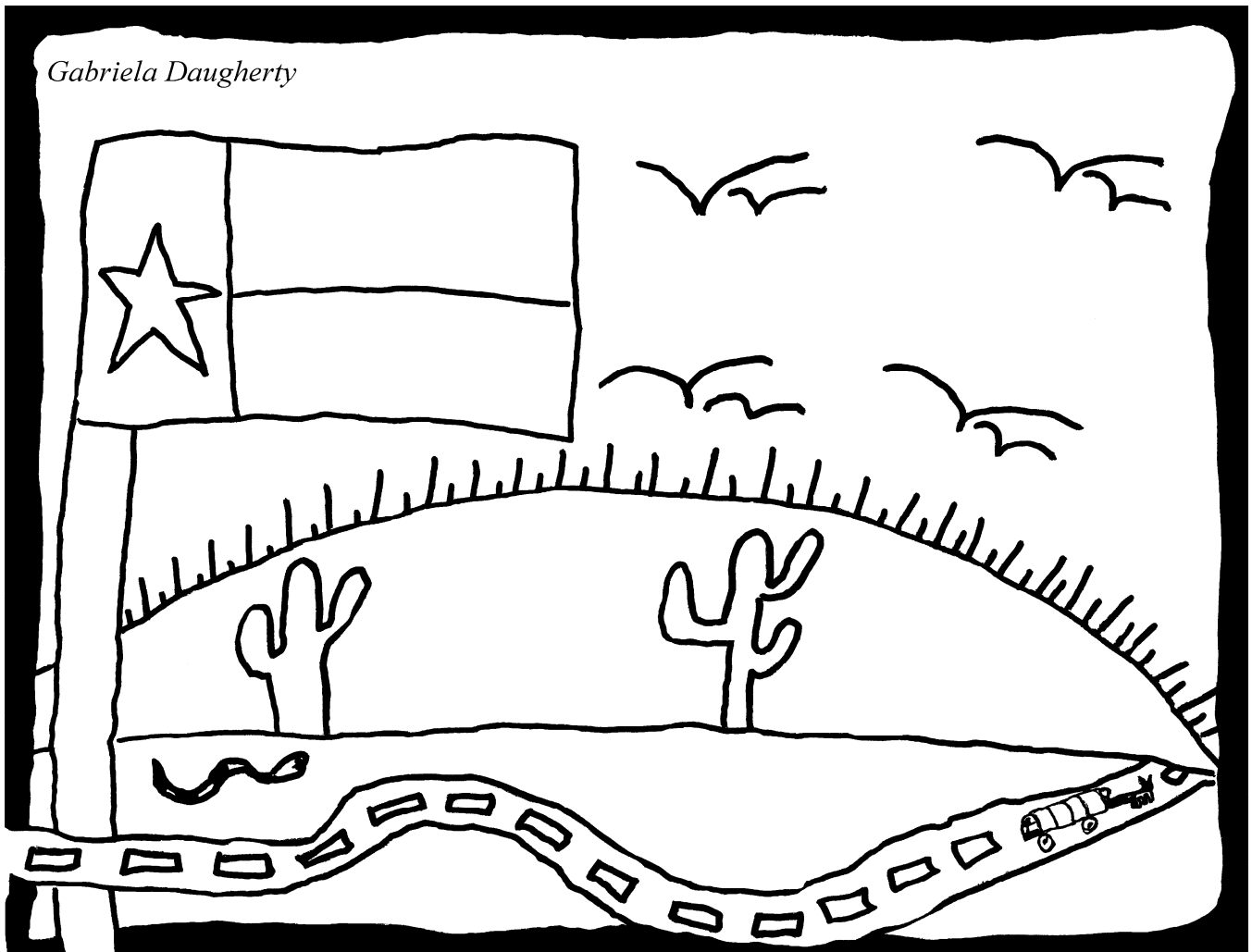

TEXAS REGISTER

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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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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/>

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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>.)

Request for Opinions

RQ-0808-GA

Requestor:

The Honorable Mark Homer

Chair, Committee on Culture, Recreation & Tourism

Texas House of Representatives

P.O. Box 2910

Austin, Texas 78768-2910

Re: Inclusion of multiple contiguous lots as part of a homestead exemption under section 11.13(j), Tax Code (RQ-0808-GA)

Briefs requested by July 30, 2009

RQ-0809-GA

Requestor:

The Honorable M. Rex Emerson

Kerr County Attorney

County Courthouse, Suite BA-103

700 Main Street

Kerrville, Texas 78028

Re: Whether a peace officer who has taken a person into custody under chapter 573 of the Health & Safety Code is required to transport that individual to a medical facility for evaluation prior to taking that person to a mental health facility (RQ-0809-GA)

Briefs requested by August 3, 2009

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

TRD-200902794

Stacey Napier

Deputy Attorney General

Office of the Attorney General

Filed: July 8, 2009

◆ ◆ ◆

TEXAS ETHICS COMMISSION

The Texas Ethics Commission is authorized by the Government Code, §571.091, to issue advisory opinions in regard to the following statutes: the Government Code, Chapter 302; the Government Code, Chapter 305; the Government Code, Chapter 572; the Election Code, Title 15; the Penal Code, Chapter 36; and the Penal Code, Chapter 39. Requests for copies of the full text of opinions or questions on particular submissions should be addressed to the Office of the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, (512) 463-5800.

Advisory Opinion Request

AOR-548. The Texas Ethics Commission has been asked to consider whether in a situation where a person is the beneficiary of a trust that the person created, but does not manage the trust and is not aware of the investments that the trustees of the trust have authorized, must the person take affirmative action to determine the identity of trust assets from which over \$500 was received for purposes of completing a personal financial statement as required under Chapter 572 of the Government Code or may the person indicate that such assets are unknown?

The Texas Ethics Commission is authorized by §571.091 of the Government Code to issue advisory opinions in regard to the following statutes: (1) Chapter 572, Government Code; (2) Chapter 302, Government Code; (3) Chapter 303, Government Code; (4) Chapter 305, Government Code; (5) Chapter 2004, Government Code; (6) Title 15,

Election Code; (7) Chapter 159, Local Government Code; (8) Chapter 36, Penal Code; (9) Chapter 39, Penal Code; (10) Section 2152.064, Government Code; and (11) Section 2155.003, Government Code.

Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Capitol Station, Austin, Texas 78711-2070, (512) 463-5800.

TRD-200902804
Natalia Luna Ashley
General Counsel
Texas Ethics Commission
Filed: July 8, 2009



EMERGENCY RULES

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

TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 265. GENERAL SANITATION SUBCHAPTER M. INTERACTIVE WATER FEATURES AND FOUNTAINS

25 TAC §§265.301 - 265.308

The Executive Commissioner of the Health and Human Services Commission, on behalf of the Department of State Health Services (department) adopts, on an emergency basis, new §§265.301 - 265.308, relating to interactive water features and fountains. As authorized by Government Code, §2001.034, the Executive Commissioner may adopt an emergency rule without prior notice or hearing, or with an abbreviated notice and hearing, if a state or federal law requires adoption on fewer than 30 days' notice. Emergency rules adopted under Government Code, §2001.034, may be effective for not longer than 120 days and may be renewed for not longer than 60 days.

BACKGROUND AND PURPOSE

The 81st Texas Legislature, Regular Session, 2009, passed Senate Bill 968, which amends the Health and Safety Code by adding new §341.0695. Section 341.0695 imposes sanitary requirements for interactive water features and fountains and requires adoption of emergency rules to implement those requirements within 30 days of the effective date of the Act, June 19, 2009, the date that Senate Bill 968 was signed by the governor. Emergency rules, therefore, must be adopted by July 20, 2009. The Executive Commissioner of the Health and Human Services Commission finds that this requirement of state law imposed by new §341.0695 requires adoption of these emergency rules on fewer than 30 days' notice.

Interactive water features and fountains, a relatively new category of recreational aquatic features, have not been regulated under previous statute or rule. In the summer of 2008, an outbreak of a highly contagious waterborne illness, Cryptosporidiosis, was linked to these types of water features. Health and Safety Code, §341.0695, was added in recognition of the imminent peril to public health, safety, and welfare posed by these unregulated aquatic recreational facilities. Under these emergency rules, interactive water features and fountains are required to meet sanitation and safety standards designed to prevent outbreaks of waterborne illness. A county, municipality, or the department may inspect and require a permit, and may impose a reasonable fee for the permit or inspection. The emergency rules allow a county, municipality, or the department to close an interactive water feature or fountain if in violation of the rules,

or if in violation of permitting or inspection requirements. Interactive water features or fountains supplied by drinking water that is not recirculated are not subject to chlorination or pH standards. Interactive water features or fountains in water parks that use freshwater from a natural watercourse and release the water back into the same watercourse are exempt from the emergency rules.

LEGAL CERTIFICATION

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

STATUTORY AUTHORITY

The emergency rules are adopted under Government Code, §2001.034, and Health and Safety Code, §341.002 and §1001.075. Government Code, §2001.034, authorizes the adoption of emergency rules without prior notice or hearing, or with an abbreviated notice and hearing, if an agency finds that an imminent peril to the public health, safety, or welfare or a requirement of state or federal law requires adoption of a rule on fewer than 30 days' notice. Health and Safety Code, §341.002, authorizes the adoption of rules and standards for sanitation and health protection. Government Code, §531.0055, and Health and Safety Code, §1001.075, authorize the Executive Commissioner of the Health and Human Services Commission to adopt rules and policies necessary for the operation and provision of health and human services by the department and for the administration of Health and Safety Code, Chapter 1001.

§265.301. General Provisions.

(a) Purpose of the rules. These rules implement Health and Safety Code, §341.0695.

(b) Scope of rules. These rules address minimum sanitation requirements for interactive water features and fountains.

§265.302. Definitions.

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

(1) Department--Texas Department of State Health Services, MC 1987, P.O. Box 149347, Austin, Texas 78714-9347, telephone (512) 834-6788.

(2) Interactive water feature or fountain--An installation that includes water sprays, dancing water jets, waterfalls, dumping buckets, or shooting water cannons and that is maintained for public recreation.

(3) Recreational water park--A property or any portion thereof upon which one or more interactive water features or fountains are located.

§265.303. Operation and Maintenance of Interactive Water Features and Fountains.

(a) The owner, manager, operator, or other attendant in charge of an interactive water feature or fountain shall maintain the water feature or fountain in a sanitary condition.

(b) A person known to be or suspected of being infected with a transmissible condition of a communicable disease shall be excluded from an interactive water feature or fountain.

§265.304. Water Quality at Interactive Water Features and Fountains.

(a) Chlorine or bromine levels shall meet the following criteria at any time an interactive water feature or fountain is open or in use. Figure: 25 TAC §265.304(a)

(b) The pH shall meet the following criteria at any time an interactive water feature or fountain is open or in use. Figure: 25 TAC §265.304(b)

(c) The department may approve methods other than chlorination for the purpose of disinfecting interactive water features and fountains.

(d) Water of an interactive water feature or fountain when sampled and tested for bacterial content may not:

(1) exceed 200 bacteria per milliliter as determined by heterotrophic plate count; or

(2) indicate the presence of total coliform organisms in a 100 milliliter sample by any one of the following methods:

(A) multiple tube;

(B) membrane filter; or

(C) the Minimal Medium ONPG-MUG test described in the Code of Federal Regulations, Title 40, Part 141.

(e) Records and data of any water sampling and testing performed under this section shall be retained and provided to the municipality, county, or the department upon request.

§265.305. Exemptions.

(a) An interactive water feature or fountain that is supplied entirely by drinking water that is not re-circulated is not subject to §265.304(a) of this title (relating to Water Quality at Interactive Water Features and Fountains), referring to disinfectant levels, or §265.304(b) of this title, referring to pH levels, in interactive water features and fountains.

(b) This subchapter does not apply to an interactive water feature or fountain that uses freshwater originating from a natural watercourse for recreational purposes and that releases the freshwater back into the same natural water course.

§265.306. Inspections and Permitting of Interactive Water Features and Fountains.

(a) A county, municipality, or the department may:

(1) require that the owner or operator of an interactive water feature or fountain obtain a permit for operation of the water feature or fountain; and

(2) inspect an interactive water feature or fountain for compliance with this subchapter.

(b) A county, municipality or the department may impose and collect a reasonable fee in connection with a permit or inspection.

(c) If a county or municipality imposes and collects a reasonable fee for a permit or inspection of an interactive water feature or fountain the following requirements shall be met:

(1) the auditor for the county or municipality shall review the program every two years to ensure that the fees imposed do not exceed the cost of the program; and

(2) the county or municipality shall refund to the permit holders any revenue determined by the auditor to exceed the cost of the program.

§265.307. Closure of an Interactive Water Feature or Fountain.

A county or a municipality may by order close, for the period specified in the order, an interactive water feature or fountain if the operation of the interactive water feature or fountain:

(1) violates this subchapter; or

(2) violates a permitting or inspection requirement imposed under §265.306 of this title (relating to Inspections and Permitting of Interactive Water Features and Fountains).

§265.308. Closure of an Interactive Water Feature or Fountain by the Department.

(a) The department may by order close an interactive water feature or fountain if the operation of the water feature or fountain:

(1) violates this subchapter; or

(2) violates a permitting or inspection requirement imposed under §265.306 of this title (relating to Inspections and Permitting of Interactive Water Features and Fountains).

(b) The closure order is effective immediately with or without notice and without hearing to the interactive water feature or fountain owner/operator.

(c) If the order is issued under this section without a hearing, the department shall conduct a hearing no later than the 10th calendar day after the closure order to affirm, modify, or set aside the order.

(d) The hearing and appeal are governed by the department's rules in 25 TAC Chapter 1, Subchapter B, regarding Formal Hearing Procedures, and Government Code, Chapter 2001.

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

Filed with the Office of the Secretary of State on July 3, 2009.

TRD-200902765

Lisa Hernandez

General Counsel

Department of State Health Services

Effective Date: July 3, 2009

Expiration Date: October 30, 2009

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



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 5. TEXAS BOARD OF PARDONS AND PAROLES

CHAPTER 145. PAROLE

SUBCHAPTER C. COURT-ORDERED SPECIAL CONDITION X HEARING FOR RAUL MEZA

37 TAC §§145.50 - 145.59

The Texas Board of Pardons and Paroles adopts, on an emergency basis, new rules to 37 TAC, Chapter 145, Subchapter C, §§145.50 - 145.59, concerning a court-ordered Special Condition X hearing for Raul Meza.

The new rules are adopted on an emergency basis to comply with federal case law requiring the Texas Board of Pardons and Paroles to conduct a hearing (*Raul Meza v. Livingston, et. al.*, Cause No. 1:05CV1008, United States District Court, Western District, Austin Division). The adoption of the rules permits the Texas Board of Pardons and Paroles to comply with the effective date of these rules and to establish procedures to comply with the federal court's order.

The emergency rules are adopted under §§508.082, 508.083 and 508.0441, Government Code. Section 508.082 requires the board to adopt rules relating to the submission and presentation of information and arguments to the board, a parole panel, and the department for and in behalf of an inmate. Section 508.083 relates to representation of an inmate in a matter before the board or a parole panel. Section 508.0441 provides the board with the authority to determine conditions of parole or mandatory supervision, including special conditions.

The emergency rules are adopted under Government Code, §2001.034.

Cross-reference to Statute: Government Code, Chapter 2002.

§145.50. Statement of Purpose for the Court-Ordered Hearing Rules.

The purpose of the rules in this subchapter is to establish procedures to conduct a court-ordered Special Condition X hearing for Raul Meza, TDCJ# 332350.

(1) Raul Meza filed a civil rights lawsuit styled Raul Meza v. Travis County, et. al., Cause No. 1:05CV1008, United States District Court, Western District, Austin Division, on December 20, 2005. In March of 2007, Meza named all the board members of the Texas Board of Pardons and Paroles as defendants in the lawsuit. The case proceeded to a bench trial on November 10, 2008. The final judgment was entered on March 24, 2009 in favor of Meza.

(2) In the court's judgment, the court determined that the "State," the Texas Board of Pardons and Paroles and the Texas Department of Criminal Justice, failed to afford Meza "a hearing meeting the requirements of due process" when it imposed sex-offender conditions on Meza's parole. The court ordered the "State" to "provide Meza with "an appropriate hearing regarding the imposition of sex-offender conditions on Meza's parole consistent with the Court's Findings of Fact and Conclusion of Law..."

(3) The Assistant Attorney Generals for the "State" defendants filed a Motion to Stay the Judgment in the federal district court on April 23, 2009. The court denied the motion on May 19, 2009. The Assistant Solicitor General for the "State" defendants plans to file a Motion to Stay the Judgment with the United States Court of Appeals, Fifth Circuit. In the event that the Fifth Circuit denies Motion to the Stay the Judgment, the Board of Pardons and Paroles will adhere to the rules set forth in this subchapter to conduct a Special Condition X hearing for Raul Meza, TDCJ# 332350.

§145.51. Hearing.

(a) The hearing shall be scheduled not earlier than the 30th day from the date the Texas Board of Pardons and Paroles receives the transmittal, supporting documents and the parole file from the Texas Department of Criminal Justice Parole Division. The hearing on this matter not confidential or privileged by law, or both, shall be open to the public.

(b) Appropriate federal and state constitutional provisions, statutes, regulations, and judicial precedent establishing the confidential or privileged nature of information presented shall be given effect by the parole panel.

(c) To effect this provision, the parole panel shall have the authority to close the hearing to the extent necessary to protect against the improper disclosure of confidential and/or privileged information.

§145.52. Authority of Parole Panel.

(a) The Presiding Officer (Chair) of the Texas Board of Pardons and Paroles shall designate the parole panel that will conduct the Special Condition X hearing.

(b) The parole panel members shall have the following authority:

(1) to administer oaths;

(2) to examine witnesses;

(3) to rule on the admissibility of evidence;

(4) to rule on motions and objections;

(5) to recess any hearing from time to time and place to place;

(6) to issue subpoenas for witnesses and other documents in accordance with statutory authority;

(7) to maintain order and decorum throughout the course of any proceedings;

(8) to collect documents and exhibits comprising the record of the hearing;

(9) to act as the finder of facts and determine the weight to be given to particular evidence or testimony and to determine the credibility of witnesses;

(10) to make findings of facts and conclusions of laws; and

(11) to make the final decision to impose or not impose Special Condition X.

§145.53. Right to Counsel.

(a) Meza may be represented by counsel at the Special Condition X hearing. Counsel shall complete and submit the appropriate fee affidavit when the hearing is convened by the parole panel in accordance with Section 508.084, Texas Government Code.

(b) Due to the unique nature of this hearing, if Meza is unable to afford an attorney, an attorney will be appointed to represent him.

§145.54. Witnesses.

(a) The parole panel may determine whether a witness may be excused under the rule that excludes witnesses from the hearing.

(1) In no event shall the parole panel exclude from the hearing a party under the authority of this section. A party includes:

(A) Meza;

(B) Meza's attorney; and

(C) no more than one representative of the Texas Department of Criminal Justice Parole Division.

(b) All witnesses who testify in person are subject to cross-examination unless the parole panel specifically finds good cause for lack of confrontation and cross-examination.

(c) Witnesses personally served with a subpoena and who fail to appear at the hearing, and upon good cause determined by the parole panel, may present testimony by written statement.

§145.55. Ex Parte Consultations.

Unless required for the disposition of matters authorized by law, the parole panel assigned to render a decision or to make findings of fact and conclusions of law in this case may not communicate, directly or indirectly, in connection with any issue of fact or law with any party, except on notice and opportunity for all parties to participate.

§145.56. Evidence.

(a) All parties shall have an opportunity to present evidence in the form of testimony and written documentation. The parole panel shall determine the order of presentation of evidence.

(b) The parole panel shall apply the Texas Rules of Evidence. When necessary to ascertain facts not reasonably susceptible of proof under these rules, evidence not admissible thereunder may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

(c) The parole panel shall give effect to the rules of privilege recognized by law.

(d) Relevant testimony shall be confined to the subject of the pending matter. In the event any party at a hearing shall pursue a line of questioning that is, in the opinion of the parole panel, irrelevant, incompetent, unduly repetitious, or immaterial, such questioning shall be terminated.

(e) Relevant staff reports may be admitted as evidence in any hearing.

(f) Evidence may be stipulated by agreement of all parties.

