by failing to comply with the requirements for authorized use of an irrigator or installer license; and 30 TAC §30.5(b) and §344.4(a) and Texas Occupations Code, §1903.251, by failing to refrain from advertising or representing himself to the public as a person who can perform services for which a license or registration is required without holding a current license or employing individuals who hold current licenses; PENALTY: \$500; STAFF ATTORNEY: Phillip Goodwin, Litigation Division, MC 175, (512) 239-0675; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023, (713) 767-3500.

TRD-200902698
Kathleen C. Decker
Director, Litigation Division
Texas Commission on Environmental Quality
Filed: June 30, 2009

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Notice of Water Quality Applications

The following notices were issued during the period of May 29, 2009 through June 18, 2009.

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

INFORMATION SECTION

HANSON AGGREGATES WEST INC which operates the Bridgeport Plant, a limestone quarrying and processing plant, has applied for a renewal of TPDES Permit No. WQ0001214000, which authorizes the discharge of mine dewatering and storm water on an intermittent and flow variable basis via Outfall 001. The facility is located on State Highway 101 approximately four miles north of the City of Bridgeport, Wise County, Texas.

TRS ENVIROGANICS INC has applied for a renewal of TCEQ Permit No. WQ0004501000, which authorizes the land application of sewage sludge and water treatment plant sludge for beneficial use. The current permit authorizes land application of sewage sludge and water treatment plant sludge for beneficial use on 115 acres. This permit will not authorize a discharge of pollutants into waters in the State. The land application site is located adjacent to the south side of Pierceland Road, 0.2 mile west of the intersection of Farm-to-Market Road 359 and Pierceland Road, 3 miles south of old U.S. Highway 290 in Waller County, Texas.

CITY OF SAN ANGELO has applied for a renewal of TCEQ Permit No. WQ0010641002, which authorizes the disposal of treated domestic wastewater at a daily average flow not to exceed 94,000 gallons per day via surface irrigation of 52 acres of non-public access pastureland. This permit will not authorize a discharge of pollutants into waters in the State. The wastewater treatment facility and disposal site are located southeast of the end of the north-south runway 18-36 at Mathis Field Airport, approximately 2 miles south of the intersection of Knickerbocker Road and South Concho Drive in the City of San Angelo in Tom Green County, Texas.

WEATHERFORD U S LP which operates the Weatherford Technology and Training Center, has applied for a major amendment to TPDES Permit No. WQ0004760000 to clarify the waste streams discharged via Outfall 001 include: treated domestic wastewater, laboratory rinse wastewater, and rubber mixer area wash down wastewater; clarify the waste streams discharged via Outfall 002 include: rig testing area wash water and potentially impacted storm water; authorize the removal of Outfall 003, replace the existing SIC codes with SIC code 8731 (commercial, physical and biological research) and SIC code 8734 (testing laboratories) to reflect the facility's function; and reduce the frequency of monitoring requirements for oil and grease, ammonia-nitrogen, total organic carbon, carbonaceous biochemical oxygen demand and total residual chlorine at Outfall 001. The current permit authorizes the discharge of treated domestic wastewater and laboratory rinse wastewater at a daily average flow not to exceed 10,800 gallons per day via Outfall 001, treated wastewater from a hot cell underground tank, impacted storm water and rig testing area pressure wash wastewater on an intermittent and flow variable basis via Outfall 002, and sub-surface safety valve laboratory flow test wastewater and compressor blowdown wastewater on an intermittent and flow variable basis via Outfall 003. The facility is located approximately 0.75 mile west of U.S. Highway 290 and two miles east of Eldridge Road on Spencer Road in the City of Houston, Harris County, Texas.

FLAGSHIP EMERALD POINT LP has applied for a minor amendment to the TCEQ permit WQ0013825001 to authorize for improving treatment efficiency with adding a 10,000 gallon package plant at

the head works to split the flow in to the plant. The existing permit authorizes the disposal of treated domestic wastewater at a daily average flow not to exceed 10,000 gallons per day low pressure dosed subsurface drainfield system with a minimum area of 31,250 square feet, which will remain the same. This permit will not authorize a discharge of pollutants into waters in the State. The wastewater treatment facility and disposal site are located at 5973 Hiline Road, on the west side of Hiline Road off of Hudson Bend Road approximately 1/4 mile north-northwest of the intersection of Ranch Road 620 and Hudson Bend Road in Travis County, Texas.

CROSS COUNTRY COMMERCIALS INC has applied for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014937001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 20,000 gallons per day. The facility will be located 2,000 feet northeast of the intersection of State Highway 124 and Farm-to-Market Road 365 in Jefferson County, Texas. The TCEQ Executive Director has reviewed this action for consistency with the Texas Coastal Management Program goals and policies in accordance with the regulations of the Coastal Coordination Council, and has determined that the action is consistent with the applicable CMP goals and policies.

GRAYSON COUNTY COLLEGE has applied for a major amendment to TPDES Permit No. WQ0010689001 to authorize an increase in the discharge of treated domestic wastewater from a daily average flow not to exceed 36,000 gallons per day to a daily average flow not to exceed 75,000 gallons per day. The current permit authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 360,000 gallons per day. The current permit also authorizes the disposal of treated domestic wastewater via irrigation of 20 acres. This authorization is discontinued in the draft permit. The facility is located at 6101 Grayson Drive in the City of Denison, approximately 3 miles west of U.S. Highway 75 on the north side of Farm-to-Market Road 691 and approximately 6 miles south of the City of Denison business district in Grayson County, Texas 75020.

R AND B MOBILE PARK LLC has applied for a renewal of TPDES Permit No. WQ0012296001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 13,000 gallons per day. The facility is located approximately 6,500 feet southeast of the intersection of State Highway 30 and Farm-to-Market Road 158 in Brazos County, Texas 77845.

LAMBERTI USA which operates the Wharton Chemical Complex, has applied for a renewal of TPDES Permit No. WQ0002469000, which authorizes the discharge of process wastewater commingled with scrubber water, cooling tower blowdown, boiler blowdown, domestic wastewater, and storm water at a daily average flow not to exceed 47,100 gallons per day via Outfall 001, and storm water on an intermittent and flow variable basis via Outfall 002. The facility is located approximately 2,400 feet southwest of the San Bernard River/U.S. Highway 59 bridge and approximately 3.5 miles northeast of the town of Hungerford, Wharton County, Texas.

CITY OF BIG LAKE has applied for a renewal of TPDES Permit No. WQ0010038001 which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 350,000 gallons per day. The facility is located approximately 530 feet south of U. S. Highway 67, approximately 1.14 miles east of the intersection of U. S. Highway 67 and the State Highway 137 in Reagan County, Texas.

CITY OF WINNSBORO has applied for a renewal of TPDES Permit No. WQ0010319002 which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 1,500,000 gallons per day. The facility is located one mile south of Winnsboro, ap-

proximately 1,900 feet east of Old State Highway 37 and 1,400 feet west of Farm-to-Market Road 312 in Wood County, Texas.

CITY OF HAMLIN has applied for a renewal of TPDES Permit No. WQ0010491002, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 320,000 gallons per day. The facility is located approximately 1/4 mile southeast of the intersection of State Highway 92 and U.S. Highway 83 on the north bank of California Creek in Jones County, Texas.

HARRIS COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO 84 has applied for a minor amendment to the Texas Pollutant Discharge Elimination System (TPDES) permit WQ0010558001 to authorize the discharge of treated domestic wastewater at an annual average flow not to exceed 1,500,000 gallons per day in the Interim II Phase. The existing permit authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 2,000,000 gallons per day. The facility is located at 16224 Bear Bayou Drive, southwest of the intersection of Bear Bayou and North Avenue, in the Old River Subdivision in Harris County, Texas.

JIM HOGG COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO 2 has applied for a renewal of TPDES Permit No. WQ0010799001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 796,000 gallons per day. The facility is located approximately 3,700 feet east of the intersection of State Highway 285 and Farm-to-Market Road 1017, on the north side of State Highway 285 in Jim Hogg County, Texas.

CITY OF ROTAN has applied for a renewal of TCEQ Permit No. WQ0011256001, which authorizes the disposal of treated domestic wastewater at a daily average flow not to exceed 152,000 gallons per day via irrigation of 75 acres of land. This permit will not authorize a discharge of pollutants into waters in the State. The wastewater treatment facility and disposal site are located 1 mile southeast of the intersection of State Highway 70 and State Highway 92 (Snyder) Road, southeast of the City of Rotan in Fisher County, Texas.

If you need more information about these permit applications or the permitting process, please call the TCEQ Office of Public Assistance, Toll Free, at 1-800-687-4040. General information about the TCEQ can be found at our web site at www.tceq.state.tx.us. Si desea información en Español, puede llamar al 1-800-687-4040.

TRD-200902713

LaDonna Castañuela

Chief Clerk

Texas Commission on Environmental Quality

Filed: July 1, 2009



Notice of Water Quality Applications

The following notices were issued during the period of May 29, 2009 through June 25, 2009.