(g) Objections to evidence offers may be made and shall be ruled upon by the parole panel, and any objections and the rulings thereon shall be noted in the record.

§145.57. Motions.

Unless made during a hearing, motions shall be made in writing, set forth the relief or order sought, and shall be filed with the parole panel. Motions based on matters which do not appear of record shall be supported by affidavit.

§145.58. Record.

(a) The record in any case includes all pleadings, motions, and rulings; evidence received or considered; matters officially noticed; questions and offers of proof, objections, and rulings on them; all relevant Texas Department of Criminal Justice Parole Division documents, staff memoranda or reports submitted to or considered by the parole panel involved in making the decision, and any decision, opinion, or report by the parole panel presiding at the hearing.

(b) All hearings shall be electronically recorded in their entirety, and at the parole panel's option shall be either copied or transcribed upon the request and deposit of estimated costs by Meza or his attorney.

§145.59. Decisions.

(a) A final decision or order shall be in writing stating the evidence relied upon and the reasons for the decision.

(b) Meza shall be notified personally or by mail of any decision or order.

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

Filed with the Office of the Secretary of State on July 2, 2009.

TRD-200902740

Bettie Wells

General Counsel

Texas Board of Pardons and Paroles

Effective Date: July 2, 2009

Expiration Date: October 29, 2009

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

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PROPOSED RULES

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

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

TITLE 4. AGRICULTURE

PART 1. TEXAS DEPARTMENT OF AGRICULTURE

CHAPTER 21. CITRUS

SUBCHAPTER C. CITRUS BUDWOOD CERTIFICATION PROGRAM

4 TAC §§21.36, 21.37, 21.39, 21.40

The Texas Department of Agriculture proposes amendments to the Citrus Budwood Certification Program Rules, §§21.36, 21.37, 21.39 and 21.40 to make these sections consistent with changes made to Chapter 19 of the Texas Agriculture Code by the passage of Senate Bill 1016 (SB 1016) during the 81st Legislative Session. SB 1016 amends Chapter 19 to prohibit individuals or businesses from using for commercial purposes citrus budwood that is required by department rule to be certified, unless the citrus budwood is certified or from a designated foundation grove. The purpose of the changes to Chapter 19, is to prohibit the propagation of diseased citrus nursery trees in commercial settings. To effectuate this purpose, TDA proposes amendments to Chapter 21, which will require that citrus budwood used to propagate a citrus nursery tree for commercial purposes be certified or produced from a designated foundation grove. Under the proposed rules, a citrus nursery tree is propagated for commercial purposes if either the citrus nursery tree itself or the fruit produced from the citrus nursery tree is intended to be or is actually sold, bartered, or otherwise commercially distributed.

Section 21.36 provides record keeping requirements; §21.37 provides for inspection of citrus nursery plants and the relevant records; §21.39 states that it is violation to use citrus budwood that is neither certified nor from a designated foundation grove to propagate citrus nursery trees for commercial purposes; and §21.40 states that trees produced prior to September 1, 2009 are exempt from the requirement of this section.

Dr. Shashank Nilakhe, State Entomologist, has determined that for the first five years the amended sections are in effect there will be no fiscal implication for the state or local government as a result of enforcing or administering the rule.

Dr. Nilakhe has also determined that for each of the first five years the rule is in effect, the public benefit anticipated as a result of administering and enforcing the amended sections will be reduction in the risk of spread of citrus diseases. The use of certified budwood, which is tested and certified as free of several citrus diseases, reduces the chance of spreading citrus diseases. The use of uncertified budwood poses a risk of spreading

citrus diseases. There will be a cost to businesses for complying with the proposed amendments. It is estimated that three businesses, which apparently meet the criterion of a micro-business, propagate citrus trees to plant 200 acres of citrus crops annually. Further, it is estimated that these businesses would purchase 35,000 buds to produce these citrus trees at a cost of \$0.06 per bud, or \$2,100. The Texas Legislature, in its enactment of Texas Agriculture Code, Chapter 73, recognizes that the citrus industry is a valuable asset to the state of Texas, and that citrus fruit and trees are highly susceptible to the ravages of insects, pests, and plant diseases. Chapter 73 further provides that the state shall use all constitutional measures to protect this industry from destruction by pests and diseases. The amendments are adopted under a legislative requirement, the purpose of which is to protect the citrus industry from citrus diseases. No regulatory flexibility analysis is required.

Comments on the proposal may be submitted to Dr. Shashank Nilakhe, State Entomologist, 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*.

The amendments are proposed under the Texas Agriculture Code (the Code), §71.007, which authorizes the department to adopt rules as necessary to protect agricultural and horticultural interests, including rules to provide for a specific treatment of quarantined articles; the Code, §19.006, that provides the department, with the authority to adopt standards and rules necessary to administer the citrus budwood certification program; 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, Chapters 19 and 71.

§21.36. *Record Keeping.*

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

(f) For purposes of this subsection, "commercial use" means sell, barter, or otherwise commercially distribute and applies to both a citrus nursery tree itself and the fruit produced from the citrus nursery tree. Businesses that propagate citrus nursery trees for commercial use of varieties that are mandatory under §21.40 of this title (relating to Mandatory Varieties) must abide by the following conditions.

(1) Only citrus budwood that is certified or from a designated foundation grove shall be used for propagation.

(2) Records of certified budwood purchases must be maintained for a minimum of four years including:

(A) date of purchase;

(B) variety(ies) purchased;

(C) number of buds purchased from each source tree;

(D) number of citrus nursery trees successfully budded from each budwood variety purchased; and

(E) location of citrus nursery trees until they are planted to establish citrus orchards.

§21.37. *Inspection.*

The department shall, as deemed appropriate, inspect the foundation grove, increase block, foundation grove records, commercial nurseries, ~~and~~ records at commercial nurseries that produce certified citrus nursery trees and businesses that propagate citrus nursery trees for commercial use.

§21.39. *Violations and Penalties.*

(a) Violations. In addition to any other violations that may arise under the act or this subchapter, the following are violations.

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

(3) It is a violation to sell or offer to sell or to distribute citrus budwood falsely claiming that it is certified or that it comes from a foundation grove, or the increase block, or to sell or offer citrus trees for sale falsely claiming that they originated from certified budwood or that they came from a designated foundation grove, or the increase block.

(4) It is a violation to use citrus budwood that is neither certified nor from a designated foundation grove to propagate citrus nursery trees for commercial use.

(5) ~~[(4)]~~ It is a violation to fail to maintain or provide records for inspection.

(6) ~~[(5)]~~ It is a violation to fail to comply with any order issued or rule adopted by the department under this subchapter.

(b) (No change.)

§21.40. *Mandatory Varieties.*

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

(c) Citrus nursery trees produced for commercial use prior to October 1, 2009, are exempt from the requirements of this subchapter.

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 July 6, 2009.

TRD-200902768

Dolores Alvarado Hibbs

General Counsel

Texas Department of Agriculture

Earliest possible date of adoption: August 16, 2009

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



CHAPTER 26. FOOD AND NUTRITION

DIVISION

SUBCHAPTER C. NUTRITION OUTREACH

AND EDUCATION

The Texas Department of Agriculture (department) proposes Chapter 26, Subchapter C, Division 1, §26.30, concerning

the Nutrition Outreach Program; Division 2, §§26.40 - 26.48, concerning the Best Practices in Nutrition Education Grant Program; and Division 3, §§26.50 - 26.57, concerning the Nutrition Education Grant Program. The new sections are proposed to implement Senate Bill 282 (SB 282), enacted during the 81st Regular Session, 2009.

Division 1, §26.30, is proposed to provide authorization for the department to administer the Nutrition Outreach Program. Proposed §26.30 contains a Statement of Authorization for the program. The Nutrition Outreach Program will serve the purpose of promoting better health and nutrition programs and preventing obesity among children in this state.

Division 2, §§26.40 - 26.48, is proposed to provide authorization for the department to implement and administer the Best Practices in Nutrition Education Grant Program. Proposed §26.40 contains a Statement of Authorization for the program; §26.41 contains definitions related to implementation of the program; §26.42 contains a Statement of Purpose for the program; §26.43 contains eligibility requirements for grant recipients; §26.44 contains the application procedure; §26.45 contains the selection criteria for recipients; §26.46 defines permitted use of grant funds; §26.47 explains the grant agreement to be used in the program; and §26.48 explains reporting procedures to be used in the program. The Best Practices in Nutrition Education Grant Program will award grant funds to school districts and/or campuses for implementing best practices in nutrition education.

Division 3, §§26.50 - 26.57, is proposed to provide authorization for the department to implement and administer the Nutrition Education Grant Program. Proposed §26.50 contains a Statement of Authorization for the program; §26.51 contains definitions related to implementation of the program; §26.52 contains a Statement of Purpose for the program; §26.53 contains eligibility requirements for grant recipients; §26.54 contains the application procedure; §26.55 contains the selection criteria for recipients; §26.56 explains the grant agreement to be used in the program; and §26.57 explains reporting procedures to be used in the program. The Nutrition Education Grant Program will provide grants to specified care providers and community or faith-based organizations to operate nutrition education programs for children.

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

Ms. Olige also has determined that for each year of the first five years the proposed sections are in effect, the public will benefit from the adoption of the rules. The anticipated public benefit, as a result of administering and enforcing the proposed new sections, will be the establishment of nutrition education programs targeted to the children of Texas to promote better health and well being. There will be no economic cost for micro-businesses, small businesses or individuals who are required to comply with the new 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 78749.

Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

DIVISION 1. NUTRITION OUTREACH PROGRAM

4 TAC §26.30

New §26.30 is proposed under the authority of the Texas Agriculture Code (the Code), §12.0027, as enacted by SB 282, which provides the department with the authority to develop a nutrition outreach program and adopt rules as necessary to administer an outreach program.

The code affected by the proposal is the Texas Agriculture Code, Chapter 12.

§26.30. Statement of Authority and Purpose.

The Texas Department of Agriculture is authorized, by §12.0027, of the Texas Agriculture Code, to administer and implement a Nutrition Outreach Program to promote better health and nutrition programs and prevent obesity among children in this state. The objective of the program is to increase awareness of the importance of good nutrition, especially for children, and to encourage children's health and well being through education, exercise, and eating right.

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 July 6, 2009.

TRD-200902776

Dolores Alvarado Hibbs

General Counsel

Texas Department of Agriculture

Earliest possible date of adoption: August 16, 2009

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



DIVISION 2. BEST PRACTICES IN NUTRITION EDUCATION GRANT PROGRAM

4 TAC §§26.40 - 26.48

New §§26.40 - 26.48 are proposed under Texas Education Code, §38.026, as enacted by SB 282, which provides that the department shall develop a program for awarding grants to public school campuses for best practices in nutrition education, and provides that the department may adopt rules as necessary to administer such a grant program.

The code affected by the proposal is the Texas Education Code, Chapter 38.

§26.40. Statement of Authority.

The Best Practices in Nutrition Education Grant Program is authorized by §38.026 of the Texas Education Code.

§26.41. Definitions.

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

(1) Best practice--An activity or program administered by a grant applicant which addresses one of four focus areas:

- (A) increasing appeal and acceptability of meals;
- (B) enhancing and increasing nutrition education efforts;
- (C) increasing participation in meal program; or
- (D) increasing nutritional value of school meals; and
- (E) addresses one of the following audiences:

(i) the student population;

(ii) parent and teacher population; or

(iii) the community.

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

(3) Program--The Best Practices in Nutrition Education Grant Program.

(4) School campus--An individual public school in the state of Texas, subject to the administration of its governing Texas school district, whether such district is independent, consolidated, or common.

§26.42. Statement of Purpose.

The program is designed to award grants to public school campuses that can clearly demonstrate use of best practices in nutrition education.

§26.43. Eligibility.

Subject to available funds, public school campuses in Texas are eligible to receive a grant under this subchapter if the schools submit to the department a completed application in the format prescribed by the department.

§26.44. Application Procedure.

(a) The department shall issue a request for proposals, to be published in the *Texas Register* during each fiscal year for which funds are available for implementing the program.

(b) Public school campuses which can demonstrate use of best practices in nutrition education are eligible to apply.

(c) The application shall be in a form prescribed by the department.

(d) The application submitted to the department shall:

(1) be fully and legibly completed;

(2) be submitted in a timely manner;

(3) be signed by an authorized individual;

(4) contain, at a minimum, the following required information:

(A) the applying school campus and district name and address;

(B) the name and title of a primary contact person who may be contacted during normal business hours;

(C) a detailed description of the best practice which is the basis for the grant application;

(D) a description of how quantifiable results have been demonstrated by the best practice;

(E) the current budget for the best practice activity/program; and

(F) a proposed budget for use of grant funds including how these funds will supplement, improve, or expand the current best practice activity/program, if received.

§26.45. Selection Criteria.

(a) Projects will be selected on a competitive basis.

(b) The department shall review proposals and may appoint review panel(s) to evaluate proposals.

(c) Preference will be given to projects that are unique in nature and that meet the best practice criteria set out by the department.

(d) Final selection of grant recipients shall be made by the department and the commissioner.

(e) Each grant recipient will be awarded a specific grant amount by the department.

§26.46. Permitted Use of Grant Funds.

The expenditure of grant funds by a grant recipient shall be documented and the funds used only for expenses reasonably related to the supplementation, improvement, or expansion of the best practice for which the grant was awarded.

§26.47. Grant Agreement.

Grant recipients selected by the department shall enter into a written grant agreement with the department. The agreement will define the terms of the grant award and reporting requirements.

§26.48. Reporting Requirements.

Grant recipients shall submit required reports in accordance with department procedures, and as specified in the grant agreement entered into by the department and the grant recipient.

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 July 6, 2009.

TRD-200902777

Dolores Alvarado Hibbs

General Counsel

Texas Department of Agriculture

Earliest possible date of adoption: August 16, 2009

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



DIVISION 3. NUTRITION EDUCATION GRANT PROGRAM

4 TAC §§26.50 - 26.57

New §§26.50 - 26.57 are proposed under Human Resources Code, §33.028, as enacted by SB 282, which provides that the department shall develop a program for awarding nutrition education grants, and provides that the department may adopt rules as necessary to administer such a grant program.

The code affected by the proposal is the Human Resources Code, Chapter 33.

§26.50. Statement of Authority.

The Nutrition Education Grant Program is authorized by §33.028 of the Texas Human Resources Code.

§26.51. Definitions.

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

(1) Commissioner--The Texas Commissioner of Agriculture.

(2) Early childhood education programs--Programs for children who are at least three years of age but younger than five years of age.

(3) Head Start Program--The federal program established under the Head Start Act (42 U.S.C. Section 9831 et seq.) and its subsequent amendments.

(4) Program--The Nutrition Education Grant Program which provides grants for organizations to incorporate nutrition education into their programs provided for children.

§26.52. Statement of Purpose.

The program is designed to awards grants to organizations for the purpose of operating nutrition education programs for children.

§26.53. Eligibility.

Subject to available funds, an eligible organization must be a participant in:

(1) the Child and Adult Care Food Program administered by the department;

(2) a Head Start program;

(3) a Summer Nutrition Program administered by the department; or

(4) other early childhood education program; or

(5) a community or faith-based organization that provides recreational, social, volunteer, leadership, mentoring, or developmental programs provided for children younger than 19 years of age.

§26.54. Application Procedure.

(a) The department shall issue a request for proposals, to be published in the *Texas Register* during each fiscal year for which funds are available for implementing the program.

(b) The application shall be in a form prescribed by the department.

(c) The application submitted to the department shall:

(1) be fully and legibly completed;

(2) be submitted in a timely manner;

(3) be signed by an authorized individual; and

(4) contain the following required information:

(A) the name and address of the applying organization or entity;

(B) the name and title of a primary contact person who may be contacted during normal business hours;

(C) a detailed description of the proposed project, including how the project will be incorporated into the program services;

(D) a detailed description of the educational benefits of the project, including how the project will improve the children's understanding of nutrition;

(E) the estimated number of children to be reached by the proposed activity/project if the grant is awarded;

(F) a description of how quantifiable results will be measured if the grant is awarded; and

(G) a proposed budget for use of grant funds, if awarded.

§26.55. Selection Criteria.

(a) Projects will be selected on a competitive basis.

(b) The department shall review proposals and may appoint review panel(s) to evaluate proposals.

(c) Preference will be given to projects that are:

(1) unique in nature;

(2) address the issues of child nutrition and child nutrition education; and

(3) target one of the following audiences:

(A) students/participants;

(B) parents and staff; or

(C) the community.

(d) Final selection of grant recipients shall be made by the department and commissioner.

§26.56. Grant Agreement.

Grant recipients selected by the department shall enter into a written grant agreement with the department. The agreement will define the terms of the grant award and reporting requirements.

§26.57. Reporting Requirements.

Grant recipients shall submit required reports in accordance with department procedures, and as specified in the grant agreement entered into by the department and the grant recipient.

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 July 6, 2009.

TRD-200902778

Dolores Alvarado Hibbs

General Counsel

Texas Department of Agriculture

Earliest possible date of adoption: August 16, 2009

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



TITLE 16. ECONOMIC REGULATION

PART 1. RAILROAD COMMISSION OF TEXAS

CHAPTER 15. ALTERNATIVE FUELS

RESEARCH AND EDUCATION DIVISION

SUBCHAPTER B. PROPANE CONSUMER REBATE PROGRAM

16 TAC §15.115

The Railroad Commission of Texas proposes amendments to §15.115, relating to Availability of Funds, to add a reference to Texas Natural Resources Code, §113.2435, as amended by House Bill 1731, 81st Texas Legislature, Regular Session (2009). Section 113.2435 concerns money available for consumer incentive or rebate programs for alternatively fueled appliances or equipment. HB 1731 adds new subsection (d) to read as follows: "(d) Notwithstanding Subsection (c)(5), the commission shall make available for rebates during a fiscal year the entire amount of money made available for rebates during the preceding fiscal year that was not spent during the preceding fiscal year. The amount of money made available for rebates during the preceding fiscal year that was not spent during the preceding fiscal year is not counted in determining the limitation on the proportion of the fund usable for the rebate program during a fiscal year." The bill requires money made available for consumer rebate programs in a fiscal year, but not

spent, to be carried forward and made available for rebates the next fiscal year, notwithstanding the 50 percent limit set out in §113.2435(c)(5). In §15.115, the Commission proposes to add a reference to Natural Resources Code, §113.2435(d).

Dan Kelly, Director, Alternative Fuels Education and Research Division, has determined that for the first five years that the proposed amendment will be in effect, there will be no fiscal implications for state or local governments as a result of enforcing or administering the amendment. New §113.2435(d), Natural Resources Code, and the proposed amendment to §15.115 may result in some reallocation of funds among the division's programs in some fiscal years, but will not affect overall revenue or program costs.

Mr. Kelly has also determined that there will be no cost of compliance with the proposed amendment for individuals, small businesses, or micro-businesses. Participation in all of the division's consumer rebate and incentive programs is voluntary, and the proposed changes would require no additional expenditures of time or money by individuals and companies choosing to participate in the programs.

Mr. Kelly has also determined that the public benefit anticipated as a result of enforcing or administering the section as amended will be the continued availability of funds for the consumer rebate program.

The 80th Legislature (2007) adopted HB 3430, which amended Chapter 2006 of the Texas Government Code. As amended, Texas Government Code, §2006.002, relating to Adoption of Rules with Adverse Economic Effect, requires that as a part of the rulemaking process, a state agency prepare an Economic Impact Statement that assesses the potential impact of a proposed rule on small businesses and micro-businesses, and a Regulatory Flexibility Analysis that considers alternative methods of achieving the purpose of the rule if the proposed rule will have an adverse economic effect on small businesses or micro-businesses. The Commission has determined that the proposed amendment will not have an adverse economic effect on small businesses or micro-businesses, and therefore the analysis described in Texas Government Code, §2006.002, is not required.

Comments on the proposal may be submitted to Rules Coordinator, Office of General Counsel, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967; online at www.rrc.state.tx.us/rules/commentform.php; or by electronic mail to rulescoordinator@rrc.state.tx.us. The Commission will accept comments until 5:00 p.m. on Monday, August 17, 2009, which is 31 days after publication in the *Texas Register*. The Commission encourages all interested persons to submit comments no later than the deadline. The Commission cannot guarantee that comments submitted after the deadline will be considered. For further information, call Mr. Kelly at (512) 463-7291 or AFRED Marketing and Public Education Director Heather Ball at (512) 463-7359. The status of Commission rulemakings in progress is available at www.rrc.state.tx.us/rules/proposed.php.