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

INFORMATION SECTION

CITY OF BASTROP has applied for a renewal of TPDES Permit No. WQ0011076002, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 4,000,000 gallons per day. The facility will be located approximately 1.5 miles south of

the intersection of State Highway 71 and State Highway 304, on the north bank of the confluence of Spring Branch and the Colorado River in Bastrop County, Texas.

PECAN GROVE MUNICIPAL UTILITY DISTRICT has applied for a renewal of TPDES Permit No. WQ0011655001, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 1,900,000 gallons per day. The facility is located at 1504 Skinner Lane (Farm-to-Market Road 359) approximately 1.5 miles north of U.S. Highway 90A and approximately 500 feet east of Farm-to-Market Road 359 in Fort Bend County, Texas.

CITY OF ROCKDALE has applied for a renewal of TPDES Permit No. WQ0010658001, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 1,250,000 gallons per day. The facility is located southwest of the intersection of Beverly Road and Southern Pacific Railroad, in Milam County, Texas.

INDIAN PETRO CORP has applied for a renewal of TPDES Permit No. WQ0014035001 which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 30,000 gallons per day. The facility is located approximately 1,500 feet southwest of the intersection of U.S. Highway 59 and Farm-to-Market Road 2914 and on the west side of U.S. Highway 59, approximately 4.2 miles south of Shepherd in San Jacinto County, Texas.

AQUA WATER SUPPLY CORPORATION has applied for a renewal of TPDES Permit No. WQ0014223001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 200,000 gallons per day. The facility is located on the west side of an unnamed road, 0.49 mile east of State Highway 95 and Pershing Drive, and approximately 2.78 miles north of the intersection of State Highway 95 and Farm-to-Market Road 1441 in Bastrop County, Texas.

AQUA WATER SUPPLY CORPORATION has applied for a renewal of TPDES Permit No. WQ0014561001 which authorizes the discharge of filter backwash effluent from a water treatment plant at a daily average flow not to exceed 16,000 gallons per day. The facility is located 750 feet south of US Highway 290 from a point approximately 2.0 miles west of the intersection of US Highway 290 and County Road 360, on the Dube Lane access road in Bastrop County, Texas 78650.

OXBOW CALCINING LLC which operates the Oxbow Calcining plant, has applied for a major amendment to TPDES Permit No. WQ0001994000 to authorize the discharge of treated domestic wastewater via Outfall 001; relocate Outfall 001; and remove the requirement to maintain the ability to hold the direct rainfall and runoff from a 10 year, 24 hour storm event. The current permit authorizes the discharge of treated wastewaters on an intermittent and flow variable basis via Outfall 001; and treated domestic wastewater at a daily average flow not to exceed 10,000 gallons per day via Outfall 002. The facility is located on the West Turning Basin of the Sabine-Neches Ship Channel, approximately two and one-half miles southwest of the City of Port Arthur, Jefferson County, Texas.

TGS RAINBOW TERMINAL LLC which proposes to operate Rainbow Terminal Petcoke Handling Facility, a petroleum coke terminal, has applied for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0004874000, to authorize the discharge of storm water runoff, dust suppression water, dock reclaim water, and equipment wash water on an intermittent and flow variable basis via Outfall 001. The facility is located at Highway 366 and 32nd Street, Jefferson County, Texas. The TCEQ Executive Director has reviewed this action for consistency with the Texas Coastal Management Program goals and policies in accordance with the regulations of the Coastal Coordination Council, and has determined that the action is consistent with the applicable CMP goals and policies.

CITY OF ROSENBERG has applied for a renewal of TPDES Permit No. WQ0010607003, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 2,000,000 gallons per day. The facility is located at 2700 Avenue A, southeast of the intersection of 8th Street and Avenue A, approximately one mile north of the Missouri Pacific Railroad in the City of Rosenberg in Fort Bend County, Texas.

TEXAS AGRILIFE RESEARCH which operates the Wool and Mohair Research Lab, has applied for a renewal of TCEQ Permit No. WQ0002755000, which authorizes the disposal of process wastewater from cashmere, mohair, and wool scouring, lab sink wastewater and boiler blowdown via evaporation. Effluent routed from the settling basin to the evaporation pond shall not exceed a total annual flow of 127,000 gallons per year. This permit will not authorize a discharge of pollutants into water in the State. The facility and land application site are located at 7887 U.S. Highway 87 North, approximately three miles northwest of the City of San Angelo, Tom Green County, Texas 76901.

CROCKETT COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO 1 has applied for a renewal of TPDES Permit No. WQ0010059001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 500,000 gallons per day. The facility is located approximately 3,000 feet west of State Highway 163 and approximately 2.5 miles south of Interstate Highway 10 in Crockett County, Texas.

CITY OF PETERSBURG has applied for a renewal of TCEQ Permit No. WQ0010246001, which authorizes the disposal of treated domestic wastewater at a daily average flow not to exceed 100,000 gallons per day via surface irrigation of 99 acres of non-public access agricultural land. The wastewater treatment facility and disposal site are located approximately one mile southeast of the intersection of Farm-to-Market Roads 54 and 789, and east of the City of Petersburg in Hale County, Texas.

CITY OF BROWNSBORO has applied for a renewal of TPDES Permit No. WQ0010540001 which authorizes the discharge of treated domestic wastewater at a daily flow not to exceed 156,000 gallons per day. The facility is located at intersection of Farm Road 314 and County Road 3300, north of Brownsboro in Henderson County, Texas.

CITY OF ROSENBERG has applied for a renewal of TPDES Permit No. WQ0010607003, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 2,000,000 gallons per day. The facility is located at 2700 Avenue A, southeast of the intersection of 8th Street and Avenue A, approximately one mile north of the Missouri Pacific Railroad in the City of Rosenberg in Fort Bend County, Texas.

CITY OF MERTZON has applied for a renewal of TCEQ Permit No. WQ0011347001, which authorizes the disposal of treated domestic wastewater at a daily average flow not to exceed 100,000 gallons per day via surface irrigation of 35.5 acres of public access land. This permit will not authorize a discharge of pollutants into waters in the State. The wastewater treatment facility and disposal site are located at 550 North Commerce Street, on the west side of Spring Creek and east of U.S. Highway 67, approximately one mile south of Farm-to-Market Road 72 in Irion County, Texas.

If you need more information about these permit applications or the permitting process, please call the TCEQ Office of Public Assistance, Toll Free, at 1-800-687-4040. General information about the TCEQ can be found at our web site at www.tceq.state.tx.us. Si desea información en Español, puede llamar al 1-800-687-4040.

TRD-200902714

LaDonna Castañuela
Chief Clerk
Texas Commission on Environmental Quality
Filed: July 1, 2009

◆ ◆ ◆
Notice of Water Rights Applications

Notices issued June 18, 2009 through June 26, 2009.

APPLICATION NO. 12456; The Lower Colorado River Authority, Applicant, P.O. Box 220, H429, Austin, Texas 78767, has applied for a temporary permit to impound an additional 2,740 acre-feet of water for a period of three years in Cedar Creek Reservoir, located on Cedar Creek, tributary of the Colorado River, Colorado River Basin for industrial purposes in Fayette County. More information on the application and how to participate in the permitting process is given below. The application and partial fees were received on May 5, 2009. Additional information was received on May 28, 2009. The application was declared administratively complete and accepted for filing on June 4, 2009. Written public comments and requests for a public meeting should be submitted to the Office of the Chief Clerk, at the address provided in the information section below by July 8, 2009.

APPLICATION NO. 08-2350A; The City of Lewisville, 151 Church Street, Lewisville, Texas 75057, Applicant, seeks to sever their water rights under Certificate of Adjudication No. 08-2349 and combine them with Certificate of Adjudication No. 08-2350, and has submitted an application to amend Certificate of Adjudication No. 08-2350 to add recreation use to the entire resulting 453 acre-foot amount, to add industrial and mining use to a 22-acre-foot portion, to add a diversion point, to move a diversion point, and to change the place of use. Applicant also seeks to store diverted water in off-channel reservoirs for recreation purposes and subsequent diversion and use. More information on the application and how to participate in the permitting process is given below. The application and fees were received on October 29, 2008. Additional information was received on November 20, 2008, January 22, January 26, March 25 and April 17, 2009. The application was accepted for filing and declared administratively complete on April 20, 2009. Written public comments and requests for a public meeting should be submitted to the Office of Chief Clerk, at the address provided in the information section below, within 30 days of the date of newspaper publication of the notice.

INFORMATION SECTION

To view the complete issued notice, view the notice on our web site at www.tceq.state.tx.us/comm_exec/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the web site, type in the issued date range shown at the top of this document to obtain search results.

A public meeting is intended for the taking of public comment, and is not a contested case hearing.

The Executive Director can consider approval of an application unless a written request for a contested case hearing is filed. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and permit number; (3) the statement "I/we request a contested case hearing"; and (4) a brief and specific description of how you would be affected by the application in a way not common to the general public. You may also submit any proposed conditions to the requested application which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the TCEQ Office of the Chief Clerk at the address provided in the information section below.

If a hearing request is filed, the Executive Director will not issue the requested permit and may forward the application and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

Written hearing requests, public comments or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Office of Public Assistance at 1-800-687-4040. General information regarding the TCEQ can be found at our web site at www.tceq.state.tx.us. Si desea información en Español, puede llamar al 1-800-687-4040.

TRD-200902715
LaDonna Castañuela
Chief Clerk
Texas Commission on Environmental Quality
Filed: July 1, 2009



Proposal for Decision

The State Office of Administrative Hearings issued a Proposal for Decision and Order to the Texas Commission on Environmental Quality on June 29, 2009, in the matter of the Executive Director of the Texas Commission on Environmental Quality, Petitioner v. James Jones; SOAH Docket No. 582-09-1252; TCEQ Docket No. 2008-0709-MLM-E. The commission will consider the Administrative Law Judge's Proposal for Decision and Order regarding the enforcement action against James Jones on a date and time to be determined by the Office of the Chief Clerk in Room 201S of Building E, 12100 N. Interstate 35, Austin, Texas. This posting is Notice of Opportunity to Comment on the Proposal for Decision and Order. The comment period will end 30 days from date of this publication. Written public comments should be submitted to the Office of the Chief Clerk, MC-105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. If you have any questions or need assistance, please contact Melissa Chao, Office of the Chief Clerk, (512) 239-3300.

TRD-200902717
LaDonna Castañuela
Chief Clerk
Texas Commission on Environmental Quality
Filed: July 1, 2009



Proposal for Decision

The State Office of Administrative Hearings issued a Proposal for Decision and Order to the Texas Commission on Environmental Quality on June 30, 2009, in the matter of the Executive Director of the Texas Commission on Environmental Quality, Petitioner v. Mary's Automotive, Inc. dba Mary's Service Center; SOAH Docket No. 582-09-1616; TCEQ Docket No. 2008-0776-PST-E. The commission will consider the Administrative Law Judge's Proposal for Decision and Order regarding the enforcement action against Mary's Automotive, Inc. dba Mary's Service Center on a date and time to be determined by the Office of the Chief Clerk in Room 201S of Building E, 12100 N. Interstate 35, Austin, Texas. This posting is Notice of Opportunity to Comment on the Proposal for Decision and Order. The comment period will end 30 days from date of this publication. Written public comments should be submitted to the Office of the Chief Clerk, MC-105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. If you have any questions or

need assistance, please contact Melissa Chao, Office of the Chief Clerk, (512) 239-3300.

TRD-200902718
LaDonna Castañuela
Chief Clerk
Texas Commission on Environmental Quality
Filed: July 1, 2009



Texas Health and Human Services Commission

Notice of Public Hearing on Proposed Medicaid Payment Rates

Hearing. The Texas Health and Human Services Commission will conduct a public hearing on July 24, 2009, at 2:30 p.m. to receive public comment on proposed rates for the Home and Community-based Services (HCS), Texas Home Living (TxHmL) and Consolidated Waiver (CWP) waiver programs. The HCS, TxHmL and CWP programs are operated by the Texas Department of Aging and Disability Services (DADS). The hearing will be held in compliance with Human Resources Code §32.0282 and Texas Administrative Code (TAC) Title 1, §355.105(g), which require public notice and hearings on proposed Medicaid reimbursements. The public hearing will be held in the Lone Star Conference Room of the Health and Human Services Commission, 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. Persons requiring Americans with Disability Act (ADA) accommodation or auxiliary aids or services should contact Meisha Scott by calling (512) 491-1445, at least 72 hours prior to the hearing so appropriate arrangements can be made.

Proposal. HHSC proposes to adjust the rates for the HCS, TxHmL and CWP programs. The proposed rates will be effective September 1, 2009 and were determined in accordance with the rate setting methodologies listed below under "Methodology and Justification."

Methodology and Justification. The proposed rates were determined in accordance with the rate setting methodologies codified at Texas Administrative Code (TAC) Title 1, Chapter 355, Subchapter F, §355.723, Reimbursement Methodology for Home and Community-Based Services (HCS), as proposed to be amended, §355.791, Reporting Costs and Reimbursement Methodology for the Texas Home Living (TxHmL) Program, as proposed to be amended and §355.506 Reimbursement Methodology for Consolidated Waiver Program. The proposed amendment of §355.723, which appeared in the May 8, 2009, issue of the *Texas Register*, updates the rule to describe how administrative and operations expenses are allocated to the various HCS service types. The proposed amendment of §355.791, which appeared in the July 3, 2009, issue of the *Texas Register*, updates the rule to set TxHmL rates equal to HCS rates for similar services. These rates were subsequently adjusted in accordance with 1 TAC Chapter 355, Subchapter A, §355.101 (relating to Introduction) and §355.109 (relating to Adjusting Reimbursement When New Legislation, Regulations or Economic Factors Affect Costs). These changes are being made in accordance with the 2010-11 General Appropriations Act (Article II, S.B. 1, 81st Legislature, Regular Session, 2009), which appropriated funds to DADS for the State Fiscal Year 2010-2011 biennium for Medicaid rate increases for the HCS, TxHmL and CWP programs.

Briefing Package. A briefing package describing the proposed payment rates will be available on July 10, 2009. Interested parties may obtain a copy of the briefing package prior to the hearing by contacting Meisha Scott by telephone at (512) 491-1445; by fax at (512)

491-1998; or by e-mail at meisha.scott@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 5:00 p.m. the day of the hearing. Written comments may be sent by U.S. mail to the attention of Meisha Scott, Health and Human Services Commission, Rate Analysis, Mail Code H-400, P.O. Box 85200, Austin, Texas 78708-5200; by fax to Meisha Scott at (512) 491-1998; or by e-mail to meisha.scott@hhsc.state.tx.us. In addition, written comments may be sent by overnight mail or hand delivered to Meisha Scott, HHSC, Rate Analysis, Mail Code H-400, Braker Center, Building H, 11209 Metric Boulevard, Austin, Texas 78758-4021.

TRD-200902691

Steve Aragón

Chief Counsel

Texas Health and Human Services Commission

Filed: June 30, 2009



Notice of Public Hearing on Proposed Medicaid Payment Rates

Hearing. The Texas Health and Human Services Commission will conduct a public hearing on July 24, 2009, at 1:00 p.m. to receive public comment on proposed rates for Professional Services in Home and Community-Based Services Waivers. Professional services include nursing services provided by a registered nurse (RN) or a licensed vocational nurse (LVN) (including Adjunct Support and Respite in the Medically Dependent Children Program), physical therapy, occupational therapy, speech/language therapy, dietary services (including nutritional services), audiology services (including auditory integration training/auditory enhancement training), and behavioral support services in Home and Community-Based Services Waiver programs operated by the Texas Department of Aging and Disability Services (DADS). The hearing will be held in compliance with Human Resources Code §32.0282 and Texas Administrative Code (TAC) Title 1, §355.105(g), which require public notice and hearings on proposed Medicaid reimbursements. The public hearing will be held in the Lone Star Conference Room of the Health and Human Services Commission, 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. Persons requiring Americans with Disability Act (ADA) accommodation or auxiliary aids or services should contact Meisha Scott by calling (512) 491-1445, at least 72 hours prior to the hearing so appropriate arrangements can be made.

Proposal. HHSC proposes to adjust the rates for Professional Services in Home and Community-Based Services Waiver programs. The proposed rates will be effective September 1, 2009 and were determined in accordance with the rate setting methodologies listed below under "Methodology and Justification."

Methodology and Justification. The proposed rates were determined in accordance with the rate setting methodologies proposed to be codified at Texas Administrative Code (TAC) Title 1, Chapter 355, Subchapter F, §355.502, Reimbursement Methodology for Professional Services in Home and Community-Based Services Waivers. The proposed new §355.502, which appeared in the July 3, 2009, issue of the *Texas Register*, gives HHSC the authority to combine allowable costs per unit of service for identical professional services in all DADS waiver programs into a single database for use in determining rates for these services. These rates were subsequently adjusted in accordance with 1 TAC Chapter 355, Subchapter A, §355.101 (relating to Introduction) and §355.109 (relating to Adjusting Reimbursement When New Legislation, Regulations or Economic Factors Affect Costs).

Briefing Package. A briefing package describing the proposed payment rates will be available on July 10, 2009. Interested parties may obtain a copy of the briefing package prior to the hearing by contacting Meisha Scott by telephone at (512) 491-1445; by fax at (512) 491-1998; or by e-mail at meisha.scott@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 5:00 p.m. the day of the hearing. Written comments may be sent by U.S. mail to the attention of Meisha Scott, Health and Human Services Commission, Rate Analysis, Mail Code H-400, P.O. Box 85200, Austin, Texas 78708-5200; by fax to Meisha Scott at (512) 491-1998; or by e-mail to meisha.scott@hhsc.state.tx.us. In addition, written comments may be sent by overnight mail or hand delivered to Meisha Scott, HHSC, Rate Analysis, Mail Code H-400, Braker Center, Building H, 11209 Metric Boulevard, Austin, Texas 78758-4021.