The Commission proposes the amendment under the Texas Natural Resources Code §113.241, which authorizes the Commission to adopt all necessary rules relating to activities regarding the use of LPG and other environmentally beneficial alternative fuels; §113.243, which authorizes the Commission to research, develop, and implement marketing, advertising, and informational programs relating to alternative fuels to make alternative

fuels more understandable and readily available to consumers; and §113.2435, which authorizes the Commission to establish consumer rebate programs for purchasers of appliances and equipment fueled by LP-gas or other environmentally beneficial alternative fuels for the purpose of achieving energy conservation and efficiency and improving the quality of air in this state, as amended by HB 1731, 81st Texas Legislature (2009).

Statutory authority: Texas Natural Resources Code, §§113.241, 113.243, and 113.2435.

Cross-reference to statute: Texas Natural Resources Code, Chapter 113.

Issued in Austin, Texas on June 30, 2009.

§15.115. *Availability of Funds.*

The commission may not use more than 50% of the funds available in the Alternative Fuels Research and Education Fund Account for purposes of consumer incentive or rebate programs except as provided in Texas Natural Resources Code, §113.2435(d). If funds become unavailable during a program year, the commission may carry over applications until the next program year.

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

Filed with the Office of the Secretary of State on June 30, 2009.

TRD-200902702

Mary Ross McDonald

Managing Director

Railroad Commission of Texas

Earliest possible date of adoption: August 16, 2009

For further information, please call: (512) 475-1295



PART 2. PUBLIC UTILITY COMMISSION OF TEXAS

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS

SUBCHAPTER H. ELECTRICAL PLANNING DIVISION 1. RENEWABLE ENERGY RESOURCES AND USE OF NATURAL GAS

16 TAC §25.174

The Public Utility Commission of Texas (commission) proposes an amendment to §25.174, relating to Competitive Renewable Energy Zones (CREZs). The amendment will implement Public Utility Regulatory Act (PURA) §39.904(g), which directs the commission to consider the level of financial commitment by renewable generators for each CREZ in determining whether to grant a certificate of convenience and necessity (CCN). The amendment addresses the level of financial commitment that renewable generators must satisfy before the commission will process the CCN applications for transmission facilities to serve certain CREZs previously designated by the commission, and deletes language that would be inconsistent with the changes resulting from the amendment. In addition, the amendment clarifies the

conditions under which the commission may initiate a proceeding to address the issue of excess development in a CREZ.

For the three southern CREZs, McCamey, Central, and Central West, the commission has determined that the amount of renewable generation already developed in those CREZs and the amount of additional renewable generation currently under development demonstrate sufficient financial commitment in those zones. The commission finds that installed generating capacity and continuing construction of new generation are the best measures of wind-generator financial commitment. The commission believes that generators have already proven that new generation development has or will occur to use the new transmission lines built to these CREZs.

In reaching this conclusion, the commission has relied on Electric Reliability Council of Texas (ERCOT) data about installed renewable generation and signed interconnection agreements. In Docket Number 33672, the commission designated the McCamey, Central, and West Central zones as CREZs to be served by new transmission facilities necessary to support generation capacities of 1859, 3047, and 1063 megawatts, respectively. As of June 1, 2009, those three CREZs already had 906, 5221, and 1012 megawatts of installed renewable generation. Additionally, those three CREZs already had interconnection agreements for 300, 987, and 716 megawatts of new renewable generation. The developers' interest in these three southern CREZs is sufficient to satisfy the three tiered financial commitment test proposed in this amendment to §25.174. Accordingly, the commission believes the financial commitment requirement has already been met for the southern CREZs. For the two CREZs in the Texas Panhandle, Panhandle A and Panhandle B, the commission proposes a tiered approach to evaluate whether renewable generators have made sufficient financial commitments in those CREZs to warrant the processing of CCNs for the transmission facilities identified in Docket Number 33672 for the Panhandle CREZs. Project Number 34577 is assigned to this proceeding. The amendment is a competition rule subject to judicial review as specified in PURA §39.001(e).

Danielle Jaussaud, Director of Market Analysis, Competitive Markets Division, has determined that for each year of the first five-year period the amendment is in effect there will be no fiscal implication for state or local government as a result of enforcing or administering the amendment.

Ms. Jaussaud has determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the amendment will be to increase the amount of electricity delivered to customers from renewable generation resources in Texas, consistent with the goals that have been established in PURA. The specific benefits include increasing the use of a resource with no fuel cost by the state's electricity customers, reducing the use of generation technologies that result in air emissions, and diversifying the state's portfolio of electric generating resource.

There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing this amendment. There may be economic costs to persons who choose to provide evidence of the financial commitment pursuant to this amendment. The amendment will ensure that the construction of transmission facilities needed to deliver electric output from renewable energy technologies to customers will be done in a manner that is most beneficial and cost-effective to customers.

Ms. Jaussaud has also determined that for each year of the first five years the amendment is in effect, there will be no impact on local economies as a result of implementing or administering this amendment, and therefore, no local employment impact statement is required under Administrative Procedure Act, Texas Government Code §2001.022.

The commission staff will conduct a public hearing on this rule-making, pursuant to the Administrative Procedure Act, Texas Government Code §2001.029, at the commission's offices located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701 on Tuesday, August 11, 2009, at 10:00 a.m.

Initial comments on the amendment may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326, within 20 days after publication. Reply comments may be submitted within 31 days after publication. Sixteen copies of comments on the amendment are required to be filed pursuant to §22.71(c) of this title. Comments should be organized in a manner consistent with the organization of the amended rule. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the amendment. The commission will consider the costs and benefits in deciding whether to adopt the amendment. The commission also invites comments on the following question:

Should a requirement that renewable energy developers post a security deposit be added to any Tier of the proposed three-Tier test to establish financial commitment in the Panhandle CREZs? If so, how should the amount be determined? What procedure should govern the posting of the deposit? Should the deposit be posted with ERCOT or with a transmission service provider (TSP) designated to build transmission facilities in or to the Panhandle CREZs? What event should trigger a return of the deposit?

All comments should refer to Project Number 34577.

This amendment is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §§14.001, 14.002, 39.101(b)(3), 39.151, and 39.904 (Vernon 2007 & Supplement 2008) (PURA). Section 14.001 provides the commission the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by PURA that is necessary and convenient to the exercise of that power and jurisdiction; §14.002 provides the commission with the authority to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; §39.101(b)(3) provides that a customer is entitled to have access to providers of energy generated by renewable energy resources; §39.151 provides the commission with authority over electricity dispatch and grid reliability in ERCOT and over the accounting for the production and delivery of electricity among generators and all other market participants in ERCOT; and §39.904 provides the commission with the authority to adopt rules necessary to administer and enforce the programs to promote the development of renewable energy technologies and requires the commission to designate competitive renewable energy zones and develop a plan to construct transmission capacity necessary to deliver electric output from renewable energy technologies to electricity customers in a manner that is most beneficial and cost-effective to the customers.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.001, 14.002, 39.101, 39.151, and 39.904.

§25.174. *Competitive Renewable Energy Zones.*

(a) (No change.)

(b) Level of financial commitment by generators for designating a CREZ.

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

(c) Plan to develop transmission capacity.

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

~~{(4) No later than one year after an order by the commission designating a CREZ, the TSP or TSPs selected to provide transmission service in or to a CREZ shall file applications for all required certificates of convenience and necessity (CCNs) for transmission facilities identified by the commission in the CREZ order as most beneficial and cost-effective to the customers. The commission may allow additional time for a TSP to file an application upon a showing of good cause by the TSP. The commission may establish a filing schedule if a CREZ order requires numerous CCN applications.}~~

~~{(5) A CCN application for a transmission project intended to serve a CREZ need not address the criteria in PURA §37.056(c)(1) and (2).}~~

~~{(6) Within 45 days of an application for a CCN for transmission improvements filed pursuant to the order designating the zone a CREZ, each developer for that CREZ shall post a letter of credit or other collateral to an amount equal to 10% of the developer's pro rata share of the estimated capital cost of the transmission improvements covered by the CREZ order, including the TSP's cost of preparing its CCN application. If any developer fails to deposit the required funds, the commission may take appropriate action, including, but not limited to, the following: reconsideration of its CREZ designation; dismissal of the TSP's CCN application; seeking another developer to step into the shoes of a defaulting developer; ordering the return of all deposits to developers who made adequate deposits; ordering the application of the defaulting developer's deposits toward the costs incurred by TSPs pertaining to planning and CCN proceedings for the transmission facilities covered by the order designating the zone a CREZ; and ordering the return of any remaining balance to the defaulting developer.}~~

~~{(7) In evaluating the CCN applications, the commission shall consider the level of financial commitment by generators. The TSP may propose modifications to the transmission improvements described in the CREZ order if such improvements would reduce the cost of transmission or increase the amount of generating capacity that transmission improvements for the CREZ can accommodate. The commission may direct ERCOT to review modifications proposed by the TSP.}~~

(d) Certificates of convenience and necessity. No later than one year after an order by the commission designating a CREZ, the TSP or TSPs selected to provide transmission service in or to a CREZ shall file applications for all required certificates of convenience and necessity (CCNs) for transmission facilities identified by the commission in the CREZ order as most beneficial and cost-effective to the customers. The commission may allow additional time for a TSP to file an application upon a showing of good cause by the TSP. The commission may establish a filing schedule if a CREZ order requires numerous CCN applications. [Obligation to take transmission service in a CREZ.]

(1) A CCN application for a transmission project intended to serve a CREZ need not address the criteria in PURA §37.056(c)(1) and (2). [A developer that deposited funds in accordance with subsection (b)(1) or (c)(6) of this section shall take transmission service in the CREZ no later than one year after the TSP notifies it that the transmission system is capable of accommodating the developer's renewable

energy facility, unless the commission approves an extension of time. If the developer does not take transmission service as required, the developer shall be considered to have forfeited, for the benefit of the TSP, all collateral, letters of credit or funds it has deposited.]

(2) In evaluating the CCN applications, the commission shall consider the level of financial commitment by renewable generators. Existing generation and generation under construction in the McCamey, Central, and Central West CREZs approved by the commission in Docket Number 33672 satisfy the financial commitment requirement for approval of CCN applications for transmission facilities approved by the commission related to those zones. [If the developer completes the generation facilities and begins delivering energy from the CREZ within one year of the completion of the transmission improvements, the TSP and ERCOT shall refund to the developer all collateral, letters of credit or funds it has deposited.]

(3) The TSP may propose modifications to the transmission improvements described in the CREZ order if such improvements would reduce the cost of transmission or increase the amount of generating capacity that transmission improvements for the CREZ can accommodate. The commission may direct ERCOT to review modifications proposed by the TSP.

(4) Notwithstanding paragraph (2) of this subsection, for the Panhandle A and Panhandle B CREZs approved by the commission in Docket Number 33672, commission staff shall initiate one or more proceedings for the commission to determine the level of financial commitment by renewable generators. If the commission determines that the financial commitments for the Panhandle A or B CREZ satisfy paragraph (5) of this subsection, the commission shall process the CCN applications for transmission facilities related to that CREZ in accordance with this section and §25.101 of this title (relating to Certification Criteria.) If the commission determines that the financial commitments for one of these CREZs do not satisfy paragraph (5) of this subsection, the commission shall order that CCN applications for CREZ transmission facilities related to that CREZ not be filed. If at a later date the commission determines, in another proceeding initiated pursuant to this paragraph, that paragraph (5) of this subsection has been satisfied, the commission shall establish a new filing schedule for the applications.

(5) The commission will permit a CCN application to proceed if it concludes that the level of financial commitments for new CREZ generation capacity made by renewable generators for the relevant CREZ meets or exceeds one of the Tier standards in this paragraph. Within a tier, an existing or planned renewable generation project cannot be counted more than once.

(A) The Tier 1 financial commitment threshold will be satisfied if the sum of generating capacity from the following meets or exceeds 50% of the generating capacity for the CREZ as ordered by the commission:

(i) existing generation in the CREZ; and

(ii) generation projects under construction that will be operational within 6 months in the CREZ.

(B) The Tier 2 financial commitment threshold will be satisfied if the sum of generating capacity from the following meets or exceeds 75% of the generating capacity for the CREZ as ordered by the commission:

(i) existing generation in the CREZ;

(ii) generation projects under construction that will be operational within 6 months in the CREZ;

(iii) planned projects with signed interconnection agreements with a transmission service provider that has been designated to construct and operate transmission facilities for the CREZ;

(iv) capacity represented by purchases of surface rights to land for at least 20 years in a CREZ as calculated at a presumptive conversion factor of 60 acres per megawatt; and

(v) capacity represented by a non-utility entity's contractual commitments to build and own transmission facilities dedicated to delivering the output of renewable energy resources in the CREZ to the transmission system of a transmission service provider that has been designated to operate transmission facilities for the CREZ.

(C) The Tier 3 financial commitment threshold will be satisfied if the sum of generating capacity from the following meets or exceeds 100% of the generating capacity for the CREZ as ordered by the commission:

(i) existing generation in the CREZ;

(ii) generation projects under construction that will be operational within 6 months in the CREZ;

(iii) planned projects with signed interconnection agreements with a transmission service provider that has been designated to construct and operate transmission facilities for the CREZ;

(iv) capacity represented by purchases of surface rights to land for at least 20 years in a CREZ as calculated at a presumptive conversion factor of 60 acres per megawatt;

(v) capacity represented by a non-utility entity's contractual commitments to build and own transmission facilities dedicated to delivering the output of renewable energy resources in the CREZ to the transmission system of a transmission service provider that has been designated to operate transmission facilities for the CREZ; and

(vi) capacity represented by applications for interconnection agreements with a transmission service provider that has been designated to operate transmission facilities for the CREZ.

(e) Excess [~~Disincentives for excess~~] development in a CREZ. If the aggregate level of renewable energy capacity for which transmission service is requested for a CREZ exceeds the maximum level of renewable capacity specified in the CREZ order, and if the commission determines that the security constrained economic dispatch mechanism used in the power region to establish a priority in the dispatch of CREZ resources is insufficient to resolve the congestion caused by excess development, the commission may initiate a proceeding and may consider limiting [~~limit~~] interconnection to and/or establishing [~~establish~~] dispatch priorities regarding the transmission system in the CREZ, and identifying [~~identify~~] the developers whose projects may interconnect to the transmission system in the CREZ under special protection schemes. [~~Priority in interconnecting to the transmission system may be based on a number of factors, including financial commitments of the developers in accordance with subsections (b) and (c) of this section. In determining such priority, the commission may also consider the progress that a developer has made in obtaining the transmission studies required for a new generator interconnection as indications of financial commitment.~~]

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 July 6, 2009.



SUBCHAPTER O. UNBUNDLING AND MARKET POWER DIVISION 2. INDEPENDENT ORGANIZA- TIONS

16 TAC §25.361, §25.364

The Public Utility Commission of Texas (commission) proposes an amendment to §25.361, relating to Electric Reliability Council of Texas, and new §25.364, relating to Requirements for Decertification of an Independent Organization. The amendment and new rule will establish procedure for the decertification of an independent organization and the transfer of assets to a successor organization pursuant to Public Utility Regulatory Act (PURA) §39.151(d). These rules are competition rules subject to judicial review as specified in PURA §39.001(e). Project Number 33812 is assigned to this proceeding.

Chris Carter, Analyst, Competitive Markets Division, has determined that for each year of the first five-year period the amendment and new rule are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the amendment and new rule.

Mr. Carter has determined that for each year of the first five years the amendment and new rule are in effect, the public benefit anticipated as a result of enforcing the amendment and new rule will be the creation of regulatory certainty regarding the steps to be taken in the event that an independent organization must be decertified by the commission. There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing the amendment and new rule. Therefore, no regulatory flexibility analysis is required. There are anticipated economic costs to independent organizations that will be subject to the amendment and new rule, but these costs are unavoidable because the amendment and new rule are required by PURA §39.151(d).

Mr. Carter has also determined that for each year of the first five years the amendment and new rule are in effect there should be no effect on a local economy, and therefore no local employment impact statement is required under Administrative Procedure Act (APA), Texas Government Code §2001.022.

The commission staff will conduct a public hearing on this rule-making, if requested pursuant to the Administrative Procedure Act, Texas Government Code §2001.029, at the commission's offices located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701 on Tuesday, August 18, 2009, at 10:00 a.m. The request for a public hearing must be received within 31 days after publication.

Initial comments on the amendment and new rule may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326, within 31 days after publication. Sixteen copies of comments are required to be filed pursuant to §22.71(c) of

this title. Comments should be organized in a manner consistent with the organization of the amendment and new rule. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the amendment and new rule. The commission will consider the costs and benefits in deciding whether to adopt the amendment and new rule. All comments should refer to Project Number 33812.

The amendment and new rule are proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 2007 and Supp. 2008) (PURA), which provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and specifically, PURA §39.151(d), which requires the commission to adopt a rule to address decertifying an independent organization and selecting and certifying a successor organization.

Cross Reference to Statutes: Public Utility Regulatory Act §14.002 and §39.151(d).

§25.361. *Electric Reliability Council of Texas (ERCOT).*

(a) - (k) (No change.)

(l) Decertification. ERCOT shall be subject to decertification as an independent organization in accordance with §25.364 of this title (relating to Decertification of an Independent Organization).

§25.364. *Decertification of an Independent Organization.*

(a) Purpose. This section establishes the procedures for the decertification of an independent organization and the transfer of assets to a successor organization pursuant to Public Utility Regulatory Act (PURA) §39.151(d).

(b) Applicability. This section applies to any organization that the commission has certified as an independent organization pursuant to PURA §39.151.

(c) Initiation of proceeding to decertify. The commission may initiate a proceeding to revoke an independent organization's certification. Prior to initiating a proceeding to revoke a certification, the commission may conduct an audit or study of the performance of an independent organization with respect to its efficiency and effectiveness in carrying out the duties of an independent organization under PURA and this title. Any such audit or study may be conducted or supervised by the commission and shall be funded by the independent organization.

(d) Standard for decertification. The commission may issue an order decertifying an independent organization if it finds that the organization has committed significant violations of PURA or commission rules or failed to efficiently and effectively carry out the duties of an independent organization.

(e) Order revoking certification. The commission's order revoking certification shall ensure continuity of operations of the independent organization and shall designate the successor organization that will assume the functions of the independent organization. The commission order revoking certification will provide for the independent organization to transfer its assets and liabilities to the successor independent organization designated by the commission.

(f) Selection of successor organization. Prior to the decertification of an independent organization, the commission shall designate, and certify pursuant to PURA §39.151(c), a successor independent organization from among persons that have submitted proposals in response to the commission's request. To the extent that there are duties performed by the current independent organization that are not required

by statute, organizations other than a successor independent organization may be designated to assume those functions.

(g) Transfer of assets. The transfer of assets and liabilities from a decertified independent organization to its successor organization shall be made in a way that ensures that the functions of the independent organization continue to be provided reliably and without interruption. The commission may impose specific conditions or requirements upon the transfer of assets and liabilities.

(h) Continuity of operations. To ensure that all of the required functions of the independent organization continue to be carried out during the decertification and transfer process, the commission, upon its own initiative, may order the independent organization or its successor organization, or both, to perform or continue certain acts related to the organization's operation. These include, but are not limited to, capital investment projects, financing, meeting or renegotiating contractual obligations, and employment of essential personnel.

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 July 2, 2009.

TRD-200902744

Adriana A. Gonzales

Rules Coordinator

Public Utility Commission of Texas

Earliest possible date of adoption: August 16, 2009

For further information, please call: (512) 936-7211



SUBCHAPTER R. CUSTOMER PROTECTION RULES FOR RETAIL ELECTRIC SERVICE

16 TAC §25.491

The Public Utility Commission of Texas (commission) proposes an amendment to §25.491, relating to Record Retention and Reporting Requirements. The amendments (1) remove the June 1 annual report requirement so that the retail electric provider annual report deadline will comply with the new deadlines established in recently revised §25.107, relating to Certification of Retail Electric Providers (REPs) and (2) correct the title to §25.475 and §25.476 consistent with recently adopted rule amendments. The amendment is a competition rule subject to judicial review as specified in Public Utility Regulatory Act (PURA) §39.001(e). Project Number 37007 is assigned to this proceeding.