TRD-200902692

Steve Aragón

Chief Counsel

Texas Health and Human Services Commission

Filed: June 30, 2009



Texas Department of Housing and Community Affairs

Request for Proposals for Administrative Law Judge

Summary. The Texas Department of Housing and Community Affairs (TDHCA), through its Legal Services Division, is issuing a Request for Proposals (RFP) for an Administrative Law Judge. The Administrative Law Judge will hold enforcement hearings to provide a neutral finding of facts and will present proposals for decision to the Board in connection with the enforcement of departmental program standards.

Deadline for Submission. The deadline for submission in response to this RFP is **4:00 p.m., Central Daylight Saving Time, on July 24, 2009.** No proposal received after the deadline will be accepted.

TDHCA reserves the right to accept or reject any (or all) proposals submitted. The information contained in this proposal request is intended to serve only as a general description of the services desired by TDHCA, and TDHCA intends to use responses as a basis for further negotiation of specific project details with offerors. This request does not commit TDHCA to pay for any costs incurred prior to the execution of a contract and is subject to availability of funds. Issuance of this request for proposal in no way obligates TDHCA to award a contract or to pay any costs incurred in the preparation of a response.

Attorneys interested in submitting a proposal should contact Mr. Kevin Hamby, General Counsel, at (512) 473-3948, 221 East 11th Street, Austin, Texas 78701 or visit the Featured Items section of our website at www.tdhca.state.tx.us, for a complete copy of the RFP. Communication with any member of the board, the executive director, or TDHCA staff other than Mr. Hamby or his assistant, concerning any matter related to this RFP is grounds for immediate disqualification.

TRD-200902618

Michael Gerber

Executive Director

Texas Department of Housing and Community Affairs

Filed: June 25, 2009



Request for Proposals for Bond Counsel

Summary. The Texas Department of Housing and Community Affairs (TDHCA), through its Legal Services Division, is issuing a Request for Proposals (RFP) for outside Bond Counsel. Bond Counsel will provide legal services in connection with the issuance of TDHCA's bonds, notes, and other obligations of TDHCA to finance or refinance residential housing and multifamily housing developments and to refund prior bond issues.

Deadline for Submission. The deadline for submission in response to this RFP is **4:00 p.m., Central Daylight Saving Time, July 24, 2009.** No proposal received after the deadline will be considered.

TDHCA reserves the right to accept or reject any (or all) proposals submitted. The information contained in this proposal request is intended to serve only as a general description of the services desired by TDHCA, and TDHCA intends to use responses as a basis for further negotiation of specific project details with offerors. This request does not commit TDHCA to pay for any costs incurred prior to the execution of a contract and is subject to availability of funds. Issuance of this request for proposals in no way obligates TDHCA to award a contract or to pay any costs incurred in the preparation of a response.

Law firms interested in submitting a proposal should contact Kevin Hamby, General Counsel, at (512) 475-3948, 211 East 11th Street, Austin, Texas 78701, P.O. Box 13941, Austin, Texas 78711, or visit the Featured Items section of our website at www.tdhca.state.tx.us, for a complete copy of the RFP. Communication with any member of the board, the executive director, or TDHCA staff other than Mr. Hamby or his assistant, concerning any matter related to this RFP is grounds for immediate disqualification.

TRD-200902705

Michael Gerber

Executive Director

Texas Department of Housing and Community Affairs

Filed: June 30, 2009



Request for Proposals for Tax Credit Counsel

Summary. The Texas Department of Housing and Community Affairs (TDHCA), through its Legal Services Division, is issuing a Request for Proposals (RFP) for outside counsel in connection with TDHCA's administration of its low income housing tax credit matters.

Deadline for Submission. The deadline for submission in response to this RFP is **4:00 p.m., Central Daylight Saving Time, Friday, July 24, 2009.** No proposal received after the deadline will be considered.

TDHCA reserves the right to accept or reject any (or all) proposals submitted. The information contained in this proposal request is intended to serve only as a general description of the services desired by TDHCA, and TDHCA intends to use responses as a basis for further negotiation of specific project details with offerors. This request does not commit TDHCA to pay for any costs incurred prior to the execution of a contract and is subject to availability of funds. Issuance of this request for proposals in no way obligates TDHCA to award a contract or to pay any costs incurred in the preparation of a response.

Law firms interested in submitting a proposal should contact Mr. Kevin Hamby, General Counsel, at (512) 475-3948, 211 East 11th Street, Austin, Texas 78701, P.O. Box 13941, Austin, Texas 78711, or visit the Featured Items section of our website at www.tdhca.state.tx.us, for a complete copy of the RFP. Communication with any member of the board, the executive director, or TDHCA staff other than Mr. Hamby, concerning any matter related to this RFP is grounds for immediate disqualification.

TRD-200902704

Michael Gerber

Executive Director

Texas Department of Housing and Community Affairs

Filed: June 30, 2009



Texas Department of Insurance

Company Licensing

Application to change the name of PSO HEALTH SERVICES, LLC to PHYSICIANS HEALTH CHOICE OF TEXAS, LLC., a health maintenance organization. The home office is in San Antonio, Texas.

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

TRD-200902709

Gene C. Jarmon

General Counsel and Chief Clerk

Texas Department of Insurance

Filed: July 1, 2009



Texas Lottery Commission

Instant Game Number 1199 "Match & Win™"

1.0 Name and Style of Game.

A. The name of Instant Game No. 1199 is "MATCH & WIN™". The play style is "key number match".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 1199 shall be \$3.00 per ticket.

1.2 Definitions in Instant Game No. 1199.

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 red play symbols are: 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, \$3.00, \$4.00, \$5.00, \$10.00, \$20.00, \$30.00, \$50.00, \$100, \$200, \$400, \$1,000, \$4,000, and \$30,000. The possible black play symbols are: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, \$3.00, \$4.00, \$5.00, \$10.00, \$20.00, \$30.00, \$50.00, \$100, \$200, \$400, \$1,000, \$4,000, and \$30,000.

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

Figure 1: GAME NO. 1199 - 1.2D

PLAY SYMBOL	CAPTION
11 (red)	
12 (red)	
13 (red)	
14 (red)	
15 (red)	
16 (red)	
17 (red)	
18 (red)	
19 (red)	
20 (red)	
31 (red)	
32 (red)	
33 (red)	
34 (red)	
35 (red)	
36 (red)	
37 (red)	
38 (red)	
39 (red)	
40 (red)	
51 (red)	
52 (red)	
53 (red)	
54 (red)	
55 (red)	
56 (red)	
57 (red)	
58 (red)	
59 (red)	
60 (red)	
71 (red)	
72 (red)	
73 (red)	
74 (red)	
75 (red)	
76 (red)	
77 (red)	
78 (red)	
79 (red)	
80 (red)	
1 (black)	
2 (black)	
3 (black)	
4 (black)	
5 (black)	
6 (black)	

7 (black)	
8 (black)	
9 (black)	
10 (black)	
21 (black)	
22 (black)	
23 (black)	
24 (black)	
25 (black)	
26 (black)	
27 (black)	
28 (black)	
29 (black)	
30 (black)	
41 (black)	
42 (black)	
43 (black)	
44 (black)	
45 (black)	
46 (black)	
47 (black)	
48 (black)	
49 (black)	
50 (black)	
61 (black)	
62 (black)	
63 (black)	
64 (black)	
65 (black)	
66 (black)	
67 (black)	
68 (black)	
69 (black)	
70 (black)	

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 \$3.00, \$4.00, \$5.00, \$10.00, or \$20.00.

G. Mid-Tier Prize - A prize of \$30.00, \$50.00, \$100, \$200, or \$400.

H. High-Tier Prize - A prize of \$1,000, \$4,000 or \$30,000.

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

J. Pack-Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (1199), a seven (7) digit pack number, and a three (3) digit ticket number. Ticket numbers start with 001 and end with 125 within each pack. The format will be: 1199-0000001-001.

K. Pack - A pack of "MATCH & WIN™" Instant Game tickets contains 125 tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). There will be 2 fanfold configurations for this game. Configuration A will show the front of ticket 001 and the back of ticket 125. Configuration B will show the back of ticket 001 and the front of ticket 125.