Janis Ervin, Senior Utility Analyst, Infrastructure and Reliability Division, has determined that for each year of 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 or administering the amendment.

Ms. Ervin has determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the amendment will be making the reporting requirement schedule consistent with the requirements of §25.107. There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing the amendment. Therefore, no regulatory flexibility analysis is required. There is no anticipated economic cost to persons who are required to comply with the amendment.

Ms. Ervin has also determined that for each year of the first five years the amendment is in effect there should be no effect on a local economy, and therefore no local employment impact statement is required under Administrative Procedure Act (APA), Texas Government Code §2001.022.

The commission staff will conduct a public hearing on this rule-making, if requested pursuant to the Administrative Procedure Act, Texas Government Code §2001.029, at the commission's offices located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701 on Thursday, August 6, 2009, at 10:00 a.m. The request for a public hearing must be received within 30 days after publication.

Comments on the amendments may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326, within 30 days after publication. Sixteen copies of comments on the amendments are required to be filed pursuant to §22.71(c) of this title. Comments should be organized in a manner consistent with the organization of the proposed rule. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the amendments. The commission will consider the costs and benefits in deciding whether to adopt the amendments. All comments should refer to Project Number 37007.

The amendments are proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 2007 and Supp. 2008), which provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and in particular, §17.004 and §39.101, which direct the commission to implement customer protections for electric customers.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.002, 17.004, and 39.101.

§25.491. *Record Retention and Reporting Requirements.*

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

(c) Annual reports. A [On June 1 of each year, a] REP shall report the information required by §25.107 of this title (relating to Certification of Retail Electric Providers (REPs)) to the commission and the Office of Public Utility Counsel (OPUC) and the following additional information on a form approved by the commission for the 12-month period ending December 31 of the prior year:

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

(5) The number of complaints received by the REP from residential customers for the following categories by month, by nine-digit zip code and census tract:

(A) (No change.)

(B) Marketing and quality of customer service, which shall include complaints relating to the interfaces between the customer and the REP, such as, but not limited to, call center hold time, responsiveness of customer service representatives, and implementation of §25.472 of this title (relating to Privacy of Customer Information), §25.475 of this title (relating to General Retail Electric Provider Requirements and Information Disclosures to Residential and Small Commercial Customers), §25.473 of this title (relating to Non-English Language Requirements), §25.476 of this title (relating to Renewable and Green Energy Verification [Labeling of Electricity with Respect to Fuel Mix and Environmental Impact]), and §25.484 of this title (relating to Texas Electric No-Call List), and which shall not include issues

for which the REP is not responsible, such as, but not limited to, power quality, outages, or technical failures of the registration agent;

(C) - (F) (No change.)

(6) (No change.)

(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 July 2, 2009.

TRD-200902742

Adriana A. Gonzales

Rules Coordinator

Public Utility Commission of Texas

Earliest possible date of adoption: August 16, 2009

For further information, please call: (512) 936-7211



TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 419. MENTAL HEALTH SERVICES--MEDICAID STATE OPERATING AGENCY RESPONSIBILITIES

SUBCHAPTER A. YOUTH EMPOWERMENT SERVICES (YES)

25 TAC §§419.1 - 419.8

The Executive Commissioner of the Health and Human Services Commission on behalf of the Department of State Health Services (department) proposes new §§419.1 - 419.8, concerning the youth empowerment services (YES) Medicaid waiver program.

BACKGROUND AND PURPOSE

The new rules are necessary to implement the pilot program, approved by the federal government under the waiver provisions of the federal Social Security Act, §1915(c), which is designed to prevent or reduce institutionalization of children and adolescents with severe emotional disturbance (SED), enable more flexibility in providing intensive community-based services for children and adolescents with SED, and provide support for their families by improving access to services. The YES Medicaid waiver program will provide services to children and adolescents that reside in Bexar and Travis Counties.

SECTION-BY-SECTION SUMMARY

New §419.1 sets forth the purpose and application of the subchapter; §419.2 defines a number of terms used throughout the subchapter; §419.3 describes the eligibility criteria that children or adolescents must meet to participate in the waiver program; §419.4 states that receipt of waiver program service may be dependent upon the child's or adolescent's and/or legally authorized representative's ability to make a co-payment; §419.5 requires that each waiver participant have an individual plan of care (IPC) and describes the elements that must be addressed

in the IPC; §419.6 requires a transition plan for adolescents who will become 19 years of age while receiving waiver program services; §419.7 describes the requirements and application process to be a provider of waiver program services; and §419.8 requires that the waiver program participant and legally authorized representative be notified of the right to a fair hearing when services are denied, reduced, suspended, or terminated.

FISCAL NOTE

Mike Maples, Assistant Commissioner, Mental Health and Substance Abuse, has determined that for each year of the first five-year period that the sections will be in effect, there will be no fiscal implications to state or local governments as a result of enforcing and administering the sections as proposed.

SMALL AND MICRO-BUSINESS ECONOMIC IMPACT STATEMENT

Mr. Maples, as required by Government Code, Chapter 2006, Agency Actions Affecting Small Businesses, §2006.002, Adoption of Rules with Adverse Economic Effect, has also determined that the proposed rules will not have an adverse economic effect on small businesses or micro-businesses. The program does not impose a regulatory burden on businesses of any size. The rules permit implementation of a pilot program to provide certain services to children and adolescents in two Texas counties. There will be an "open enrollment" process for providers who wish to participate in the program. Any qualified provider may participate. Information about the program, including reimbursement rates, will be made available to the public prior to the enrollment process. However, because the services are reimbursed through Medicaid, the sections may result in economic increase to waiver providers.

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT

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

PUBLIC BENEFIT

In addition, Mr. Maples has determined that for each year of the first five years the sections are in effect, the public will benefit from adoption of the sections. The public benefit anticipated as a result of enforcing or administering the sections is to prevent or reduce institutionalization of children and adolescents with severe emotional disturbance by providing more intensive community-based services.

REGULATORY ANALYSIS

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

TAKINGS IMPACT ASSESSMENT

The department has determined that the proposed rules do not restrict or limit an owner's right to his or her property that

would otherwise exist in the absence of government action and, therefore, do not constitute a taking under Government Code, §2007.043.

PUBLIC COMMENT

Comments on the proposed rules may be submitted to Janet Fletcher, Mental Health and Substance Abuse Division, Department of State Health Services, P.O. Box 149347, Austin, Texas 78714-9347, (512) 419-2673, or by email to janet.fletcher@dshs.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

LEGAL CERTIFICATION

The Department of State Health Services General Counsel, Lisa Hernandez, certifies that the proposed rules have been reviewed by legal counsel and found to be within the state agencies' authority to adopt.

STATUTORY AUTHORITY

The proposed new sections are authorized by Government Code, §531.0055, and Health and Safety Code, §1001.075, which authorize the Executive Commissioner of the Health and Human Services Commission to adopt rules and policies necessary for the operation and provision of health and human services by the department and for the administration of Health and Safety Code, Chapter 1001.

The proposed new sections affect the Government Code, Chapter 531; and the Health and Safety Code, Chapter 1001.

§419.1. Purpose and Application.

(a) Purpose. The purpose of this subchapter is to implement a pilot program, under the waiver provisions of the federal Social Security Act, §1915(c), that prevents or reduces institutionalization of children and adolescents with severe emotional disturbance (SED), enables more flexibility in providing intensive community-based services for children and adolescents with SED, and provides support for their families by improving access to services.

(b) Application. The subchapter applies to:

(1) persons and entities that have a Medicaid provider agreement to provide the waiver program services, as described in this subchapter;

(2) local mental health authorities (LMHAs), which have administrative responsibilities under the waiver program; and

(3) children and adolescents who are applicants for or recipients of services under the waiver program.

§419.2. Definitions.

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

(1) Adolescent--An individual who is at least 13 years of age, but younger than 19 years of age.

(2) Assessment--A set of standardized assessment measures used by the department to determine level of need as set forth in the approved waiver.

(3) Child--An individual who is at least three years of age, but younger than 13 years of age.

(4) Department--Department of State Health Services.

(5) LAR or legally authorized representative--A person authorized by law to act on behalf of a child or adolescent with regard to a matter described in this subchapter, including, but not limited to, a parent, guardian, or managing conservator.

(6) LMHA or local mental health authority--An entity designated as the local mental authority by the department in accordance with the Health and Safety Code, §533.035(a).

(7) LPHA or licensed practitioner of the healing arts--A person who is:

(A) a physician;

(B) a licensed professional counselor;

(C) a licensed clinical social worker;

(D) a licensed psychologist;

(E) an advanced practice nurse; or

(F) a licensed marriage and family therapist.

(8) Provider--Any person or legal entity that has an agreement with the department and the single state Medicaid agency to provide the waiver program services, as described in the approved waiver.

(9) SED or severe emotional disturbance--A child or adolescent with a serious functional impairment or acute severe psychiatric symptomatology as identified by the assessment.

(10) Waiver program--A Medicaid program that provides waiver program services to a limited number of eligible children or adolescents, in accordance with the provisions of the waiver approved under the federal Social Security Act, §1915(c).

(11) Waiver program services--Medicaid community-based services provided under the approved waiver program.

§419.3. Eligibility Criteria.

(a) To participate in the waiver program, the child or adolescent must meet the following eligibility criteria:

(1) be eligible for Medicaid, under a Medicaid Eligibility Group included in the approved waiver;

(2) live in a county included in the waiver program;

(3) be reasonably expected to qualify for inpatient care under the Texas Medicaid inpatient psychiatric admission guidelines, as defined in the approved waiver, in the absence of waiver services;

(4) reside:

(A) in a non-institutional setting with the child's or adolescent's LAR; or

(B) in the child's or adolescent's own home or apartment, if legally emancipated; and

(5) choose, or have the LAR choose, the waiver program services as an alternative to care in an inpatient psychiatric facility, in accordance with the provisions of the approved waiver.

(b) The participating child or adolescent must be determined to meet the eligibility criteria in subsection (a) of this section on an annual basis to continue in the waiver program.

(c) The department reserves the right to limit, in each county, the number of eligible children or adolescents that may participate in the waiver program, in accordance with the provisions of the approved waiver.

§419.4. Co-payments.

The receipt of certain waiver program services may be dependent upon the child's or adolescent's and/or LAR's ability to make a co-payment.

§419.5. Individual Plan of Care (IPC).

(a) Each child and adolescent determined eligible to participate in the waiver program is assigned a mental health case manager, subject to the rules in Chapter 412, Subchapter I, of this title (relating to Mental Health Case Management Services). The mental health case manager must coordinate with the child or adolescent, LAR, waiver service providers and LMHA to develop an IPC that is based upon the assessment.

(b) The initial IPC must be reviewed by an LPHA at the LMHA that serves the geographic area of the participant's residence before forwarding to the department for approval. The IPC must be approved by the department before a provider can begin delivering waiver program services. To be approved, the IPC must:

(1) promote the child's or adolescent's inclusion into the community;

(2) protect the child's or adolescent's health and welfare in the community;

(3) supplement, rather than replace, the child's or adolescent's natural and other non-waiver program support systems and resources;

(4) be designed to prevent or reduce the likelihood of the child's or adolescent's admission to an inpatient psychiatric facility; and

(5) be the most appropriate type and amount of services to meet the child's or adolescent's needs.

(c) The IPC must be reviewed by an LPHA at the LMHA and submitted to the department for approval as part of the annual eligibility determination required under §419.3 of this title (relating to Eligibility Criteria). Any recommended changes to the IPC outside the annual review process must be approved by the department.

(d) To demonstrate that the waiver program services specified in the IPC meet the requirements described in subsection (b) of this section, the LMHA must submit the following to the department:

(1) an assessment of the child or adolescent that identifies and supports the waiver program services included in the IPC; and

(2) documentation that natural and other non-waiver program support systems and resources are unavailable or are insufficient to meet the goals specified in the IPC.

(e) The department may conduct utilization review of an IPC and supporting documentation at any time to determine if the services specified in the IPC meet the requirements described in subsection (b) of this section. If the department determines that one or more of the services specified in the IPC do not meet the requirements described in subsection (b) of this section, the department may deny, reduce, or terminate the service, modify the IPC, and send written notification to the child or adolescent, LAR, and the provider.

(f) In addition to the utilization review conducted in accordance with subsection (e) of this section, the department may conduct utilization review of the provider and the provision of waiver program services at any time.

(g) The cost of implementing the IPC must be within the cost ceiling identified by the department and the single state Medicaid agency. For children and adolescents with service needs that exceed the cost ceiling, the department has a process to ensure that their needs

are met, which includes examining third-party resources or possible transition to other waiver programs or inpatient services.

§419.6. Transition Planning.

(a) The LMHA is required to develop a transition plan for an adolescent who will become 19 years of age while receiving services under the waiver program. The transition plan must be developed at least six months prior to the month the adolescent becomes 19 years of age to ensure that the adolescent is appropriately transitioned to adult services.

(b) The transition plan, required under subsection (a) of this section, must be developed in consultation with the adolescent and, if appropriate, the LAR, as well as future providers, allowing adequate time for a smooth transition of the adolescent into adult services. The transition plan must include:

(1) a summary of the mental health community services and treatment received while in the waiver program;

(2) the adolescent's current assessment, e.g., diagnosis, medications, level of functioning, and unmet needs;

(3) information from the adolescent and the LAR, if appropriate, regarding the adolescent's strengths, preferences for mental health community services, and responsiveness to past interventions; and

(4) an IPC that:

(A) indicates the mental health and other community services the adolescent will receive at the point of becoming 19 years of age; and

(B) ensures the adolescent will be provided a smooth transition to adult services.

§419.7. Provider Qualifications and Contracting.

In order to provide waiver program services, a provider must be enrolled as an approved Medicaid provider in Texas and must enter into a contract with the department and the single state Medicaid agency. A prospective provider may request and submit an application to provide waiver program services at any time. The application sets forth the qualifications to be a provider.

§419.8. Right to Fair Hearing.

The LMHA or the department must notify the child or adolescent, and LAR, of the right to a fair hearing, conducted in accordance with the rules in 1 Texas Administrative Code, Chapter 357, Subchapter A (relating to Uniform Fair Hearing Rules), under the following circumstances:

(1) a child or adolescent is denied participation in the waiver program, unless the reason for the denial is the program participation limit referred to in §419.3(c) of this title (relating to Eligibility Criteria);

(2) a child or adolescent is denied continued participation in the waiver program; or

(3) waiver program services for a child or adolescent are denied, reduced, suspended, or terminated.

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 July 3, 2009.

TRD-200902764

Lisa Hernandez
General Counsel
Department of State Health Services
Earliest possible date of adoption: August 16, 2009
For further information, please call: (512) 458-7111 x6972

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TITLE 31. NATURAL RESOURCES AND CONSERVATION

PART 2. TEXAS PARKS AND WILDLIFE DEPARTMENT

**CHAPTER 51. EXECUTIVE
SUBCHAPTER O. ADVISORY COMMITTEES
DIVISION 1. GENERAL REQUIREMENTS**

31 TAC §51.601

The Texas Parks and Wildlife Department (the department) proposes an amendment to §51.601, concerning advisory committees. The proposal would establish an expiration date of October 10, 2010 for all advisory committees.

Parks and Wildlife Code, §11.062, authorizes the Chairman of the Texas Parks and Wildlife Commission (the Commission) to "appoint committees to advise the Commission on issues under its jurisdiction." Government Code, Chapter 2110, requires that rules be adopted regarding each state agency advisory committee. Unless otherwise provided by specific statute, the rules must (1) state the purpose of the committee; (2) describe the manner in which the committee will report to the agency; and (3) establish the date on which the committee will automatically be abolished, unless the advisory committee has a specific duration established by statute. Other requirements for advisory committees include an annual evaluation, a membership limit of 24 members, balanced membership representation, the selection of a presiding officer by members, and a four-year duration unless otherwise provided by rule. Effective September 28, 2005, the Commission adopted rules governing advisory committees for the department and the Commission. The advisory committees created by those rules will expire on September 29, 2009. Therefore, it is necessary to extend the expiration date for each of the committees so they may continue to function.

Ann Bright, General Counsel, has determined that for each of the first five years the amendment is in effect, there will be no fiscal implications to state or local government as a result of enforcing or administering the rule.

Ms. Bright has also determined that for each of the first five years the rule as proposed is in effect, the public benefit anticipated as a result of enforcing or administering the rule as proposed will be to ensure proper management and effective use of department advisory committees.

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

The department has determined that small or micro-businesses will not be affected by the proposed rule. Accordingly, the department has not prepared a regulatory flexibility analysis under Government Code, Chapter 2006.

The department has not filed a local impact statement with the Texas Workforce Commission as required by the Administrative

Procedures Act, §2001.022, as the agency has determined that the rule as proposed will not impact local economies.

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

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

Comments on the proposed rule may be submitted to Ann Bright, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; (512) 389-8558; or ann.bright@tpwd.state.tx.us.

The amendment is proposed under the authority of Parks and Wildlife Code, §11.0162 and Government Code, §2110.005 and §2110.008.

The proposed amendment affects Parks and Wildlife Code, §11.0162.

§51.601. General Requirements.

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

(d) Expiration of advisory committee. Unless expressly provided in this subchapter or other law, each department advisory committee will expire on October 1, 2010. [~~the fourth anniversary of the date of its creation. The date of creation shall be the date on which the rule establishing the advisory committee is effective.~~]

(e) - (m) (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-200902686
Ann Bright
General Counsel
Texas Parks and Wildlife Department
Earliest possible date of adoption: August 16, 2009
For further information, please call: (512) 389-4775

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**CHAPTER 65. WILDLIFE
SUBCHAPTER N. MIGRATORY GAME BIRD
PROCLAMATION**

31 TAC §§65.318, 65.320, 65.321

The Texas Parks and Wildlife Department (the department) proposes amendments to §§65.318, 65.320, and 65.321, concerning the Late Season Migratory Game Bird Proclamation.

The proposed amendment to §65.318, concerning Open Seasons and Bag and Possession Limits--Late Season, would eliminate the "Hunters Choice" (HC) structure in favor of a more conventional bag limit and increase the bag limit for wood ducks from two to three.

For the last decade the U.S. Fish and Wildlife Service (Service) has been concerned about breeding populations of canvasback and pintail ducks. From 2004 to 2006, the Service did not authorize full-season hunting opportunity for those two species, electing to require states to impose a truncated "season-within-a-sea-

son" instead. In 2006, the Service required several states, including Texas, to implement the HC structure. Under the HC structure, the daily bag limit for ducks was reduced from six to five, with an aggregate daily bag limit of one mallard hen, pintail, canvasback, or dusky duck (mottled duck, black duck, Mexican duck, or their hybrids). The purpose of the Hunter's Choice structure was to allow for season-long harvest of canvasbacks and pintails in order to eliminate compliance and enforcement confusion and allow more hunting time for waterfowl hunters who seek those species. As of this year, the Hunter's Choice is no longer mandatory. The Service issues frameworks that establish the earliest day hunting can start, the latest day that hunting can take place, and the total number of days of hunting allowed. At this time, it appears that the Service's annual frameworks will allow season-long harvest of pintail and canvasback ducks; therefore, the proposal would reinstate a six-bird daily bag limit composed of not more than two mallard hens, three wood ducks, two scaup, two red-headed ducks, one pintail, one canvasback, and one mottled, black, or Mexican duck. Because it appears that the federal frameworks will include the opportunity to increase the bag limit for wood ducks from two to three, the department intends to increase the bag limit if it is able to do so. The department also notes that the final rules as adopted must conform to federal frameworks; thus, if the Service releases frameworks that are more restrictive or that mandate a particular season structure (such as the "season within a season"), the department's rules cannot conflict with the federal rules.

The proposed amendment to §65.318 also would alter the traditional placement of duck seasons. In the past, the department has followed hunter preference and selected season dates that run to the last day of the framework. The last day of the federal frameworks for ducks, coots, and merganser is Sunday, January 31, 2010. The rule as proposed would close the season on January 24. Many nesting studies have found that early-nesting females have better nest success than late-nesting females. Allowing ducks to form pair bonds on wintering areas only serves to enhance the possibility of better nest success on the breeding grounds. Therefore, the department proposes to eliminate hunting pressure during the last week of the framework. Also, this season structure also allows for the waterfowl season to be offset from the deer season by one week.

The remainder of the proposed amendment would establish season dates to account for calendar shift (ensuring that the opening day falls on the appropriate day of the week) and preserve parallel season structures with the proposed duck seasons.

The proposed amendment to §65.320, concerning Extended Falconry Season--Late Season Species, adjusts season dates for the take of early-season species of migratory game birds by means of falconry to reflect calendar shift.

The proposed amendment to §65.321, concerning Special Management Provisions, would adjust the dates for the conservation season on light geese to account for calendar shift.

The proposed amendments are generally necessary to implement commission policy to provide the greatest hunter opportunity possible, consistent with hunter and landowner preference for starting dates and segment lengths, under frameworks issued by the Service. The Service has not issued regulatory frameworks for the 2010-2011 hunting seasons for migratory game birds; thus, the department cautions that the proposed regulations are tentative and may change significantly, depending on federal actions prior to the release of the late-season frameworks in late-July.

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

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

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

The department has determined that the proposed rules regulate various aspects of recreational license privileges that allow individual persons to pursue and harvest migratory game bird resources in this state and therefore do not directly affect small businesses or micro-businesses. Therefore, neither the economic impact statement nor the regulatory flexibility analysis described in Government Code, Chapter 2006, is required.

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

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

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

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

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

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

§65.318. Open Seasons and Bag and Possession Limits--Late Season.

Except as specifically provided in this section, the possession limit for all species listed in this section shall be twice the daily bag limit.

(1) Ducks, mergansers, and coots. The daily bag limit for ducks is six, which may include no more than five mallards (only two of which may be hens); three wood ducks; two scaup (lesser scaup and greater scaup in the aggregate); two redheads; one pintail; one canvas-back; and one "dusky" duck (mottled duck, Mexican like duck, black duck and their hybrids). For all other species not listed, the bag limit shall be six. [The daily bag limit for ducks is five, which may include no more than two scaup, two redheads, two wood ducks, and no more than one (in the aggregate) of the following: mallard hen, pintail, canvasback, or dusky duck (mottled duck, black duck, Mexican duck, or hybrid of those species)-] The daily bag limit for coots is 15. The daily bag limit for mergansers is five, which may include no more than two hooded mergansers.

(A) High Plains Mallard Management Unit: October 24 - 25, 2009 and October 30, 2009 - January 24, 2010 [~~October 25 - 26, 2008 and October 31, 2008 - January 25, 2009~~].

(B) North Zone: October 31 - November 29, 2009 and December 12, 2009 - January 24, 2010 [~~November 1 - 30, 2008 and December 13, 2008 - January 25, 2009~~].

(C) South Zone: October 31 - November 29, 2009 and December 12, 2009 - January 24, 2010 [~~November 1 - 30, 2008 and December 13, 2008 - January 25, 2009~~].

(2) Geese.

(A) Western Zone.

(i) Light geese: November 7, 2009 - February 7, 2010 [~~November 8, 2008 - February 8, 2009~~]. The daily bag limit for light geese is 20, and there is no possession limit.

(ii) Dark geese: November 7, 2009 - February 7, 2010 [~~November 8, 2008 - February 8, 2009~~]. The daily bag limit for dark geese is five, which may not include more than four Canada geese or more than one white-fronted goose.

(B) Eastern Zone.

(i) Light geese: October 31, 2009 - January 24, 2010 [~~November 1, 2008 - January 25, 2009~~]. The daily bag limit for light geese is 20, and there is no possession limit.

(ii) Dark geese:

(I) White-fronted geese: October 31, 2009 - January 10, 2010 [~~November 1, 2008 - January 11, 2009~~]. The daily bag limit for white-fronted geese is two.

(II) Canada geese: October 31, 2009 - January 24, 2010 [~~November 1, 2008 - January 25, 2009~~]. The daily bag limit for Canada geese is three.

(3) Sandhill cranes. A free permit is required of any person to hunt sandhill cranes in areas where an open season is provided under this proclamation. Permits will be issued on an impartial basis with no limitation on the number of permits that may be issued.

(A) November 7, 2009 - February 7, 2010 [~~November 8, 2008 - February 8, 2009~~]. The daily bag limit is three. The possession limit is six.

(B) Zone B: November 27, 2009 - February 7, 2010 [~~November 28, 2008 - February 8, 2009~~]. The daily bag limit is three. The possession limit is six.

(C) Zone C: December 26, 2009 - January 24, 2010 [~~December 20, 2008 - January 25, 2009~~]. The daily bag limit is two. The possession limit is four.

(4) Special Youth-Only Season. There shall be a special youth-only waterfowl season during which the hunting, taking, and possession of geese, ducks, mergansers, and coots is restricted to licensed hunters 15 years of age and younger accompanied by a person 18 years of age or older, except for persons hunting by means of falconry under the provisions of §65.320 of this chapter (relating to Extended Falconry Season--Late Season Species). Bag and possession limits in any given zone during the season established by this paragraph shall be as provided for that zone by paragraph (1) of this section. Season dates are as follows:

(A) High Plains Mallard Management Unit: October 17 - 18, 2009 [~~October 18 - 19, 2008~~];

(B) North Zone: October 24 - 25, 2009 [~~October 25 - 26, 2008~~]; and

(C) South Zone: October 24 - 25, 2009 [~~October 25 - 26, 2008~~].

§65.320. *Extended Falconry Season--Late Season Species.*

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

(1) Ducks, coots, and mergansers:

(A) High Plains Mallard Management Unit: no extended season;

(B) North Duck Zone: January 25 - February 8, 2010 [~~January 26 - February 9, 2009~~];

(C) South Duck Zone: January 25 - February 8, 2010 [~~January 26 - February 9, 2009~~].

(2) The daily bag and possession limits for migratory game birds under this section shall not exceed three and six birds, respectively, singly or in the aggregate.

§65.321. *Special Management Provisions.*

The provisions of paragraphs (1) - (3) of this section apply only to the hunting of light geese. All provisions of this subchapter continue in effect unless specifically provided otherwise in this section; however, where this section conflicts with the provisions of this subchapter, this section prevails.

(1) Means and methods. The following means and methods are lawful during the time periods set forth in paragraph (4) of this section:

(A) shotguns capable of holding more than three shells; and

(B) electronic calling devices.

(2) Possession. During the time periods set forth in paragraph (4) of this section:

(A) there shall be no bag or possession limits; and

(B) the provisions of §65.312 of this title (relating to Possession of Migratory Game Birds) do not apply; and

(C) a person may give, leave, receive, or possess legally taken light geese or their parts, provided the birds are accompanied by a wildlife resource document (WRD) from the person who killed the birds. A properly executed WRD satisfies the tagging requirements of 50 CFR Part 20. The WRD is not required if the possessor lawfully killed the birds; the birds are transferred at the personal residence of the donor or donee; or the possessor also possesses a valid hunting license, a valid waterfowl stamp, and is HIP certified. The WRD shall accompany the birds until the birds reach their final destination, and must contain the following information:

- (i) the name, signature, address, and hunting license number of the person who killed the birds;
- (ii) the name of the person receiving the birds;
- (iii) the number and species of birds or parts;
- (iv) the date the birds were killed; and
- (v) the location where the birds were killed (e.g., name of ranch; area; lake, bay, or stream; county).

(3) Shooting hours. During the time periods set forth in paragraph (4) of this section, shooting hours are from one half-hour before sunrise until one half-hour after sunset.

(4) Special Light Goose Conservation Period.

(A) From January 25 - March 28, 2010 [~~January 26 - March 29, 2009~~], the take of light geese is lawful in Eastern Zone as defined in §65.317 of this title (relating to Zones and Boundaries for Late Season Species).

(B) From February 8 - March 28, 2010 [~~February 9 - March 29, 2009~~], the take of light geese is lawful in the Western Zone as defined in §65.317 of this title (relating to Zones and Boundaries for Late Season Species).

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 July 6, 2009.

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Ann Bright

General Counsel

Texas Parks and Wildlife Department

Earliest possible date of adoption: August 16, 2009

For further information, please call: (512) 389-4814



TITLE 34. PUBLIC FINANCE

PART 3. TEACHER RETIREMENT SYSTEM OF TEXAS

CHAPTER 41. HEALTH CARE AND INSURANCE PROGRAMS

SUBCHAPTER A. RETIREE HEALTH CARE BENEFITS (TRS-CARE)

34 TAC §41.1, §41.7

The Board of Trustees (Board) of the Teacher Retirement System of Texas (TRS) proposes amendments to the following rules for TRS-Care, the health benefits program for TRS retirees administered by TRS, as trustee: §41.1 relating to initial enrollment periods for coverage under TRS-Care; and §41.7 relating to the effective date of coverage under TRS-Care. The amendments are proposed mainly to address a new, extended initial enrollment period for retirees.

Changes to §1575.161 of the Insurance Code, made pursuant to House Bill 1191, 81st Legislature, Regular Session (2009) ("H.B. 1191"), entitles retirees who are eligible for coverage under TRS-Care to select coverage beginning on any date that is on or after the date the person retires and on or before the 90th

day after the retirement date. In light of the above, TRS proposes substantive amendments to §41.1 to reflect that 90-day enrollment period, and substantive amendments to §41.7 to address the ability of retirees to change coverage tiers within the initial enrollment period. The substantive proposed amendments to §41.1 are located in the newly-designated subsections (a) and (b). Newly-designated subsection (a) provides that the initial enrollment period in TRS-Care for TRS retirees who take service retirement and who are eligible to enroll in TRS-Care at the time of retirement expires at the end of the later of the last day of the month that is three (3) consecutive calendar months, but in no event less than 90 days, after their effective retirement date, or the last day of the month this is three (3) consecutive calendar months following the last day of the month in which their election to retire is received by TRS. Newly-designated subsection (b) provides that the initial enrollment period in TRS-Care for eligible TRS disability retirees expires at the end of the last day of the month that is three (3) consecutive calendar months, but in no event less than 90 days, after the date that the disability retirement is approved by the TRS Medical Board. A substantive proposed amendment to §41.7 is located in newly-designated subsection (b). Newly-designated subsection (b) provides that a TRS member who takes a service or disability retirement and enrolls in coverage during his or her initial enrollment period may, at any time during his or her initial enrollment period, make changes to his or her coverage elections. The effective date of coverage for the new elections is the first day of the month following receipt by TRS-Care of the application requesting the change in coverage.

Non-substantive amendments are proposed to §41.1 to delete obsolete language setting forth different initial enrollment periods for those retirees retiring before September 1, 2004, and those retirees retiring after September 1, 2004. A non-substantive amendment is proposed to §41.7. Newly-designated subsection (c) of §41.7 permits retirees to defer the effective date of coverage under TRS-Care up to the first day of the third month immediately following the month after the effective date of retirement. The proposed non-substantive amendment clarifies that this deferral period runs concurrent with, and does not extend, the enrollment periods set forth in §41.1. Subsections within both §41.1 and §41.7 have been re-designated as required by the proposed amendments in each section.

Ken Welch, TRS Chief Financial Officer, estimates that, for each year of the first five years that proposed amendments to §41.1 and §41.7 will be in effect, there will be no foreseeable implications relating to cost or revenues of the state or local governments as a result of enforcing or administering the amended rules.

For each year of the first five years that the proposals will be in effect, Mr. Welch and Ronnie Jung, TRS Executive Director, have determined that the public benefit will be to provide TRS retirees with longer enrollment periods for coverage under TRS-Care. Mr. Welch has also determined that there will be no direct economic costs to persons required to comply with the proposed rules. There will be no effect on a local economy because of the proposals, and therefore no local employment impact statement is required under §2001.022 of the Government Code. Moreover, there will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing the proposed amended rules, and therefore no statement about the effect of the proposals on small businesses is required under §2006.002 of the Government Code.

Comments may be submitted in writing to Ronnie Jung, Executive Director, 1000 Red River Street, Austin, Texas 78701-2698. Written comments must be received by TRS no later than 30 days after publication of this notice.

Statutory Authority: The amendments to §41.1 and §41.7 are proposed under the authority of §1575.052, Insurance Code, which authorizes the Board to adopt rules it considers necessary to implement and administer the TRS-Care program.

Cross-reference to Statute: The proposed amendments to §41.1 and §41.7 affect Chapter 1575 of the Insurance Code, which provides for the establishment and administration of the TRS-Care program.

§41.1. Initial Enrollment Periods for the Health Benefits Program Under the Texas Public School Retired Employees Group Benefits Act (TRS-Care).

~~[(a) The initial enrollment period in the health benefits program under the Texas Public School Retired Employees Group Benefits Act (TRS-Care) for eligible Teacher Retirement System of Texas (TRS) retirees who take a service retirement before September 1, 2004, expires at the end of the later of:]~~

~~[(1) the 31st day after their effective retirement date; or]~~

~~[(2) the 31st day following the last day of the month in which their election to retire is received by TRS.]~~

~~(a) [(b)] The initial enrollment period in TRS-Care for TRS retirees who take a service retirement [after September 1, 2004,] and who are eligible to enroll in TRS-Care at the time of retirement expires at the end of the later of:~~

~~(1) the last day of the month that is three (3) consecutive calendar months, but in no event less than 90 days, [31st day] after their effective retirement date; or~~

~~(2) the last day of the month that is three (3) consecutive calendar months [31st day] following the last day of the month in which their election to retire is received by TRS.~~

~~(b) [(e)] The initial enrollment period in TRS-Care for eligible TRS disability retirees expires at the end of the last day of the month that is three (3) consecutive calendar months, but in no event less than 90 days. [31st day] after the date that the disability retirement is approved by the TRS Medical Board.~~

~~(c) [(d)] The initial enrollment period in TRS-Care for a surviving spouse and a surviving dependent child of an eligible retiree expires at the end of the later of:~~

~~(1) the 31st day after the end of the month in which the eligible retiree died; or~~

~~(2) the 31st day after the date of the notice of eligibility that is sent to the surviving spouse or the surviving dependent child at the individual's last known address, as shown in the TRS-Care records.~~

~~(d) [(e)] The initial enrollment period for a surviving spouse of a deceased active member and for a surviving dependent child, as both are defined by §1575.003, Insurance Code, expires at the end of the later of:~~

~~(1) the 31st day after the end of the month in which the active member died; or~~

~~(2) the 31st day following the date of the notice of opportunity to enroll that is sent to the surviving spouse or the surviving dependent child at the individual's last known address, as shown in the TRS-Care records.~~

~~(e) [(f)] Notwithstanding the other provisions of this section:~~

~~(1) A retiree may enroll a new spouse within 31 days of the date on which the retiree marries;~~

~~(2) A retiree or surviving spouse may enroll a child who becomes a dependent as defined by §1575.003, Insurance Code, within 31 days after the date on which the child becomes a dependent eligible for coverage under TRS-Care; and~~

~~(3) A participant shall be entitled to all applicable COBRA rights under the Federal Public Health Service Act.~~

~~(f) [(g)] If a retiree or surviving spouse fails to enroll a newly eligible spouse or dependent child within the time periods set out in subsection (e) [(f)] of this section, the retiree or surviving spouse will not be able to enroll the spouse or dependent child in TRS-Care until a subsequent enrollment period.~~

§41.7. Effective Date of Coverage.

(a) Except as allowed by subsection (c) [(b)] of this section, for TRS members who take a service or disability retirement and enroll in coverage during their initial enrollment period as described in §41.1 of this title (relating to Initial Enrollment Periods for the Health Benefits Program Under the Texas Public School Retired Employees Group Benefits Act (TRS-Care)), the effective date of coverage is:

(1) the first day of the month following the effective date of retirement if the application for coverage is received by TRS-Care on or before the effective retirement date; or

(2) the first day of the month following the receipt of the application for coverage by TRS-Care if the application is received after the effective retirement date but within the initial enrollment period.

(b) A TRS member who takes a service or disability retirement and enrolls in coverage during his or her initial enrollment period may, at any time during his or her initial enrollment period, make changes to his or her coverage elections. The effective date of coverage for the new elections is the first day of the month following receipt by TRS-Care of the application requesting the change in coverage.

~~(c) [(b)] Regardless of the date a TRS member submits his application for retirement, if a TRS member enrolls in coverage during his initial enrollment period as described in §41.1 of this title, the TRS member may defer the effective date of coverage described in subsection (a) of this section for himself and his eligible dependents to the first day of any of the three (3) months immediately following the month after the effective date of retirement. This deferment period runs concurrent with, and does not extend, the enrollment period as described in §41.1 of this title. In [Notwithstanding the preceding sentence, in] no event may a TRS member defer the effective date of TRS-Care coverage to a date prior to the date upon which TRS-Care receives the application for coverage from the TRS member.~~

~~(d) [(e)] The effective date of coverage for a surviving spouse or for a surviving dependent child is the first day of his or her eligibility if TRS-Care receives an application within the initial enrollment period as described in §41.1 of this title and the deceased participant had the surviving spouse or the surviving dependent child enrolled in TRS-Care before the participant died.~~

~~(e) [(d)] If the surviving spouse or the surviving dependent child was not enrolled in TRS-Care immediately preceding his or her becoming eligible for coverage, the effective date of coverage will be, at the election of the surviving spouse or the surviving dependent child, either the first day of the month following:~~

~~(1) TRS-Care's receipt of an application during the initial enrollment period as described in §41.1 of this title; or~~

(2) the month of the death of the deceased TRS service or disability retiree or deceased active TRS member, provided TRS-Care receives an application during the initial enrollment period as described in §41.1 of this title.

(f) [(e)] The effective date of coverage for an eligible dependent who is enrolled under a retiree's or surviving spouse's TRS-Care coverage during the initial enrollment period is the same date as the retiree or surviving spouse's effective date of coverage unless the dependent is enrolled after the retiree's effective retirement date and after the retiree has enrolled but within the initial enrollment period, in which case the dependent's effective date of coverage will be the first day of the month following TRS-Care's receipt of the application to enroll the dependent.

(g) [(f)] The effective date of coverage for an eligible dependent who is enrolled under a retiree's or surviving spouse's TRS-Care coverage as a result of a special enrollment event, as described in and limited by §41.2(b) of this title (relating to Additional Enrollment Opportunities), is the date specified under the provisions of the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191, 110 Stat. 1936 (1996)).

(h) [(g)] The effective date of coverage for a retiree, a surviving spouse, and an eligible dependent described in [paragraph (2) or (3) of] §41.2(a)(2) or (3) of this title [(relating to Additional Enrollment Opportunities)] who submit an application within the time period described by §41.2(a)(8) of this title [(relating to Additional Enrollment Opportunities)] is:

(1) the first day of the month following the retiree's or surviving spouse's 65th birthday if the application for coverage is received by TRS-Care on or before the retiree's or surviving spouse's 65th birthday; or

(2) the first day of the month following the receipt of the application by TRS-Care if the application is received after the retiree's or surviving spouse's 65th birthday but within the enrollment period.

(i) [(h)] Except as provided in subsections (l), (m), and (n) [(k), (l), and (m)] of this section, the effective date of changes in coverage due to the acquisition of Medicare is the first of the month following the date of TRS-Care's receipt of a copy of the participant's or dependent's Medicare card.

(j) [(i)] Except as provided in subsections (l), (m), and (n) [(k), (l), and (m)] of this section, the effective date of reduction in coverage shall be the first day of the month following TRS-Care's receipt of a signed request for reduced coverage.

(k) [(j)] A retiree, surviving spouse, or surviving dependent child may cancel any coverage by submitting the appropriate cancellation notice to TRS-Care. Cancellations will be effective on:

(1) the first day of the month following the date printed on the notice of cancellation form ("notice date") sent to the retiree at the retiree's last known address, as shown in the TRS-Care records, if TRS-Care receives the completed notice of cancellation within fourteen days of the notice date; or

(2) the first day of the month following TRS-Care's receipt of the retiree's completed notice of cancellation form if the form is received more than fourteen calendar days after the notice date; or

(3) the first day of the month following TRS-Care's receipt of a written request to cancel coverage from a surviving spouse or from or on behalf of a surviving dependent child.