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

M. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "MATCH & WIN™" Instant Game No. 1199 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 "MATCH & WIN™" Instant Game is determined once the latex on the ticket is scratched off to expose 68 (sixty-eight) Play Symbols. If a player matches all "BLACK NUMBERS" play symbols in a ROW with YOUR BLACK NUMBERS play symbols, the player wins that ROW's BLACK PRIZE. If a player matches all "RED NUMBERS" play symbols in a ROW with YOUR RED NUMBERS play symbols, the player wins that ROW's RED PRIZE. If a player matches all 3 Numbers in a COLUMN with YOUR RED or BLACK NUMBERS, the player wins that COLUMN's Prize. No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly 68 (sixty-eight) Play Symbols must appear under the latex overprint on the front portion of the ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The ticket shall be intact;
6. The Serial Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;
8. The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted, or tampered with in any manner;
9. The ticket must not be counterfeit in whole or in part;
10. The ticket must have been issued by the Texas Lottery in an authorized manner;
11. The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number, Retailer Validation Code, and Pack-Ticket Number must be right side up and not reversed in any manner;
13. The ticket must be complete and not miscut, and have exactly 68 (sixty-eight) Play Symbols under the latex overprint on the front portion of the ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;
14. The Serial Number of an apparent winning ticket shall correspond with the Texas Lottery's Serial Numbers for winning tickets, and a ticket with that Serial Number shall not have been paid previously;
15. The ticket must not be blank or partially blank, misregistered, defective, or printed or produced in error;
16. Each of the 68 (sixty-eight) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 68 (sixty-eight) Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The ticket must have been received by the Texas Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. Consecutive non-winning tickets in a pack will not have identical play data, spot for spot.

B. There will be no duplicate symbols in the YOUR RED NUMBERS section of the ticket.

C. There will be no duplicate symbols in the YOUR BLACK NUMBERS section of the ticket.

D. There will be no duplicate symbols in the Game Play Grid.

E. Only the GRID NUMBERS that can appear in a given column per the Column header will appear in that column on a ticket.

F. Non-winning prize symbols will never be the same as the winning prize symbol(s).

G. The prize symbols \$3, \$4, \$5, \$10, \$20, \$30, \$50, \$100, \$200, and \$400 can be used in any of the 14 possible prize spots on a ticket.

H. The prize symbols \$1000, \$4,000 and \$30,000 can only be used in the 3 RED PRIZE spots or the 3 BLACK PRIZE spots on the right side of the ticket.

I. At least one \$4,000 and at least one \$30,000 prize symbol will appear on each ticket except when restricted by the prize structure and/or other parameters.

J. No more than 2 non-winning occurrences of a given prize symbol from the symbols \$4,000 or \$30,000 on a ticket.

K. No more than 4 non-winning occurrences of a given prize symbol from the symbols \$3, \$4, \$5, \$10, \$20, \$30, \$50, \$100, \$200, \$400, and \$1,000 on a ticket.

2.3 Procedure for Claiming Prizes.

A. To claim a "MATCH & WIN™" Instant Game prize of \$3.00, \$4.00, \$5.00, \$10.00, \$20.00, \$30.00, \$50.00, \$100, \$200, or \$400, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The

Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the ticket; provided that the Texas Lottery Retailer may, but is not required to pay a \$30.00, \$50.00, \$100, \$200, or \$400 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 "MATCH & WIN™" Instant Game prize of \$1,000, \$4,000 or \$30,000, the claimant must sign the winning ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "MATCH & WIN™" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller of Public Accounts, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;
2. delinquent in making child support payments administered or collected by the Office of 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.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "MATCH & WIN™" 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 "MATCH & WIN™" 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 6,000,000 tickets in the Instant Game No. 1199. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 1199 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in**
\$3	312,000	19.23
\$4	360,000	16.67
\$5	576,000	10.42
\$10	96,000	62.50
\$20	84,000	71.43
\$30	29,600	202.70
\$50	12,500	480.00
\$100	4,850	1,237.11
\$200	1,050	5,714.29
\$400	1,050	5,714.29
\$1,000	1,000	6,000.00
\$4,000	14	428,571.43
\$30,000	10	600,000.00

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

**The overall odds of winning a prize are 1 in 4.06. 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. 1199 without advance notice, at which point no further tickets in that game may be sold.

6.0 Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game No. 1199, 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-200902720
 Kimberly L. Kiplin
 General Counsel
 Texas Lottery Commission
 Filed: July 1, 2009



Instant Game Number 1261 "Dallas Cowboys®"

1.0 Name and Style of Game.

A. The name of Instant Game No. 1261 is "DALLAS COWBOYS®". The play style is "key number match with win all".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 1261 shall be \$5.00 per ticket.

1.2 Definitions in Instant Game No. 1261.

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

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

C. Play Symbol - The printed data under the latex on the front of the instant ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black play symbols are: 1, 2, 3, 4, 5, 6, 7, 8, 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, FOOTBALL SYMBOL, TD SYMBOL, \$5.00, \$10.00, \$15.00, \$20.00, \$50.00, \$100, \$1,000, and \$100,000.

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

Figure 1: GAME NO. 1261 - 1.2D

PLAY SYMBOL	CAPTION
1	ONE
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
7	SVN
8	EGT
9	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWV
26	TWSX
27	TWSV
28	TWET
29	TWNI
30	TRTY
31	TRON
32	TRTO
33	TRTH
34	TRFR
35	TRV
36	TRSX
37	TRSV
38	TRET
39	TRNI
40	FRTY
FOOTBALL SYMBOL	FOOTBALL
TD SYMBOL	WINALL
\$5.00	FIVE\$
\$10.00	TEN\$
\$15.00	FIFTN
\$20.00	TWENTY

\$50.00	FIFTY
\$100	ONE HUND
\$1,000	ONE THOU
\$100,000	HUN THOU

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 or \$100.

H. High-Tier Prize - A prize of \$1,000, \$5,000 or \$100,000.

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

J. Pack-Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (1261), 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: 1261-0000001-001.

K. Pack - A pack of "DALLAS COWBOYS®" 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 ticket 001 and front of 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 "DALLAS COWBOYS®" Instant Game No. 1261 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 "DALLAS COWBOYS®" 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 WINNING NUMBERS play symbols, the player wins the PRIZE shown for that number. If a player reveals a "football" play symbol, the player wins the PRIZE shown for that symbol instantly. If the player reveals a "touchdown" play symbol, the player instantly WINS ALL 20 PRIZES! No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly 45 (forty-five) Play Symbols must appear under the latex overprint on the front portion of the ticket;

2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;

3. Each of the Play Symbols must be present in its entirety and be fully legible;

4. Each of the Play Symbols must be printed in black ink except for dual image games;

5. The ticket shall be intact;

6. The Serial Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;

7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;

8. The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted, or tampered with in any manner;

9. The ticket must not be counterfeit in whole or in part;

10. The ticket must have been issued by the Texas Lottery in an authorized manner;

11. The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;

12. The Play Symbols, Serial Number, Retailer Validation Code, and Pack-Ticket Number must be right side up and not reversed in any manner;

13. The ticket must be complete and not miscut, and have exactly 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;

14. The Serial Number of an apparent winning ticket shall correspond with the Texas Lottery's Serial Numbers for winning tickets, and a ticket with that Serial Number shall not have been paid previously;

15. The ticket must not be blank or partially blank, misregistered, defective, or printed or produced in error;

16. Each of the 45 (forty-five) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. 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;

18. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The ticket must have been received by the Texas Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award

of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. Consecutive non-winning tickets in a pack will not have identical play data, spot for spot.

B. The "TD" (win all) play symbols will only appear on intended winning tickets and only as dictated by the prize structure.

C. The "FOOTBALL" (auto win) play symbol will never appear more than once on a ticket.

D. No five or more matching non-winning prize symbols on a ticket.

E. No duplicate WINNING NUMBERS play symbols on a ticket.

F. No duplicate non-winning YOUR NUMBERS play symbols on a ticket.

G. Non-winning prize symbols will never be the same as the winning prize symbol(s).

H. When the "TD" (win all) play symbol appears, there will be no occurrence of any of YOUR NUMBERS play symbols matching any WINNING NUMBER play symbol.

I. No prize amount in a non-winning spot will correspond with the YOUR NUMBERS play symbol (i.e., 5 and \$5).

J. The top prize symbol will appear on every ticket unless otherwise restricted.

2.3 Procedure for Claiming Prizes.

A. To claim a "DALLAS COWBOYS®" Instant Game prize of \$5.00, \$10.00, \$15.00, \$20.00, \$50.00, or \$100, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$50.00 or \$100 ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "DALLAS COWBOYS®" Instant Game prize of \$1,000, \$5,000 or \$100,000, the claimant must sign the winning ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by

the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "DALLAS COWBOYS®" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. The DALLAS COWBOYS® Instant Game will have five (5) Second-Chance Drawings for prizes.

1. Any non-winning DALLAS COWBOYS® scratch-off ticket may be entered into one of the drawings. Players may complete an entry by filling out the information on the back of the ticket, affix a first-class stamp and mail to the address on the back of the scratch-off ticket. Entries in envelopes will not be accepted. Entries showing evidence of alteration to the claimant name or address field will be disqualified.

2. Only one winner per household per drawing.

3. A player must be 18 years of age or older to enter the second-chance drawings.

E. 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 of Public Accounts, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;

2. delinquent in making child support payments administered or collected by the Office of 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.