(l) [(k)] Where a participant who has Medicare Part A coverage incorrectly enrolls in an insurance coverage option that provides

for coverage without corresponding Medicare Part A coverage and payment is made by Medicare and TRS-Care in a manner that violates the provisions of Chapter 1575, Insurance Code, which requires TRS-Care to be secondary to Medicare, TRS may seek the recovery of funds paid in violation of Chapter 1575 and may make the effective date of the correct coverage retroactive to the first day of the earliest month for which recovery of such overpaid funds is possible under Medicare rules.

(m) [(l)] Where a participant who has Medicare Part A coverage incorrectly enrolls in a TRS-Care coverage option that provides for coverage without corresponding Medicare Part A and there is no claim made upon TRS-Care or the legitimate claim is less than the amount of overpaid contributions, TRS-Care may refund or credit the amount due to the participant and may make the effective date of the correct coverage retroactive to when the participant was first enrolled in both Medicare and TRS-Care to a maximum retroactive period of twelve months, including the month in which proof of Medicare Part A is received by TRS-Care.

(n) [(m)] Upon TRS-Care's discovery that a participant does not have Medicare Part A coverage and is incorrectly enrolled in a TRS-Care coverage option that requires Medicare Part A coverage, TRS-Care will contact the participant and advise the participant that the cost of coverage and the coverage will be adjusted prospectively effective the first day of the next month unless a copy of a Medicare card showing Part A coverage is received prior to that date. Claims will be paid based upon the coverage in effect at the time the services were provided. Any claims already paid as if Part A were in effect will not be adjusted.

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 July 1, 2009.

TRD-200902731

Ronnie G. Jung
Executive Director

Teacher Retirement System of Texas

Earliest possible date of adoption: August 16, 2009

For further information, please call: (512) 542-6438



PART 11. OFFICE OF THE FIRE FIGHTERS' PENSION COMMISSIONER

CHAPTER 302. GENERAL PROVISIONS RELATING TO THE TEXAS EMERGENCY SERVICES RETIREMENT SYSTEM

34 TAC §302.6

The State Board of Trustees of the Texas Emergency Services Retirement System (System) proposes new rule, 34 TAC §302.6, providing for an interest charge on certain past-due contributions from departments participating in the System.

The new rule would impose an interest charge, based on the retirement system's current assumed rate of investment return, on contributions that are owed the System because of the correction of an error in enrollment of a member or crediting service to a member if the error was the fault of a department participating in and reporting to the System and not of the System itself.

Lisa Ivie Miller has determined as a result of adoption of the proposed new rule, for the first five years there would be no cost to

state or local governments that perform their responsibilities to the System as required by current law. A cost would be incurred by those local governments that participate in the System and fail to enroll members or certify retirement credit as required by current law, but there would be no loss of revenue to local governments. Recovery of the cost would partially reimburse the System for the benefits payable by the System and potentially reduce statutory liability for state contributions.

Ms. Miller has also determined that the public benefit for the first five years that the new rule would be in effect would be to ensure that the System recovers, for the benefit of members and annuitants, a portion of the costs incurred from not being able to invest contributions at the time that they are otherwise due under the law.

Small businesses or individuals would not be affected by the adoption of the proposed new rule.

Comments on the proposed rule may be submitted in writing to Lisa Ivie Miller, Commissioner, Office of the Fire Fighters' Pension Commissioner, P.O. Box 12577, Austin, Texas 78711-2577, not later than August 21, 2009. Comments may also be submitted electronically to rules@ffpc.state.tx.us or faxed to (512) 936-3480.

The new rule is proposed under the statutory authority of §863.005, Government Code, which takes effect September 1, 2009. No other statutes, articles, or codes are affected by the proposed new rule.

§302.6. Charge for Certain Contributions Past Due.

(a) A participating department is liable for the payment of an interest charge if the correction of an error results in the enrollment of, or the crediting of qualified service to, a member who previously

was entitled to be enrolled or granted credit for qualified service and the error was the omission of the participating department and not the pension system.

(b) An interest charge assessed under this section is calculated on the amount of local contributions due because of the correction of the error and based on the pension system's assumed rate of return as recommended by the actuary, adopted by the State Board of Trustees, and in effect on the date the correction is made, and is compounded annually. The charge is assessed from the date the local contributions would have been made except for the error to the date the correction is made.

(c) An interest charge assessed under this section becomes payable with the first quarterly payment that becomes due after the date of assessment. This section does not apply to an error corrected before October 1, 2009.

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 July 1, 2009.

TRD-200902729

Kevin Heyburn

Assistant Attorney General

Office of the Fire Fighters' Pension Commissioner

Earliest possible date of adoption: August 16, 2009

For further information, please call: (512) 463-9935



WITHDRAWN RULES

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

TITLE 7. BANKING AND SECURITIES

PART 5. OFFICE OF CONSUMER CREDIT COMMISSIONER

CHAPTER 84. MOTOR VEHICLE INSTALLMENT SALES

SUBCHAPTER A. GENERAL PROVISIONS

7 TAC §84.108

Proposed new §84.108, published in the January 2, 2009, issue of the *Texas Register* (34 TexReg 13), is withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Filed with the Office of the Secretary of State on July 3, 2009.

TRD-200902749



TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 70. TECHNOLOGY-BASED INSTRUCTION

SUBCHAPTER AA. COMMISSIONER'S RULES CONCERNING STATE VIRTUAL SCHOOL NETWORK

19 TAC §70.1001

Proposed new §70.1001, published in the January 2, 2009, issue of the *Texas Register* (34 TexReg 18), is withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Filed with the Office of the Secretary of State on July 3, 2009.

TRD-200902750



CHAPTER 100. CHARTERS

SUBCHAPTER AA. COMMISSIONER'S RULES CONCERNING OPEN-ENROLLMENT CHARTER SCHOOLS

DIVISION 2. COMMISSIONER ACTION AND INTERVENTION

19 TAC §100.1033

Proposed amended §100.1033, published in the January 2, 2009, issue of the *Texas Register* (34 TexReg 19), is withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Filed with the Office of the Secretary of State on July 3, 2009.

TRD-200902751



TITLE 22. EXAMINING BOARDS

PART 2. STATE BOARD OF DENTAL EXAMINERS

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

22 TAC §114.2

The State Board of Dental Examiners withdraws the proposed amendment to §114.2 which appeared in the July 10, 2009, issue of the *Texas Register* (34 TexReg 4613).

Filed with the Office of the Secretary of State on July 1, 2009.

TRD-200902735

Sherri Sanders Meek

Executive Director

State Board of Dental Examiners

Effective date: July 1, 2009

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



PART 18. TEXAS STATE BOARD OF PODIATRIC MEDICAL EXAMINERS

CHAPTER 375. CONDUCT AND SCOPE OF PRACTICE

22 TAC §375.1, §375.3

Proposed amended §375.1 and §375.3, published in the January 2, 2009, issue of the *Texas Register* (34 TexReg 24), are withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Filed with the Office of the Secretary of State on July 3, 2009.



ADOPTED RULES

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

TITLE 1. ADMINISTRATION

PART 8. TEXAS JUDICIAL COUNCIL

CHAPTER 173. INDIGENT DEFENSE GRANTS

The Task Force on Indigent Defense (Task Force) is a permanent Standing Committee of the Texas Judicial Council. The Task Force repeals §§173.1 - 173.8, 173.101 - 173.104, 173.201, 173.202, 173.301 - 173.312, 173.401 and 173.402, concerning rules for grant administration. The repeals are adopted without changes to the proposal as published in the March 6, 2009, issue of the *Texas Register* (34 TexReg 1497).

The repealed rules are replaced with new rules to establish the guidelines for the administration of the Task Force's grant program, which is designed to promote compliance by counties with the requirements of state law relating to indigent defense.

No comments were received regarding adoption of the repeals.

SUBCHAPTER A. GENERAL GRANT PROGRAM PROVISIONS

1 TAC §§173.1 - 173.8

The repeals are adopted under the Texas Government Code §71.062. The Task Force is authorized to direct the Comptroller to distribute Fair Defense Account funds, including grants, to counties for indigent defense services under the Texas Government Code §71.062. This section further authorizes the Task Force to monitor grants and enforce compliance with grant terms and to develop policies to ensure funds are allocated and distributed to counties in a fair manner. The Task Force interprets §71.062(c) to require the Task Force to adopt rules governing the process for distributing grant funds.

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

Filed with the Office of the Secretary of State on July 3, 2009.

TRD-200902755
Wesley Shackelford
Special Counsel
Texas Judicial Council
Effective date: July 23, 2009
Proposal publication date: March 6, 2009
For further information, please call: (512) 936-6994



SUBCHAPTER B. ELIGIBILITY AND GRANT FUNDING REQUIREMENTS

1 TAC §§173.101 - 173.104

The repeals are adopted under the Texas Government Code §71.062. The Task Force is authorized to direct the Comptroller to distribute Fair Defense Account funds, including grants, to counties for indigent defense services under the Texas Government Code §71.062. This section further authorizes the Task Force to monitor grants and enforce compliance with grant terms and to develop policies to ensure funds are allocated and distributed to counties in a fair manner. The Task Force interprets §71.062(c) to require the Task Force to adopt rules governing the process for distributing grant funds.

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

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Wesley Shackelford
Special Counsel
Texas Judicial Council
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For further information, please call: (512) 936-6994



SUBCHAPTER C. CONDITIONS OF GRANT FUNDING

1 TAC §173.201, §173.202

The repeals are adopted under the Texas Government Code §71.062. The Task Force is authorized to direct the Comptroller to distribute Fair Defense Account funds, including grants, to counties for indigent defense services under the Texas Government Code §71.062. This section further authorizes the Task Force to monitor grants and enforce compliance with grant terms and to develop policies to ensure funds are allocated and distributed to counties in a fair manner. The Task Force interprets §71.062(c) to require the Task Force to adopt rules governing the process for distributing grant funds.

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

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Wesley Shackelford
Special Counsel
Texas Judicial Council
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For further information, please call: (512) 936-6994



SUBCHAPTER D. ADMINISTERING GRANTS

1 TAC §§173.301 - 173.312

The repeals are adopted under the Texas Government Code §71.062. The Task Force is authorized to direct the Comptroller to distribute Fair Defense Account funds, including grants, to counties for indigent defense services under the Texas Government Code §71.062. This section further authorizes the Task Force to monitor grants and enforce compliance with grant terms and to develop policies to ensure funds are allocated and distributed to counties in a fair manner. The Task Force interprets §71.062(c) to require the Task Force to adopt rules governing the process for distributing grant funds.

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

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Wesley Shackelford
Special Counsel
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For further information, please call: (512) 936-6994



SUBCHAPTER E. PROGRAM MONITORING AND AUDITS

1 TAC §§173.401, §173.402

The repeals are adopted under the Texas Government Code §71.062. The Task Force is authorized to direct the Comptroller to distribute Fair Defense Account funds, including grants, to counties for indigent defense services under the Texas Government Code §71.062. This section further authorizes the Task Force to monitor grants and enforce compliance with grant terms and to develop policies to ensure funds are allocated and distributed to counties in a fair manner. The Task Force interprets §71.062(c) to require the Task Force to adopt rules governing the process for distributing grant funds.

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

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Wesley Shackelford
Special Counsel
Texas Judicial Council
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For further information, please call: (512) 936-6994



CHAPTER 173. INDIGENT DEFENSE GRANTS

The Task Force on Indigent Defense (Task Force) is a permanent Standing Committee of the Texas Judicial Council. The Task Force adopts new §§173.101 - 173.109, 173.201 - 173.205, 173.301 - 173.310, 173.401 and 173.402, concerning the administration of grants to counties. The new sections are adopted without changes to the proposed text as published in the March 6, 2009, issue of the *Texas Register* (34 TexReg 1499).

The sections are adopted to establish the guidelines for the administration of a grant program for counties to improve indigent defense services. These sections set forth the general terms, conditions, and criteria for awarding these grants. Grants will aid counties to maintain, improve, and enhance the delivery of indigent defense services, and will promote compliance by counties with the requirements of state law and Task Force policies and standards relating to indigent defense.

No comments were received regarding adoption of the rules.

SUBCHAPTER A. GENERAL FUNDING PROGRAM PROVISIONS

1 TAC §§173.101 - 173.109

The new rules are adopted under the Texas Government Code §71.062. The Task Force is authorized to direct the Comptroller to distribute Fair Defense Account funds, including grants, to counties for indigent defense services under the Texas Government Code §71.062. This section further authorizes the Task Force to monitor grants and enforce compliance with grant terms and to develop policies to ensure funds are allocated and distributed to counties in a fair manner. The Task Force interprets §71.062(c) to require the Task Force to adopt rules governing the process for distributing grant funds.

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

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Wesley Shackelford
Special Counsel
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For further information, please call: (512) 936-6994



SUBCHAPTER B. ELIGIBILITY AND FUNDING REQUIREMENTS

1 TAC §§173.201 - 173.205

The new rules are adopted under the Texas Government Code §71.062. The Task Force is authorized to direct the Comptroller to distribute Fair Defense Account funds, including grants, to counties for indigent defense services under the Texas Government Code §71.062. This section further authorizes the Task Force to monitor grants and enforce compliance with grant terms and to develop policies to ensure funds are allocated and distributed to counties in a fair manner. The Task Force interprets §71.062(c) to require the Task Force to adopt rules governing the process for distributing grant funds.

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

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Wesley Shackelford
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Texas Judicial Council
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For further information, please call: (512) 936-6994



SUBCHAPTER C. ADMINISTERING GRANTS

1 TAC §§173.301 - 173.310

The new rules are adopted under the Texas Government Code §71.062. The Task Force is authorized to direct the Comptroller to distribute Fair Defense Account funds, including grants, to counties for indigent defense services under the Texas Government Code §71.062. This section further authorizes the Task Force to monitor grants and enforce compliance with grant terms and to develop policies to ensure funds are allocated and distributed to counties in a fair manner. The Task Force interprets §71.062(c) to require the Task Force to adopt rules governing the process for distributing grant funds.

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

Filed with the Office of the Secretary of State on July 3, 2009.

TRD-200902762
Wesley Shackelford
Special Counsel
Texas Judicial Council
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For further information, please call: (512) 936-6994



SUBCHAPTER D. FISCAL MONITORING AND AUDITS

1 TAC §§173.401, §173.402

The new rules are adopted under the Texas Government Code §71.062. The Task Force is authorized to direct the Comptroller to distribute Fair Defense Account funds, including grants, to counties for indigent defense services under the Texas Gov-

ernment Code §71.062. This section further authorizes the Task Force to monitor grants and enforce compliance with grant terms and to develop policies to ensure funds are allocated and distributed to counties in a fair manner. The Task Force interprets §71.062(c) to require the Task Force to adopt rules governing the process for distributing grant funds.

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

Filed with the Office of the Secretary of State on July 3, 2009.

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Wesley Shackelford
Special Counsel
Texas Judicial Council
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For further information, please call: (512) 936-6994



CHAPTER 174. INDIGENT DEFENSE POLICIES AND STANDARDS

SUBCHAPTER C. POLICY MONITORING REQUIREMENTS

The Task Force on Indigent Defense (Task Force) is a permanent Standing Committee of the Texas Judicial Council. The Task Force adopts new §§174.26 - 174.28, concerning policy monitoring processes and benchmarks. Section 174.28 is adopted with changes to the proposed text as published in the January 30, 2009, of the *Texas Register* (34 TexReg 499) and will be republished. In §174.28(c)(3)(B), the word "that" is changed to "the" and in §174.28(d)(4) the reference to "§173.308" is changed to "§173.307". Changes in the adopted §174.28 reflect nonsubstantive variation from the proposed new rule. Legal counsel advises that the changes affect no new persons, entities, or subjects other than those given notice. Accordingly, republication of the adopted section as proposed is not required. Section 174.26 and §174.27 are adopted without changes and will not be republished.

The new sections are adopted to establish the guidelines for the administration of the Task Force's policy monitoring, which is designed to promote compliance by counties with the requirements of state law and Task Force policies and standards relating to indigent defense.

No comments were received regarding adoption of the new rules.

DIVISION 1. DEFINITIONS

1 TAC §174.26

The new rule is adopted under the Texas Government Code §71.062, which directs the Task Force to distribute funds based on a county's policy compliance with standards developed by the task force and the county's demonstrated commitment to the requirements of state law relating to indigent defense. The section also directs the Task Force to monitor grants and enforce policy with grant terms. The rule is also adopted under §71.061(a), which requires the Task Force to monitor the effectiveness of the county's indigent defense policies, standards, and procedures

and to ensure compliance by the county with the requirements of state law relating to indigent defense.

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 July 3, 2009.

TRD-200902753

Wesley Shackelford

Special Counsel

Texas Judicial Council

Effective date: July 23, 2009

Proposal publication date: January 30, 2009

For further information, please call: (512) 936-6994



DIVISION 2. POLICY MONITORING PROCESS AND BENCHMARKS

1 TAC §174.27, §174.28

The new rules are adopted under the Texas Government Code §71.062, which directs the Task Force to distribute funds based on a county's policy compliance with standards developed by the task force and the county's demonstrated commitment to the requirements of state law relating to indigent defense. The section also directs the Task Force to monitor grants and enforce policy with grant terms. The rules are also adopted under §71.061(a), which requires the Task Force to monitor the effectiveness of the county's indigent defense policies, standards, and procedures and to ensure compliance by the county with the requirements of state law relating to indigent defense.

§174.28. *On-Site Monitoring Process.*

(a) Purpose. The process promotes local compliance with the requirements of the Fair Defense Act and Task Force rules and provides technical assistance to improve processes where needed.

(b) Monitoring Process. The policy monitor examines the local indigent defense plans and local procedures and processes to determine if the jurisdiction meets the statutory requirements and rules adopted by the Task Force. The policy monitor also attempts to randomly select samples of actual cases from the period of review by using a 15% confidence interval for a population at a 95% confidence level.

(c) Core Requirements. On-site policy monitoring focuses on the six core requirements of the Fair Defense Act and related rules. This rule establishes the process for evaluating policy compliance with a requirement and sets benchmarks for determining whether a county is in substantial policy compliance with the requirement.

(1) Prompt and Accurate Magistration.

(A) The policy monitor shall review the local indigent defense plans and determine if they require:

(i) Magistration within 48 hours of arrest;

(ii) That the right to counsel be communicated to the arrestee, the arrestee be provided an opportunity to request counsel, and both be recorded; and

(iii) Transmittal of the request for appointed counsel to the appointing authority within 24 hours of request.

(B) The policy monitor shall check for documentation indicating that the magistrate or county has:

(i) Informed and explained to an arrestee the rights listed in Article 15.17(a), Code of Criminal Procedure, including the right to counsel;

(ii) Maintained a process to magistrate arrestees within 48 hours of arrest;

(iii) Maintained a process for magistrates not authorized to appoint counsel to transmit requests for counsel to the appointing authority within 24 hours of the request; and

(iv) Maintained magistrate processing records required by Article 15.17(a), (e), and (f), Code of Criminal Procedure, and records documenting the time of arrest, time of magistration, whether the person requested counsel, and time for transferring requests for counsel to the appointing authority.

(2) Indigence Determination. The policy monitor shall review the local indigent defense plans and determine if they:

(A) Specify procedures and standards for determining whether a defendant is indigent;

(B) Apply the procedures and standards to each defendant in the county equally, regardless of whether the defendant is in custody or has been released on bail; and

(C) In the case of juveniles, specify that the income and assets of the parent or other person responsible for the juvenile shall be considered in determining the indigence of the child.

(3) Minimum Attorney Qualifications. The policy monitor shall review the local indigent defense plans and documentation to determine if they:

(A) Specify objective qualifications that attorneys must meet to be eligible for appointment, including the continuing legal education (CLE) requirements set out in §§174.1 - 174.4 of this title and annually track attorney CLE hours;

(B) Require each attorney applying to be on an appointment list be approved by a majority of the judges who try criminal cases at the felony or misdemeanor offense level, respectively, or by a majority vote of the juvenile board in juvenile cases; and

(C) In the case of juveniles, recognize the differences in qualifications and experience necessary for appointments for different offense levels as required by Texas Family Code §51.102(b)(2).

(4) Prompt Appointment of Counsel.

(A) The policy monitor shall review the local indigent defense plans and determine if they require:

(i) Counsel to be appointed for indigent defendants within one working day of receipt of the request for counsel in counties with a population of 250,000 or more, or three working days in other counties;

(ii) For juveniles not represented at the initial detention hearing, either immediate appointment of counsel or an order requiring the person having custody over the child to retain counsel if the person with custody is not found to be indigent;

(iii) For juveniles, that counsel to be appointed within five working days of the service on the child of the petition if the child's custodian is found indigent.

(B) The policy monitor shall check for documentation indicating that:

(i) Counsel was appointed for arrestees within one working day of receipt of the request for counsel in counties with a

population of 250,000 or more, or three working days in other counties; and

(ii) Counsel was appointed within one day of the detention hearing for in-custody juveniles and within five working days of service of the petition on the juvenile for out-of-custody juveniles.

(5) Attorney Selection Process.

(A) The policy monitor shall review the local indigent defense plans and determine if they:

(i) Include an attorney selection method; and

(ii) Specify who is authorized to make appointments, what appointment lists are used, and a description of when an attorney on the list may be skipped, if applicable.

(B) The policy monitor shall check for documentation indicating:

(i) In the case of a contract defender program, that all requirements of §§174.10 - 174.25 of this title are met;

(ii) That attorney selection process actually used matches what is stated in the indigent defense plans; and

(iii) The number of appointments in the policy monitor's sample per attorney at each level (felony, misdemeanor, juvenile, and appeals) during the period of review, the percentage share of appointments represented by the top 10% of attorneys accepting appointments.

(6) Payment Process.

(A) The policy monitor shall review the local indigent defense plans and determine if they include:

(i) An attorney fee schedule;

(ii) Procedures for paying attorneys, experts, and investigators in accordance with the fee schedule; and

(iii) Procedures to reimburse expert and investigative expenses incurred without prior court approval when the expenses are reasonable and necessary.

(B) The policy monitor shall check for documentation indicating that the county has established a process for collecting and reporting itemized indigent defense expense and case information.

(d) Report.

(1) Report Issuance. The policy monitor shall issue a report to the program director within 30 days of the on-site monitoring visit to a county, unless a documented exception is provided by the director, with an alternative deadline provided, not later than 90 days from the on-site monitoring visit. The report shall contain each finding of noncompliance.

(2) County Response. Within 60 days of the date the report is issued by the policy monitor, the program director shall respond in writing to each finding of noncompliance, and shall describe the proposed corrective action to be taken by the county. The county may request the director to grant an extension of up to 60 days.

(3) Follow-up Visits. The policy monitor shall conduct an additional on-site visit to counties where the report included significant noncompliance findings. The follow-up visit shall occur within 12 months following receipt of a county's response to the report. The policy monitor shall review a county's implementation of corrective actions and shall report to the county and Task Force any remaining issues not corrected.

(4) Noncompliance. If a county fails to correct any noncompliance findings, the Task Force may impose a remedy under §173.307 of this title.

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 July 3, 2009.

TRD-200902754

Wesley Shackelford

Special Counsel

Texas Judicial Council

Effective date: July 23, 2009

Proposal publication date: January 30, 2009

For further information, please call: (512) 936-6994



TITLE 4. AGRICULTURE

PART 1. TEXAS DEPARTMENT OF AGRICULTURE

CHAPTER 19. QUARANTINES AND NOXIOUS AND INVASIVE PLANTS

SUBCHAPTER E. DATE PALM LETHAL DECLINE QUARANTINE

4 TAC §§19.51 - 19.53

The Texas Department of Agriculture (the department) adopts amendments to §§19.51 - 19.53, concerning the department's Date Palm Lethal Decline Quarantine regulations, without changes to the proposal published in the May 22, 2009, issue of the *Texas Register* (34 TexReg 3130).

The adopted amendments establish a regulatory practice utilizing an immediate buffer area and an extended buffer area surrounding any infected trees in Texas. The immediate buffer area will be the area within one mile of the infected tree. The extended buffer area will be the area within two miles of the infected tree and outside the one-mile immediate buffer area. The adopted amendments will operate as follows regarding each regulated area within the quarantine. Regarding the immediate buffer area, no trees within this area will be allowed to move outside the area for at least six months following the removal of the infected tree. In order to be allowed to move trees outside the immediate buffer area, a treatment regiment extending for at least three months, during the six-month period, will be required following the removal of an infected tree. This treatment is added because the vectors, primarily leafhoppers, which are present in the vicinity of an infected tree, pose the greatest risk of spreading the disease. Regarding the extended buffer area, a phytosanitary certificate must accompany shipment from the extended buffer area to outside. This requirement expires following the six-month period from the detection date assuming the treatment practices in the immediate buffer area are conducted as described herein. Regarding areas inside the quarantine zone but outside two buffer areas, shipments will be unrestricted.

The adopted amendments also add Nueces County of Texas and the entire State of Florida to the quarantined area and the requirements for quarantined palms entering Texas. Nueces

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

The adopted amendments prescribe entry requirements for movement of the quarantined articles from Florida into Texas, as well as outline requirements to move quarantined articles from a quarantined area of Texas to a free area of Texas. The amendments specify that a phytosanitary certificate issued by the department is required only upon detection of an infected tree and over a six-month duration to move quarantined palms outside two miles of an infected tree. Because Florida lacks intra-state quarantine and the state refrains from destroying the infected trees, all Florida shipments of the quarantined palms are required to be accompanied by a phytosanitary certificate.

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

No comments were received on the proposal.

The amendments are adopted under the Texas Agriculture Code, §71.001, which authorizes the department to establish a quarantine against out-of-state diseases and pests; and §71.007 which authorizes the department to adopt rules as necessary to protect agricultural and horticultural interests, including rules to provide for specific treatment of a grove or orchard or of infested or infected plants, plant products, or substances.

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 July 6, 2009.

TRD-200902773

Dolores Alvarado Hibbs

General Counsel

Texas Department of Agriculture

Effective date: July 26, 2009

Proposal publication date: May 22, 2009

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

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TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 97. PLANNING AND ACCOUNTABILITY

SUBCHAPTER AA. ACCOUNTABILITY AND PERFORMANCE MONITORING

19 TAC §97.1001

The Texas Education Agency (TEA) adopts an amendment to §97.1001, concerning accountability. The amendment is adopted without changes to the proposed text as published in the May 29, 2009, issue of the *Texas Register* (34 TexReg 3337) and will not be republished. The section describes the state accountability rating system and annually adopts the most current accountability manual. The amendment adopts applicable excerpts of the *2009 Accountability Manual*. Earlier versions of the manual will remain in effect with respect to the school years for which they were developed.

Legal counsel with the TEA has recommended that the procedures for issuing accountability ratings for public school districts and campuses be adopted as part of the *Texas Administrative Code*. This decision was made in 2000 given a court decision challenging state agency decision making via administrative letter/publications. Given the statewide application of the accountability rating process and the existence of sufficient statutory authority for the commissioner of education to formally adopt rules in this area, portions of each annual accountability manual have been adopted since 2000. The accountability system evolves from year to year so the criteria and standards for rating and acknowledging schools in the most current year differ to some degree over those applied in the prior year. The intention is to annually update 19 TAC §97.1001 to refer to the most recently published accountability manual.

The amendment to 19 TAC §97.1001 adopts excerpts of the *2009 Accountability Manual* into rule as a figure. The excerpts, *Chapters 2-6, 8, 10-13, 15-17, and Appendix K* of the *2009 Accountability Manual*, specify the indicators, standards, and procedures used by the commissioner of education to determine accountability ratings, both standard and alternative education accountability (AEA) procedures, for districts, campuses, and charter schools. These chapters also specify indicators, standards, and procedures used to determine Gold Performance Acknowledgment (GPA) on additional indicators for Texas public school districts and campuses. The TEA will issue accountability rat-

ings under the procedures specified in the *2009 Accountability Manual* by August 1, 2009. Ratings may be revised as a result of investigative activities by the commissioner as authorized under TEC, §39.074 and §39.075.

In 2009, campuses and districts will be evaluated using three base indicators: Texas Assessment of Knowledge and Skills (TAKS) results, completion rates, and annual dropout rates. In 2009, the GPA system will award acknowledgment on up to 15 separate indicators to districts and campuses rated *Academically Acceptable*, *AEA Academically Acceptable*, or higher: Attendance Rate for Grades 1-12; Advanced Course/Dual Enrollment Completion; Advanced Placement/International Baccalaureate Results; College Admissions Test Results; Commended Performance on Reading/English Language Arts (ELA), Mathematics, Writing, Science and/or Social Studies; Recommended High School Program/Distinguished Achievement Program Participation; Comparable Improvement on Reading/ELA and Mathematics; Texas Success Initiative - Higher Education Readiness Component on ELA and/or Mathematics; and College-Ready Graduates.

The adopted amendment also modifies subsection (e) to specify that accountability manuals adopted for school years prior to 2009-2010 will remain in effect with respect to those school years.

The adopted amendment places the specific procedures contained in *Chapters 2-6, 8, 10-13, 15-17, and Appendix K* of the *2009 Accountability Manual* for annually rating school districts and campuses in the *Texas Administrative Code*. Applicable procedures would be adopted each year as annual versions of the accountability manual are published. The adopted amendment has no locally maintained paperwork requirements.

The TEA determined that the amendment will have no direct adverse economic impact for small businesses and microbusinesses; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

The public comment period on the proposal began May 29, 2009, and ended June 29, 2009. Following is a summary of the public comments received and corresponding agency response regarding the proposed amendment to 19 TAC Chapter 97, Planning and Accountability, Subchapter AA, Accountability and Performance Monitoring, §97.1001, Accountability Rating System.

Comment. The superintendents of Dallas Independent School District (ISD), Houston ISD, El Paso ISD, and Grand Prairie ISD requested the minimum performance floor be reinstated to 10 points below the standard for Grade 8 science for use of the exceptions provision to gate up to *Academically Acceptable* in the 2009 state accountability system.

Agency Response. The agency disagrees and has maintained language as published as proposed. During the development of the 2009 accountability system procedures, the Educator Focus Group and the Commissioner's Accountability Advisory Committee (CAAC) reviewed and discussed the change in this floor requirement from 10 points to the more rigorous five points below the standard.

The advisory groups understood that middle schools will not have the same benefit of the Texas Projection Measure (TPM) in science as will elementary and high schools in 2009. However Required Improvement (RI) will continue to be included in the 2009 accountability system as a mechanism to elevate a rating to either *Academically Acceptable* or *Recognized*. The primary

concern with lowering the performance floor relates to the *Academically Acceptable* science standard of only 50%. A 10 point floor would allow campuses with 60% failure rates to be rated as acceptable in 2009. The five point floor allows eligible campuses to achieve that rating even with only 45% of their students passing Grade 8 science. It is the agency's response that the performance floors recommended by the advisory groups and finalized this past spring by the commissioner are appropriate for the 2009 accountability ratings.

Comment. The superintendent of Richardson ISD requested the commissioner reconsider the accountability standards for the Completion Rate I indicator used to evaluate campuses and districts under standard procedures. The standards are 75.0%, 85.0%, and 95.0% for *Academically Acceptable*, *Recognized*, and *Exemplary*, respectively. Richardson ISD requested they be set at 70.0%, 80.0%, and 90.0% instead.

Agency Response. The agency disagrees and has maintained language as published as proposed. During the development of the 2009 accountability system procedures, the Educator Focus Group and the CAAC considered alternatives for the Completion Rate I standards. Ultimately the commissioner decided to maintain the standards for 2009 as they were published in the *2008 Accountability Manual* and adopted as commissioner rule. These standards were published well in advance of their use, establishing clear expectations of the completion rate standards districts needed to meet. In addition, the School Leaver Provision (SLP) was extended to apply to both the 2007 and 2008 ratings year, giving districts additional time to prepare and adjust to the changes in the completion rate definition. Though the Exception Provision does not apply to completion rates, districts and campuses are able to meet the completion rate criteria for achieving *Academically Acceptable* or *Recognized* by either meeting the absolute standard or demonstrating RI. With improved passing rates on the TAKS exit-level test for the class of 2008, improved completion rates were expected for some campuses and districts despite the continued phase-in of the NCES dropout definition. Finally, a lower *Academically Acceptable* standard would allow more than 25.0% of a class to be non-completers, an unacceptable starting point for phasing in to higher completion standards over time.

The amendment is adopted under the Texas Education Code, §§39.051(c)-(d), 39.072(c), 39.0721, 39.073, and 29.081(e), which authorize the commissioner of education to specify the indicators, standards, and procedures used to determine standard accountability ratings and alternative education accountability ratings and to determine acknowledgment on additional indicators.

The amendment implements the Texas Education Code, §§39.051(c)-(d), 39.072(c), 39.0721, 39.073, and 29.081(e).

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 July 2, 2009.

TRD-200902743

Cristina De La Fuente-Valadez

Director, Policy Coordination

Texas Education Agency

Effective date: July 22, 2009

Proposal publication date: May 29, 2009

For further information, please call: (512) 475-1497

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TITLE 22. EXAMINING BOARDS

PART 6. TEXAS BOARD OF PROFESSIONAL ENGINEERS

CHAPTER 131. ORGANIZATION AND ADMINISTRATION

SUBCHAPTER A. ORGANIZATION OF THE BOARD

22 TAC §131.15

The Texas Board of Professional Engineers adopts an amendment to §131.15, relating to Committees, without changes to the proposed text as published in the January 16, 2009, issue of the *Texas Register* (34 TexReg 319) and will not be republished.

The adopted rule changes the frequency of the Enforcement Committee meetings to an as-needed basis. This is intended to prevent scheduling unnecessary meetings when there is an insufficient agenda.

A total of 16 comments were received from individuals during the public comment period concerning the proposed rule language. Nine comments were in favor of the rule language. Three were neutral or recommended minor language changes for clarification. The Board determined that these changes were not necessary to clarify the rule.

Four comments were opposed to the proposed rule language. Two comments requested that the rule specify who would determine if a meeting of the Enforcement Committee would be considered necessary. The Board disagrees. All meeting schedules and agendas are prepared by the Director of Enforcement and reviewed by the Executive Director, as well as the Chair of the Enforcement Committee. Ultimately the Chair of the Board determines whether meetings are held. Therefore, the determination of necessity for a meeting is not arbitrary, nor is it determined by a single individual. In addition to the called meetings of the Enforcement Committee, the Board has regular quarterly meetings where the operations of the Enforcement Division can be discussed. No change was made in response to these comments.

Two comments asserted that the Enforcement Committee's workload warranted more frequent and regular meetings. The Board disagrees. The Enforcement Committee reviews compliance and enforcement policy issues and does not hear individual cases. Therefore, the Board made no change in response to these comments.

One comment asserted that the Board offered no argument as to why any change to the rule was necessary. The Board disagrees. The preamble published with the proposed rule provided that the intent was "to prevent scheduling unnecessary meetings when there is an insufficient agenda." No change was made in response to this comment.

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.

Filed with the Office of the Secretary of State on June 30, 2009.

TRD-200902696

Dale Beebe Farrow

Executive Director

Texas Board of Professional Engineers

Effective date: July 20, 2009

Proposal publication date: January 16, 2009

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

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TITLE 31. NATURAL RESOURCES AND CONSERVATION

PART 2. TEXAS PARKS AND WILDLIFE DEPARTMENT

CHAPTER 65. WILDLIFE

SUBCHAPTER N. MIGRATORY GAME BIRD PROCLAMATION

31 TAC §§65.314, 65.315, 65.319

The Texas Parks and Wildlife Department adopts amendments to §§65.314, 65.315, and 65.319, concerning the Early Season Migratory Game Bird Proclamation without changes to the proposed text as published in the April 24, 2009, issue of the *Texas Register* (34 TexReg 2595) and will not be republished.

The amendment to §65.314, concerning Zones and Boundaries for Early Season Species, alters the boundary of the Special White-Winged Dove Area (SWWDA) by removing portions of Jim Hogg and Starr counties. The area removed from the SWWDA is characterized by low-quality white-winged dove habitat and the department believes that under the standard South Zone season dates there will be increased opportunity for dove hunting. Although the SWWDA is part of the South Zone, the season within the SWWDA ends four days earlier than the rest of the South Zone because of the four-day special white-winged season the first two weekends of September.

The amendment to §65.315, concerning Open Seasons and Bag and Possession Limits--Early Season, implements a statewide 70-day season with a 15-bird bag limit and allows for a Friday opening day in the South Zone.

Texas is divided into three dove zones (North, Central, and South). Historically the United States Fish and Wildlife Service (Service) has offered Texas the option of a 70-day season with a 12-bird bag limit or a 60-day season with a 15-bird bag limit in each zone, to begin no earlier than September 1 in the North and Central zones and no earlier than September 20 in the South Zone. The Service is implementing the Adaptive Harvest Management (AHM) model for dove management. AHM was originally developed for waterfowl populations, and is a systematic process for dealing objectively with inherent uncertainties in measuring, evaluating, and predicting the additive effect of such variables as environmental variation, harvest strategies and success, and the limited ability to detect total population impacts from year to year. One of the conclusions made by waterfowl

managers was that regulatory alternatives within each flyway should be limited and specific. In response, the Service has authorized the implementation of a single season length and a single bag limit in Texas, with the department retaining the ability to allocate those days within the frameworks established by the Service (September 1 and January 25 in the north and central zones, and between the Saturday closest to September 17 and January 25 in the South Zone).

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

In the South Zone, the Service has historically allowed no dove hunting prior to September 20 (except for four days of half-day hunting in the SWWDA). This has resulted in the cyclical occurrence of opening day on days other than Friday or Saturday, which hunter and landowner surveys have shown are the preferred choices for opening days in the South Zone. The department has received approval from the Service to open the South Zone annually on the Friday nearest September 20, but no earlier than the 17th, which will allow the department to open the dove season every year on the Friday closest to September 20. Hunter, landowner, and outfitter preferences for future opening days will also be addressed by the department's survey efforts over the summer.

The amendment to §65.315 also implements a 16-day statewide teal season to run from September 12 - 27, 2009. By federal law, the number of days in the September teal season count against the 107 days of total hunting opportunity allowed for ducks, coots, and mergansers.

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

The proposed amendments are generally necessary to implement commission policy to provide the greatest hunter opportunity possible, consistent with hunter and landowner preference for starting dates and segment lengths, under frameworks issued by the Service.

The amendment to §65.314 will function by redefining the boundary of the Special White-Winged Dove Area.

The amendment to §65.315 will function by establishing the seasons and bag limits for the hunting of early-season species of migratory game birds.

The amendment to §65.319 will function by establishing the season length and bag limits for the take of early-season species of migratory game birds by means of falconry.

The department received five comments opposing adoption of the amendment to §65.314, concerning Zones and Boundaries for Early Season Species. One of the commenters offered a specific reason or rationale for opposing adoption. The commenter stated that the department should not micromanage. The department disagrees with the comment and responds that the amendment as adopted is intended to provide additional opportunity to hunters and landowners. No changes were made as a result of the comment.

The department received 91 comments supporting adoption of the proposed amendment to §65.314, concerning Zones and Boundaries for Early Season Species.

The department received nine comments opposing adoption of the portion of the proposed amendment to §65.315 that establishes season dates and bag limits for the North Dove Zone. Of the nine comments, three articulated a specific reason or rationale for opposition. Those comments, accompanied by the department's response to each, follow.

One commenter opposed adoption and stated that the season would disrupt deer hunters. The department disagrees with the comment and responds that deer and dove seasons have overlapped for many years and that hunters prefer to have the opportunity to hunt both species during November, December, and January. The department also notes that there are many other species that can be hunted during dove season in addition to deer. No changes were made as a result of the comment.

One commenter opposed adoption and stated that the 12-bird daily bag limit is sufficient. The department disagrees with the comment and responds that commission policy historically has been to adopt the most liberal seasons and bag limits possible under the federal frameworks, consistent with the tenets of sound biological management, and that hunter preference strongly favors higher bag limits where possible. No changes were made as a result of the comment.

One commenter opposed adoption and stated that the season in the North Zone should start the Saturday before Labor Day. The department disagrees with the comment and responds that hunter and landowner preference has traditionally favored opening the season in the North Zone on the earliest possible date allowed under federal frameworks, regardless of which day of the week it falls upon. No changes were made as a result of the comment.

The department received 147 comments supporting adoption of the portion of the proposed amendment to §65.315 that establishes season dates and bag limits for the North Dove Zone.