F. 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 "DALLAS COWBOYS®" 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 "DALLAS COWBOYS®" 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 12,000,000 tickets in the Instant Game No. 1261. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 1261 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in**
\$5	1,600,000	7.50
\$10	920,000	13.04
\$15	240,000	50.00
\$20	160,000	75.00
\$50	162,500	73.85
\$100	35,300	339.94
\$1,000	150	80,000.00
\$5,000	20	600,000.00
\$100,000	13	923,076.92

*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 3.85. 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. 1261 without advance notice, at which point no further tickets in that game may be sold.

6.0 Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game No. 1261, 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-200902690

Kimberly L. Kiplin
 General Counsel
 Texas Lottery Commission
 Filed: June 30, 2009



Instant Game Number 1262 "Houston Texans"

1.0 Name and Style of Game.

A. The name of Instant Game No. 1262 is "HOUSTON TEXANS". The play style is "key number match with win all".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 1262 shall be \$5.00 per ticket.

1.2 Definitions in Instant Game No. 1262.

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

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

C. Play Symbol - The printed data under the latex on the front of the instant ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black play symbols are: 1, 2, 3, 4, 5, 6, 7, 8, 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, FOOTBALL SYMBOL, TD SYMBOL, \$5.00, \$10.00, \$15.00, \$20.00, \$50.00, \$100, \$1,000, and \$100,000.

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

Figure 1: GAME NO. 1262 - 1.2D

PLAY SYMBOL	CAPTION
1	ONE
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
7	SVN
8	EGT
9	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWV
26	TWSX
27	TWSV
28	TWET
29	TWNI
30	TRTY
31	TRON
32	TRTO
33	TRTH
34	TRFR
35	TRFV
36	TRSX
37	TRSV
38	TRET
39	TRNI
40	FRTY
FOOTBALL SYMBOL	FOOTBALL
TD SYMBOL	WINALL
\$5.00	FIVE\$
\$10.00	TEN\$
\$15.00	FIFTN
\$20.00	TWENTY

\$50.00	FIFTY
\$100	ONE HUND
\$1,000	ONE THOU
\$100,000	HUN THOU

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 or \$100.

H. High-Tier Prize - A prize of \$1,000, \$5,000 or \$100,000.

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

J. Pack-Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (1262), 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: 1262-0000001-001.

K. Pack - A pack of "HOUSTON TEXANS" 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 ticket 001 and front of 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 "HOUSTON TEXANS" Instant Game No. 1262 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 "HOUSTON TEXANS" 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 PRIZE shown for that number. If a player reveals a "football" play symbol, the player wins the PRIZE shown for that symbol instantly. If the player reveals a "touchdown" play symbol, the player instantly WINS ALL 20 PRIZES! No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly 45 (forty-five) Play Symbols must appear under the latex overprint on the front portion of the ticket;

2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;

3. Each of the Play Symbols must be present in its entirety and be fully legible;

4. Each of the Play Symbols must be printed in black ink except for dual image games;

5. The ticket shall be intact;

6. The Serial Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;

7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;

8. The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted, or tampered with in any manner;

9. The ticket must not be counterfeit in whole or in part;

10. The ticket must have been issued by the Texas Lottery in an authorized manner;

11. The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;

12. The Play Symbols, Serial Number, Retailer Validation Code, and Pack-Ticket Number must be right side up and not reversed in any manner;

13. The ticket must be complete and not miscut, and have exactly 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;

14. The Serial Number of an apparent winning ticket shall correspond with the Texas Lottery's Serial Numbers for winning tickets, and a ticket with that Serial Number shall not have been paid previously;

15. The ticket must not be blank or partially blank, misregistered, defective, or printed or produced in error;

16. Each of the 45 (forty-five) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. 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;

18. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The ticket must have been received by the Texas Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award

of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. Consecutive non-winning tickets in a pack will not have identical play data, spot for spot.

B. The "TD" (win all) play symbols will only appear on intended winning tickets and only as dictated by the prize structure.

C. The "FOOTBALL" (auto win) play symbol will never appear more than once on a ticket.

D. No five or more matching non-winning prize symbols on a ticket.

E. No duplicate WINNING NUMBERS play symbols on a ticket.

F. No duplicate non-winning YOUR NUMBERS play symbols on a ticket.

G. Non-winning prize symbols will never be the same as the winning prize symbol(s).

H. When the "TD" (win all) play symbol appears, there will be no occurrence of any of YOUR NUMBERS play symbols matching any WINNING NUMBER play symbol.

I. No prize amount in a non-winning spot will correspond with the YOUR NUMBERS play symbol (i.e., 5 and \$5).

J. The top prize symbol will appear on every ticket unless otherwise restricted.

2.3 Procedure for Claiming Prizes.

A. To claim a "HOUSTON TEXANS" Instant Game prize of \$5.00, \$10.00, \$15.00, \$20.00, \$50.00, or \$100, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$50.00 or \$100 ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "HOUSTON TEXANS" Instant Game prize of \$1,000, \$5,000 or \$100,000, the claimant must sign the winning ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by

the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "HOUSTON TEXANS" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. The "HOUSTON TEXANS" Instant Game will have five (5) Second-Chance Drawings for prizes.

1. Any non-winning "HOUSTON TEXANS" scratch-off ticket may be entered into one of the drawings. Players may complete an entry by filling out the information on the back of the ticket, affix a first-class stamp and mail to the address on the back of the scratch-off ticket. Entries in envelopes will not be accepted. Entries showing evidence of alteration to the claimant name or address field will be disqualified.

2. Only one winner per household per drawing.

3. A player must be 18 years of age or older to enter the second-chance drawings.

E. 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 of Public Accounts, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;

2. delinquent in making child support payments administered or collected by Office of 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.

F. 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 "HOUSTON TEXANS" 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 "HOUSTON TEXANS" 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. 1262. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 1262 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in**
\$5	672,000	7.50
\$10	386,400	13.04
\$15	100,800	50.00
\$20	67,200	75.00
\$50	69,594	72.42
\$100	14,784	340.91
\$1,000	90	56,000.00
\$5,000	10	504,000.00
\$100,000	7	720,000.00

*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 3.84. 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. 1262 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. 1262, 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-200902689

Kimberly L. Kiplin
 General Counsel
 Texas Lottery Commission
 Filed: June 30, 2009

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Panhandle Regional Planning Commission

Request for Proposals

The Panhandle Regional Planning Commission (PRPC) is seeking proposals for a leased facility to house the Workforce Solutions Panhandle office in Borger, Texas. The space should offer approximately 3,000 square feet of contiguous space that can be appropriately configured for business/professional use. The office is currently located in the Service Drilling Southwest Center for Access and Innovation at Frank Phillips College at 901 Opal, Suite 102.

A copy of the Request for Proposals can be obtained by contacting Leslie Hardin, PRPC's Workforce Development Facilities Coordinator, at (806) 372-3381 or lhardin@theprpc.org. Proposals must be received at PRPC by 3:00 p.m. on August 3, 2009.

TRD-200902711

Leslie Hardin

Training and Support Coordinator, Workforce Development Facilities

Panhandle Regional Planning Commission

Filed: July 1, 2009



Request for Proposals

The Panhandle Regional Planning Commission (PRPC) is seeking proposals for a leased facility to house the Workforce Solutions Panhandle office in Hereford, Texas. The space should offer at least 4,000 square feet of contiguous space that can be appropriately configured for business/professional use. The office is currently located at 121 W. Park Avenue.

A copy of the Request for Proposals can be obtained by contacting Leslie Hardin, PRPC's Workforce Development Facilities Coordinator, at (806) 372-3381 or lhardin@theprpc.org. Proposals must be received at PRPC by 3:00 p.m. on August 3, 2009.

TRD-200902712

Leslie Hardin

Training and Support Coordinator, Workforce Development Facilities

Panhandle Regional Planning Commission

Filed: July 1, 2009



Texas Department of Public Safety

Hazardous Materials Emergency Preparedness (HMEP) Grants

INTRODUCTION: The Governor's Division of Emergency Management (GDEM), acting for the State Emergency Response Commission (SERC), is requesting proposals for Local Emergency Planning Committee (LEPC) Hazardous Materials Emergency Preparedness (HMEP) grants to be awarded to Cities/Counties representing LEPCs to further their work in hazardous materials transportation emergency planning.

DESCRIPTION OF ACTIVITIES: LEPCs are mandated by the federal Emergency Planning and Community Right-to-Know Act (EPCRA) to provide planning and information for communities relating to chemicals, in their use, storage or transit. The U.S. Department of Transportation has made grant money available to enhance communities' readiness for responding to hazardous materials transportation incidents. A grant may be used by an LEPC in various ways, depending on a community's needs.

ELIGIBLE APPLICANTS: Each proposal must be developed by an LEPC, the membership of which is recognized by the SERC, in cooperation with county and/or city governments. The proposal must be approved by a vote of the LEPC. Each LEPC shall arrange for a city or county to serve as its fiscal agent for management of any and all money awarded under this grant.

CERTIFICATION: The fiscal agent must provide certification to commit funds for this project. The certification must be in the form of an enabling resolution from the county or authorization to commit funds from the city as appropriate.

BUDGET LIMITATIONS: Total funding for these grants is dependent on the amount granted to the state from the U.S. Department of Transportation. No less than seventy-five percent of the money granted to the

state for planning will be awarded to LEPCs. This is the eighteenth of a series of annual grant awards, which will be issued through FY 2010. Grants will be awarded based upon project, population, hazardous materials risk, need, and cost-effectiveness as judged by SERC. GDEM will fund eighty percent of the total project amount approved by the SERC. Twenty percent of the project cost must be borne by the grantee. Approved in-kind contributions may be used to satisfy this contribution. LEPCs must maintain the same level of spending for planning as an average of the past two years, in addition to the grant.

EXAMPLES OF PROPOSALS:

* Development, improvement, and implementation of the emergency plans required under the Emergency Planning and Community Right-to-Know Act (EPCRA), as well as exercises, which test the emergency plan. Improvement of emergency plans may include hazard analysis as well as response procedures for emergencies involving transportation of hazardous materials including radioactive materials.

* An assessment to determine flow patterns of hazardous materials within a State, between a State and another State, Territory or Native American Land, and development and maintenance of a system to keep such information current.

* An assessment of the need for regional hazardous materials emergency response teams or to assess local response capabilities.

* Conducting emergency response drills and exercises associated with emergency response plans.

* Temporary Technical staff to support the planning effort. (Staff funding under planning grants cannot be diverted to support other requirements of EPCRA.)

* Public outreach about hazardous materials training issues such as community protection, chemical emergency preparedness, or response.

* Any other planning project related to the transportation of hazardous materials approved by GDEM.

CONTRACT PERIOD: Grant contracts begin as early as November 1, 2009, and end August 31, 2010.

FINAL SELECTION: GDEM shall review the proposals. The SERC Subcommittee on Planning will make the final selection. The State is under no obligation to award grants to all applicants.

APPLICATION FORMS AND DEADLINE: You can obtain a "Request for Application" package by downloading the application from the GDEM website (<http://www.txdps.state.tx.us/dem/pages/planning.htm>); or by requesting a copy from the HazMat Preparedness Officer at emdtechhaz@txdps.state.tx.us or by calling at (512) 424-5985. The completed (original and four copies) "Request for Application" package should be sent via certified/registered mail or other private mail delivery service, requiring a signature to the Governor's Division of Emergency Management, Preparedness Section, Technological Hazards Unit, P.O. Box 4087, Austin, Texas 78773-0225 and must be received by 5:00 p.m. on September 1, 2009. You can find additional information by searching on the State of Texas eGrants Website www.texasonline.state.tx.us/tolapp/egrants/search.htm. Search for Hazardous Material Emergency Preparedness (HMEP) Planning Grant, or by e-mailing a request for information to emdtechhaz@txdps.state.tx.us.

TRD-200902666

Lamar Beckworth

Director

Texas Department of Public Safety

Filed: June 29, 2009

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Public Utility Commission of Texas

Announcement of Application for State-Issued Certificate of Franchise Authority

The Public Utility Commission of Texas (commission) received an application on June 25, 2009, for 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 Kilgore Video, Inc. for a State-Issued Certificate of Franchise Authority, Project Number 37150 before the Public Utility Commission of Texas.

The requested CFA service area includes the municipality of Kilgore, 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 37150.

TRD-200902700
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: June 30, 2009

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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 June 25, 2009, to amend a certificate of convenience and necessity for a proposed transmission line in Dallam and Sherman Counties, Texas.

Docket Style and Number: Application of Southwestern Public Service Company to Amend a Certificate of Convenience and Necessity for a Proposed Transmission Line within Dallam and Sherman Counties, Texas. Docket Number 37104.

The Application: The application of Southwestern Public Service Company (SPS) for a proposed transmission line is designated the Dallam County Substation to Sherman County Substation Transmission Line Project. SPS stated that the proposed transmission line is needed to provide reliable transmission service to the existing and growing loads in Dallam and Sherman Counties. The miles of right-of-way for this project will be approximately 37 to 47 miles (depending on approved route).

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 August 10, 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 37104.

TRD-200902701

Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: June 30, 2009

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Notice of Intent to File LRIC Study Pursuant to P.U.C. Substantive Rule §26.214

Notice is given to the public of the filing on June 25, 2009, with the Public Utility Commission of Texas (commission), a notice of intent to file a long run incremental cost (LRIC) study pursuant to P.U.C. Substantive Rule §26.214. The applicant will file the LRIC study on or about July 6, 2009.

Docket Title and Number: Application of Central Telephone Company of Texas d/b/a Embarq for Approval of LRIC Study for Individual Voice Channels with ISDN-PRI Functionality Pursuant to P.U.C. Substantive Rule §26.214, Docket Number 37151.

Any party that demonstrates a justiciable interest may file with the administrative law judge written comments or recommendations concerning the LRIC study referencing Docket Number 37151. Written comments or recommendations should be filed no later than forty-five (45) days after the date of a sufficient study and should be filed at 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 telephones (TTY) may contact the commission at (512) 936-7136 or toll free 1-800-735-2989. All comments should reference Docket Number 37151.

TRD-200902699
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: June 30, 2009

◆ ◆ ◆
Texas Council on Purchasing from People with Disabilities

Request for Comment Regarding the Management Fee

Notice is hereby given that the Texas Council on Purchasing from People with Disabilities (Council) will review and approve the management fee rate charged by the central nonprofit agency, TIBH Industries Inc., for its services to the community rehabilitation programs (CRPs) for Fiscal Year 2010 as required by §122.019(e) of the Texas Human Resources Code. This review will be conducted at the Council's meeting on Friday, September 18, 2009. The Council's meeting will be held at the Capitol Extension, 1400 North Congress Avenue, Hearing Room E2.026 Austin, Texas. TIBH Industries Inc. has requested that the Council set the management fee rate at 6.25% of the sales price for products, 6% of the contract price for services and 5% for Temporary Services. The Council seeks public comment on TIBH Industries Inc. management fee rate request as required by §122.030(a), (b) of the Texas Human Resources Code.

Comments should be submitted in writing on or before Friday, September 11, 2009 to Kelvin Moore of the Texas Council on Purchasing from People with Disabilities, 111 E. 17th Street, Austin, Texas 78711.

For all other questions or comments, contact the Texas Council on Purchasing from People with Disabilities at (512) 463-3244. In addition, hearing and speech impaired individuals with text telephones (TTY)

may also contact the Council on Purchasing from People with Disabilities at (800) 531-5441.

TRD-200902627

David Duncan

Deputy General Counsel

Texas Council on Purchasing from People with Disabilities

Filed: June 26, 2009



Request for Comment Regarding the Services Performed by TIBH Industries Inc.

Notice is hereby given that the Texas Council on Purchasing from People with Disabilities (Council) intends to review the services provided by the central nonprofit agency, TIBH Industries Inc., for Fiscal Year 2010 as required by §122.019(c) of the Texas Human Resources Code. This review will be considered at the next Council meeting on Friday, September 18, 2009. The Council's meeting will be held at the Capitol Extension, 1400 North Congress Avenue, Hearing Room E2.026, Austin, Texas. The Council requests that interested parties submit comments regarding the services of TIBH Industries Inc. in its operation of the State Use Program, under §122.019(a) - (b) of the Texas Human Resources Code.

Comments should be submitted in writing on or before Friday, September 11, 2009 to Kelvin Moore of the Texas Council on Purchasing from People with Disabilities, 111 E. 17th Street, Austin, Texas 78711.

For all other questions or comments, contact the Texas Council on Purchasing from People with Disabilities at (512) 436-3244. In addition, hearing and speech-impaired individuals with text telephones (TTY) may also contact the Council on Purchasing from People with Disabilities at (800) 531-5441.

TRD-200902626

David Duncan

Deputy General Counsel

Texas Council on Purchasing from People with Disabilities

Filed: June 26, 2009



Texas Department of Transportation

Aviation Division - Request for Proposal for Aviation Architectural/Engineering Services

The City of Galveston, through its agent, the Texas Department of Transportation (TxDOT), intends to engage an aviation professional architectural/engineering firm for services pursuant to Government Code, Chapter 2254, Subchapter A. TxDOT Aviation Division will solicit and receive proposals for professional aviation architectural/engineering design services described below:

Airport Sponsor: City of Galveston. TxDOT CSJ No. 09TBGALVN. Scope: Provide architectural/engineering design services to renovate the existing airport terminal building at Scholes International Airport, Galveston, Texas.

There is no DBE requirement (0%) for this project. TxDOT Project Manager is Stephanie Kleiber.

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

by selecting "Scholes International Airport at Galveston."

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 August 3, 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.

The consultant selection committee will be composed of local government members. The final selection by the committee will generally be made following the completion of review of proposals. The committee 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 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.

If there are any procedural questions, please contact Edie Stimach, Grant Manager, at 1-800-68-PILOT at extension 4518. For technical questions, please contact Stephanie Kleiber, at 1-800-68-PILOT at extension 4524.

TRD-200902695

Joanne Wright

Deputy General Counsel

Texas Department of Transportation

Filed: June 30, 2009



Notice of Award

In accordance with Government Code, Chapter 2254, Subchapter B, the Texas Department of Transportation (department) publishes this notice of a consultant contract award for providing the department services for a Management and Organizational Review. The request for proposal was published in the April 10, 2009, issue of the *Texas Register* (34 TexReg 2418).

The consultant will review, analyze, and propose recommendations to the Texas Transportation Commission relative to the management and organizational structure of administration, divisions, districts, offices, and regions of the department. The consultant will propose and doc-

ument alternative solutions for an independent analysis of the department to optimize performance, improve transparency and accountability, promote the effective and efficient use of resources, and assist in the identification of future resources needed to meet the goals of the department.

The selected consultant for these services is Grant Thornton, LLP, 112 East Pecan Street, Suite 2800, San Antonio, Texas 78205. The total value of the contract is \$1,497,210.05. The contract work period started on June 25, 2009, and will continue until December 31, 2009. The final report is to be submitted on or before December 31, 2009.

TRD-200902694

Joanne Wright

Deputy General Counsel

Texas Department of Transportation

Filed: June 30, 2009



Notice of Opportunity to Comment - Transportation Planning and Project Development Program Rules

The Texas Department of Transportation (department) is soliciting comments for potential revisions to department rules including, but not limited to, 43 Texas Administrative Code Chapter 15, Subchapter A, concerning Transportation Planning.

Prior to the 81st Legislature, Regular Session, 2009, the Sunset Advisory Commission made several recommendations for legislation that would require the department to redevelop and regularly update the statewide transportation plan to establish a transparent, well-defined, and understandable system of project programming. The recommendations of the Sunset Advisory Commission report were incorporated into the transportation planning article of the department's sunset bill. Although the sunset bill was not enacted, the concepts expressed in the Conference Committee Report for House Bill 300 provide a basis for revisions to the department's existing transportation planning and project development program.

The development of planning guidelines, selection of projects, establishment of program funding categories, and creation of formulas for the allocation of transportation funds are of the utmost importance to the entire state and the department desires that its partners in transportation, as well as the general public, participate in those processes. The information gathered from the comments will be used to assist the department in developing proposed rules to establish a comprehensive transportation planning and project development program that includes the following:

1. a long-range plan which will provide: (i) specific, long term transportation goals for the state and measurable targets for each goal; (ii) identification of priority corridors, projects, or areas of the state that are of particular concern; and (iii) a participation plan for obtaining input on the goals and priorities from other entities and the general public;
2. a mid-range planning program covering approximately 10 years for which the Texas Transportation Commission (commission): (i) specifies criteria for selection of projects; (ii) defines program funding categories; and (iii) defines each phase of a major transportation project, including planning, design, and construction;
3. a short-range work plan covering approximately 4 years that contains project schedules with funding for each phase, a right of way acquisition plan, letting plan, and summary of progress;
4. consistent planning and programming requirements for metropolitan planning organizations;

5. criteria for selection by the department and each metropolitan planning organization of projects to be included in the statewide transportation plan, based on the commission's transportation goals and measurable targets for each goal;

6. criteria for designating a project as a statewide connectivity project with benchmarks for evaluating the progress of a statewide connectivity project and time lines for implementation;

7. an extended cash flow forecast that includes near-term, mid-term, and long-term periods for each method and category of funding;

8. funding formulas for all types of transportation projects;

9. formulas for the allocation of funds to each metropolitan planning organization that take into consideration performance measures and include several criteria, such as lane miles, level of congestion, percentage of population below federal poverty level, census population, safety, total vehicle miles traveled, and truck vehicle miles traveled;

10. a procedure that allows the department and metropolitan planning organizations to move projects forward or delay projects if more or less funds than expected are available; and

11. regular reporting requirements that are clear and understandable.

The department is seeking both general ideas and specific language suggestions. Comments on specific text changes should include the appropriate citations to sections, subsections, paragraphs, etc. of existing rules for proper reference. A current version of 43 Texas Administrative Code, Chapter 15, Subchapter A, concerning Transportation Planning, is available online at:

[http://info.sos.state.tx.us/pls/pub/readtac\\$ext.View-TAC?tac_view=5&ti=43&pt=1&ch=15&sch=A&rl=Y](http://info.sos.state.tx.us/pls/pub/readtac$ext.View-TAC?tac_view=5&ti=43&pt=1&ch=15&sch=A&rl=Y)

The department will accept only written comments and they should be addressed to Bob Jackson, General Counsel, 125 East 11th Street, Austin, Texas 78701, or via e-mail to rcarter@dot.state.tx.us. The deadline for receipt of comments is 5:00 p.m. August 10, 2009. The department will not respond individually to comments received pursuant to this notice. When proposed rules have been drafted and prior to any formal action by the commission, the department will publish another notice containing a copy of the draft rules and request for comments.

TRD-200902722

Joanne Wright

Deputy General Counsel

Texas Department of Transportation

Filed: July 1, 2009



Public Hearing Notice - Statewide Transportation Improvement Program

The Texas Department of Transportation (department) will hold a public hearing on Wednesday, July 29, 2009 at 10:00 a.m. at the Texas Department of Transportation, 200 East Riverside Drive, Room 1A-2, Austin, Texas to receive public comments on the July Out of Cycle 2009 Revisions to the Statewide Transportation Improvement Program (STIP) for FY 2008-2011. The STIP reflects the federally funded transportation projects in the FY 2008-2011 Transportation Improvement Programs (TIPs) for each Metropolitan Planning Organization (MPO) in the state. The STIP includes both state and federally funded projects for the nonattainment areas of Beaumont, Dallas-Fort Worth, El Paso, and Houston. The STIP also contains information on federally funded projects in rural areas that are not included in any MPO area, and other statewide programs as listed.

Title 23, United States Code, §134 and §135 require each designated MPO and the state, respectively, to develop a TIP as a condition to securing federal funds for transportation projects under Title 23 or the Federal Transit Act (49 USC §5301, et seq.).

Section 134(j) requires an MPO to develop its TIP in cooperation with the state and affected transportation operators, to provide an opportunity for interested parties to participate in the development of the program, and further requires the TIP to be updated at least once every four years and approved by the MPO and the Governor or Governor's designee. Section 135(g) requires the state to develop a STIP for all areas of the state in cooperation with the designated MPOs and, with respect to non-metropolitan areas, in consultation with affected local officials, and further requires an opportunity for participation by interested parties as well as approval by the Governor or the Governor's designee.

In accordance with 43 TAC §15.8(d), a copy of the proposed July Out of Cycle 2009 Revisions to the FY 2008-2011 STIP will be available for review at the time the notice of hearing is published, at each of the department's district offices, at the department's Transportation Planning and Programming Division offices located in Building 118, Second Floor, 118 East Riverside Drive, Austin, Texas, and on the department's website at:

www.txdot.gov

Persons wishing to review the July Out of Cycle 2009 Revisions to the FY 2008-2011 STIP may do so online or contact the Transportation Planning and Programming Division at (512) 486-5033.

Persons wishing to speak at the hearing may register in advance by notifying Lori Morel, Transportation Planning and Programming Division, at (512) 486-5033 not later than Tuesday, July 28, 2009, or they may register at the hearing location beginning at 9:00 a.m. on the day of the hearing. Speakers will be taken in the order registered. Any

interested person may appear and offer comments or testimony, either orally or in writing; however, questioning of witnesses will be reserved exclusively to the presiding authority as may be necessary to ensure a complete record. While any persons with pertinent comments or testimony will be granted an opportunity to present them during the course of the hearing, the presiding authority reserves the right to restrict testimony in terms of time or repetitive content. Groups, organizations, or associations should be represented by only one speaker. Speakers are requested to refrain from repeating previously presented testimony. Persons with disabilities who have special communication or accommodation needs or who plan to attend the hearing may contact the Government and Public Affairs Division, at 125 East 11th Street, Austin, Texas 78701-2483, (512) 463-9957. Requests should be made no later than three days prior to the hearing. Every reasonable effort will be made to accommodate the needs.

Further information on the FY 2008-2011 STIP may be obtained from Lori Morel, Transportation Planning and Programming Division, 118 East Riverside Drive, Austin, Texas 78704, (512) 486-5033. Interested parties who are unable to attend the hearing may submit comments to James L. Randall, P.E., Director, Transportation Planning and Programming Division, 118 East Riverside Drive, Austin, Texas 78704. In order to be considered, all written comments must be received at the Transportation Planning and Programming office by Monday, August 24, 2009 at 4:00 p.m.

TRD-200902693

Joanne Wright

Deputy General Counsel

Texas Department of Transportation

Filed: June 30, 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).