The department received 10 comments opposing adoption of the portion of the proposed amendment to §65.315 that established season dates and bag limits for the Central Dove Zone. Of the 10 comments, four articulated a specific reason or rationale for opposition. Those comments, accompanied by the department's response to each, follow.

One commenter opposed adoption and stated that the season would disrupt deer hunters. The department disagrees with the comment and responds that deer and dove seasons have overlapped for many years and that hunters prefer to have the opportunity to hunt both species during November, December, and January. The department also notes that there are many other

species that can be hunted during dove season in addition to deer. No changes were made as a result of the comment.

One commenter opposed adoption and stated that the season should begin on a Saturday. The department disagrees with the comment and responds that hunter and landowner preference has traditionally favored opening the season in the Central Zone on the earliest possible date allowed under federal frameworks, regardless of which day of the week it falls upon. No changes were made as a result of the comment.

One commenter opposed adoption and stated that the 12-bird daily bag limit is sufficient. The department disagrees with the comment and responds that commission policy historically been to adopt the most liberal seasons and bag limits possible under the federal frameworks, consistent with the tenets of sound biological management, and that hunter preference strongly favors higher bag limits where possible. No changes were made as a result of the comment.

One commenter opposed adoption and stated that the season in the Central Zone should start the Saturday before Labor Day. The department disagrees with the comment and responds that hunter and landowner preference has traditionally favored opening the season in the Central Zone on the earliest possible date allowed under federal frameworks, regardless of which day of the week it falls upon. No changes were made as a result of the comment.

The department received 135 comments supporting adoption of the portion of the proposed amendment to §65.315 that established season dates and bag limits for the Central Dove Zone.

The department received eight comments opposing adoption of the portion of the proposed amendment to §65.315 that established season dates and bag limits for the South Dove Zone. Of the eight comments, three articulated a specific reason or rationale for opposition. Those comments, accompanied by the department's response to each, follow.

One commenter opposed adoption and stated that the season should begin on a Saturday. The department agrees that opening day opportunity in the South Zone should include a Saturday and Sunday, which is consistent with landowner and hunter preference. The rule as adopted opens the South Zone on a Friday; thus there will be hunting opportunity on Saturday. No changes were made as a result of the comment.

One commenter opposed adoption and stated that the 12-bird daily bag limit is sufficient. The department disagrees with the comment and responds that commission policy historically been to adopt the most liberal seasons and bag limits possible under the federal frameworks, consistent with the tenets of sound biological management, and that hunter preference strongly favors higher bag limits where possible. No changes were made as a result of the comment.

One commenter opposed adoption and stated that the season should open later in September because the only good dove hunting in late October and November. The department disagrees with the comment and responds that hunter and landowner preference has traditionally favored opening the season in the South Zone weekend closest to September 20, which is the earliest day that hunting is allowed in the South Zone under the federal frameworks. No changes were made as a result of the comment.

The department received 128 comments supporting adoption of the portion of the proposed amendment to §65.315 that established season dates and bag limits for the South Dove Zone.

The department received two comments opposing adoption of the portion of the proposed amendment to §65.315 concerning season dates and bag limits in the Special White-Winged Dove Area (SWWDA). One commenter articulated a specific reason or rationale for opposition. The commenter stated that the special season should be eliminated because there is little white-wing presence in La Salle County during the special white-wing season. The department disagrees with the comment and responds that elimination of a season should be based on data and surveys, rather than anecdotal information. However, the department will continue to monitor dove populations throughout the state. No changes were made as a result of the comment.

The department received 55 comments supporting adoption of the portion of the proposed amendment to §65.315 concerning season dates and bag limits in the Special White-Winged Dove Area (SWWDA).

The department received eight comments opposing adoption of the portion of proposed §65.315 concerning the special September-only teal season. Of the eight comments, three articulated a specific reason or rationale for opposition. Those comments, accompanied by the department's response to each, follow.

One commenter opposed adoption and stated that the bag limit should be six teal. The department disagrees with the comment and responds that the teal bag limit as adopted is the maximum allowed under the federal frameworks. No changes were made as a result of the comment.

One commenter opposed adoption and stated that additional opportunity should be added on the back end of the proposed season, rather than the front end. The department disagrees with the comment, if the commenter is suggesting a teal season that runs to September 30 (by federal law the early teal-only season cannot extend beyond September 30) and responds that although hunter preference strongly favors a season running as late into September as possible, hunters also strongly prefer as much weekend opportunity as possible, which is reflected in the rule as adopted. No changes were made as a result of the comment.

One commenter opposed adoption and stated that the special September-only teal season should be eliminated. The department disagrees with the comment and responds that there is no biological reason to eliminate the early September-only teal season. No changes were made as a result of the comment.

The department received 100 comments supporting adoption of the portion of proposed §65.315 concerning the special September-only teal season.

The department received one comment opposing adoption of the portion of the proposed amendment to §65.315 that established seasons and bag limits for rail, gallinule, woodcock, and snipe. The commenter stated that the Wilson's snipe season needs to start somewhat earlier and run with dove season in the South Zone. The department disagrees with the comment and responds that hunter preference is for a snipe season that coincides with migration and rainfall patterns, and the opportunity to hunt other species concurrently. Therefore, the rule as adopted implements a snipe season that occurs when marshes and wetlands are likely to be holding the most birds during the peak of

the migration, which also offers additional hunting for ducks. No changes were made as a result of the comment.

The department received 61 comments supporting adoption of the portion of the proposed amendment to §65.315 that established seasons and bag limits for rail, gallinule, woodcock, and snipe.

The department received one comment opposing adoption of the proposed amendment to §65.319, concerning extended falconry seasons. The commenter stated that "it should be tried and if not sustainable, eliminated." The department agrees with the comment. The department is continuing to monitor populations and will make adjustments in the future, if deemed necessary to ensure sustainable populations. No changes were made as a result of the comment. The department received 29 comments supporting adoption of the proposed amendment.

No groups or associations commented in favor of or against adoption of the proposed rules.

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

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 July 2, 2009.

TRD-200902741

Ann Bright

General Counsel

Texas Parks and Wildlife Department

Effective date: July 22, 2009

Proposal publication date: April 24, 2009

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



TITLE 34. PUBLIC FINANCE

PART 5. TEXAS COUNTY AND DISTRICT RETIREMENT SYSTEM

CHAPTER 103. CALCULATIONS OR TYPES OF BENEFITS

34 TAC §103.5

The Texas County and District Retirement System (TCDRS) adopts an amendment to §103.5, concerning compliance by governmental plans with the benefit distribution requirements under the Internal Revenue Code. This amendment is adopted without changes to the proposed text as published in the May 22, 2009, issue of the *Texas Register* (34 TexReg 3242). The adopted amendment tracks new IRS regulations applicable to governmental plans such as TCDRS recognizing compliance with §401(a)(9) of the Internal Revenue Code by distributing benefits under a reasonable, good-faith interpretation of that section.

No comments were received regarding the adoption of this amendment.

The amendment is adopted under the Government Code, §845.102, which provides the board of trustees with the authority to adopt rules necessary or desirable for efficient administration of the system.

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 July 1, 2009.

TRD-200902723

Gene Glass

Director

Texas County and District Retirement System

Effective date: July 21, 2009

Proposal publication date: May 22, 2009

For further information, please call: (512) 637-3230



CHAPTER 107. MISCELLANEOUS RULES

34 TAC §107.3

The Texas County and District Retirement System (TCDRS) adopts an amendment to §107.3, concerning direct rollovers and trustee-to-trustee transfers of single sum benefit distributions to members, surviving spouses, alternate payees, and beneficiaries. This amended rule is adopted with changes to the proposed text as published in the May 22, 2009, issue of the *Texas Register* (34 TexReg 3243). The change is in subsection (d), changing the wording from §402(e)(11) to §402(c)(11) of the Internal Revenue Code. The amendment incorporates the recommended language of the IRS reflecting the options available to distributees under the Internal Revenue Code for deferring taxes on these single sum distributions by electing a direct transfer to an eligible plan. The amendment makes no changes to the amount of benefits distributed.

No comments were received regarding the adoption of this amendment.

The amendment is adopted under the Government Code, §845.102, which provides the board of trustees with the authority to adopt rules necessary or desirable for efficient administration of the system.

§107.3. Direct Rollovers and Trustee-to-Trustee Transfers.

(a) The retirement system may establish procedures for the acceptance of an eligible rollover distribution, including a direct trustee-to-trustee transfer, from an eligible retirement plan for the payment of any portion of the deposit a member is permitted to make for the purchase of types of credit in the retirement system, except that the system may not accept the distribution if the system is to separately account for the amounts.

(b) Effective January 1, 1993, a distributee may elect, at the time and in the manner prescribed by the system, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(c) Definitions:

(1) Eligible Rollover Distribution--An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

(A) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more;

(B) any distribution to the extent such distribution is required under §401(a)(9) of the Internal Revenue Code of 1986; and

(C) the portion of any distribution that is not includable in gross income.

(2) Eligible Retirement Plan--An eligible retirement plan is:

(A) an individual retirement account described in §408(a) of the Internal Revenue Code of 1986;

(B) an individual retirement annuity described in §408(b) of the Internal Revenue Code of 1986;

(C) a qualified trust described in §401(a) of the Internal Revenue Code of 1986 or an annuity plan described in §403(a) of the Internal Revenue Code of 1986 that accepts the eligible rollover distribution;

(D) for distribution made on or after December 31, 2001, an annuity contract described in §403(b) of the Internal Revenue Code of 1986;

(E) for distributions made on or after December 31, 2001, an eligible plan under §457(b) of the Internal Revenue Code of 1986 which is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state which agrees to separately account for amounts transferred into such plan from this system; and

(F) for distributions made on or after December 31, 2007, a Roth IRA described in §408A of the Internal Revenue Code of 1986;

(3) Distributee--A distributee includes a member or former member. In addition, the member's or former member's surviving spouse and the member's or former member's spouse or former spouse who is the alternate payee under a domestic relations order, as defined in §109.2 of this title (relating to Definitions), are distributees with regard to the interest of the spouse or former spouse.

(4) Direct Rollover--A direct rollover is a payment by the system to the eligible retirement plan specified by the distributee.

(d) The system shall, upon the request of a beneficiary of a deceased member who is not a distributee, within the meaning of subsection (c)(3) of this section, transfer a lump sum distribution to the trustee of an individual retirement account established under §408 of the Internal Revenue Code of 1986 in accordance with the provisions of §402(c)(11) of the Internal Revenue Code.

(e) Notwithstanding anything in this section to the contrary, a distribution shall not fail to be an eligible rollover distribution merely because a portion of the distribution consists of after-tax contributions which are not includable in gross income. However, such portion may be paid only to an individual retirement account or annuity described in Internal Revenue Code §408(a) or (b), or to a qualified defined contribution plan described in Internal Revenue Code §401(a) or §403(a) that agrees to separately account for amounts so transferred, including separate accounting for the portion of such distribution which is includable in gross income and the portion of such distribution which is not so includable.

(f) The retirement system shall implement this section in a manner that causes the retirement system to be considered a qualified plan under §401(a) of the Internal Revenue Code of 1986. It is the responsibility of the distributee or beneficiary to determine that the transferee plan is an eligible plan for receiving a transfer pursuant to this rule.

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 July 1, 2009.

TRD-200902725

Gene Glass

Director

Texas County and District Retirement System

Effective date: July 21, 2009

Proposal publication date: May 22, 2009

For further information, please call: (512) 637-3230



34 TAC §107.16

The Texas County and District Retirement System (TCDRS) adopts new §107.16, concerning the holding and managing of trust assets for the exclusive benefit of participants and their beneficiaries. This new rule is adopted without changes to the proposed text as published in the May 22, 2009, issue of the *Texas Register* (34 TexReg 3244). The adopted rule expands on the language contained in the TCERS Act by setting forth the requirement for qualification in its particulars and describing the limitations on the use of plan assets for anything other than the exclusive benefit of the participants and their beneficiaries. The adopted rule states in detailed language the absolute prohibition against the diversion of trust assets in violation of the qualification requirement.

No comments were received regarding the adoption of this new rule.

The new rule is adopted under the Government Code, §845.102, which provides the board of trustees with the authority to adopt rules necessary or desirable for efficient administration of the system.

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 July 1, 2009.

TRD-200902724

Gene Glass

Director

Texas County and District Retirement System

Effective date: July 21, 2009

Proposal publication date: May 22, 2009

For further information, please call: (512) 637-3230



CHAPTER 109. DOMESTIC RELATIONS ORDERS

34 TAC §109.12

The Texas County and District Retirement System (TCDRS) adopts an amendment to §109.12, concerning the form of distribution to the alternate payee of a benefit awarded under a Domestic Relations Order qualified by TCDRS. The amendment is adopted without changes to the proposed text as published in the May 22, 2009, issue of the *Texas Register* (34 TexReg 3244).

The amendment changes the amount payable as a lump sum in lieu of an annuity to the alternate payee from \$15,000 to \$25,000.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Government Code, §845.102, which provides the board of trustees with the authority to adopt rules necessary or desirable for efficient administration of the system.

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 July 1, 2009.

TRD-200902726

Gene Glass

Director

Texas County and District Retirement System

Effective date: July 21, 2009

Proposal publication date: May 22, 2009

For further information, please call: (512) 637-3230



PART 11. OFFICE OF THE FIRE FIGHTERS' PENSION COMMISSIONER

CHAPTER 302. GENERAL PROVISIONS RELATING TO THE TEXAS EMERGENCY SERVICES RETIREMENT SYSTEM

34 TAC §302.2

The State Board of Trustees of the Texas Emergency Services Retirement System (System) certifies that it adopted, without changes, amended 34 TAC §302.2, regarding minimum and maximum benefit distributions, at a formal meeting on May 28, 2009, after the proposal had been published in the *Texas Register* on January 30, 2009 (34 TexReg 524). The amended rule as adopted is the version previously published in the *Texas Register*.

The amended rule provides that benefit distributions from the System must comply with specific requirements of the federal Internal Revenue Code of 1986 and related regulations of the U.S. Department of the Treasury.

No comments on the proposed rule were received.

The amended rule is adopted under the statutory authority of Title 8, Government Code, Subtitle H, Texas Emergency Services Retirement System, §861.006.

No other statutes, articles, or codes are affected by the adoption of the amended rule.

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 July 1, 2009.

TRD-200902728

Kevin Heyburn

Assistant Attorney General

Office of the Fire Fighters' Pension Commissioner

Effective date: July 21, 2009

Proposal publication date: January 30, 2009

For further information, please call: (512) 463-9935



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 1. DEPARTMENT OF AGING AND DISABILITY SERVICES

CHAPTER 9. MENTAL RETARDATION SERVICES--MEDICAID STATE OPERATING AGENCY RESPONSIBILITIES

SUBCHAPTER E. ICF/MR PROGRAMS-- CONTRACTING

DIVISION 4. PROVIDER SERVICE REQUIREMENTS

40 TAC §9.228

The Health and Human Services Commission (HHSC), on behalf of the Department of Aging and Disability Services (DADS), adopts new §9.228, in Chapter 9, Mental Retardation Services--Medicaid State Operating Agency Responsibilities, without changes to the proposed text published in the April 17, 2009, issue of the *Texas Register* (34 TexReg 2499).

The new section is adopted to allow an Intermediate Care Facility for Persons with Mental Retardation (ICF/MR) program provider to request authorization to purchase an augmentative communication device (ACD) and, if such authorization is granted, receive full reimbursement for the ACD, without any specific limitations on the cost. The rule provides requirements that a program provider in the ICF/MR Program must comply with to request authorization from DADS to purchase an ACD for an ICF/MR resident and to receive reimbursement for the ACD. The new section also makes the ICF/MR Program rules consistent with Nursing Facility Program rules regarding ACDs.

DADS received no comments regarding adoption of the new section.

The new section 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; 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; and Texas Government Code, §531.021, which provides HHSC with the authority to administer federal funds and plan and direct the Medicaid program in each agency that operates a portion of the Medicaid program.

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 July 6, 2009.

TRD-200902774
Kenneth L. Owens
General Counsel
Department of Aging and Disability Services
Effective date: August 1, 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

Credit Union Department

Title 7, Part 6

The Texas Credit Union Commission will review and consider for re-adoption, revision, or repeal Chapter 91, §91.401 (Purchase, Lease, or Sale of Fixed Assets), §91.402 (Insurance for Members), §91.403 (Federal Parity Debt Cancellation Products), §91.405 (Records Retention), §91.406 (Credit Union Service Contracts), §91.407 (Electronic Notification), §91.408 (User Fee for Shared Electronic Terminal), §91.4001 (Authority to Conduct Electronic Operations), §91.4002 (Transactional Web Site Notice Requirement; and Security Review), §91.5001 (Emergency Closing), 91.5002 (Effect of Closing), and §91.5005 (Permanent Closing of an Office) of Title 7, Part 6 of the Texas Administrative Code in preparation for the Commission's Rule Review as required by §2001.039, Government Code.

An assessment will be made by the Commission 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 Credit Union Department.

Comments or questions regarding these rules may be submitted in writing to, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699, or electronically to info@tcud.state.tx.us. The deadline for comments is July 30, 2009.

The Commission also invites your comments on how to make these rules easier to understand. For example:

- * Do the rules organize the material to suit your needs? If not, how could the material be better organized?
- * Do the rules clearly state the requirements? If not, how could the rule be more clearly stated?
- * Do the rules contain technical language or jargon that isn't clear? If so, what language requires clarification?
- * Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand? If so, what changes to the format would make the rule easier to understand?
- * Would more (but shorter) sections be better in any of the rules? If so, what sections should be changed?

Any 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 by the Commission.

TRD-200902738
Harold E. Feeney
Commissioner
Credit Union Department
Filed: July 2, 2009



Public Utility Commission of Texas

Title 16, Part 2

The Public Utility Commission of Texas (commission) publishes this notice of intention to review Chapter 25, Substantive Rules Applicable to Electric Service Providers (Subchapters A - G) pursuant to Texas Government Code §2001.039, *Agency Review of Existing Rules*. The text of the rule sections will not be published. The text of the rules may be found in the Texas Administrative Code, Title 16, Economic Regulation, Part 2, or through the commission's website at www.puc.state.tx.us. Project Number 37115 is assigned to this proceeding.

Texas Government Code §2001.039 requires that each state agency review and readopt, readopt with amendments, or repeal the rules adopted by that agency pursuant to the Texas Government Code, Chapter 2001, Subchapter B, Rulemaking. As required by §2001.039, this review is to assess whether the reason for adopting or readopting the rules continues to exist. The commission requests specific comments from interested persons on whether the reasons for adopting each rule section in Chapter 25 continue to exist. If it is determined during this review that any section of Chapter 25 needs to be repealed or amended, the repeal or amendment will be initiated under a separate proceeding. This notice of intention to review Chapter 25 has no effect on the sections as they currently exist.

Jess Totten, Director of Competitive Markets, has determined that for each year of the first five-year period the sections are in effect there will be no new fiscal implications for state or local government as a result of enforcing or administering these sections that are not already in effect as a result of the previous adoption of these sections.

Mr. Totten has determined that for each year of the first five years these sections are in effect the public benefit anticipated as a result of enforcing these sections will be: protection of the public interest inherent in the rates and services of public utilities; monitoring of the established regulatory system to assure rates, operations, and services that are just and reasonable to the consumers and utilities; assurance of high-quality service to customers; protection of the public interest inherent in the service quality of electric service providers; and maintaining a healthy marketplace for competition among electric service providers. There will be no new effect on small businesses or micro-businesses as a re-

sult of enforcing these sections that is not already in effect as a result of the previous adoption of these sections. There are no new anticipated economic costs to persons who are required to comply with these sections as noticed for review that are not already in effect as a result of the previous adoption of these sections.

Mr. Totten has also determined that for each year of the first five years the sections are in effect there should be no effect on a local economy as a result of this review, and therefore no local employment impact statement is required under Administrative Procedure Act §2001.022.

Comments on the review of Chapter 25 (16 copies) may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326, within 31 days after publication. Reply comments may be submitted within 45 days after publication. When filing comments, interested persons are requested to comment on the sections in the same order they are found in the chapter and to clearly designate which section is being commented upon. All comments should refer to Project Number 37115.

The rules subject to this review are proposed for publication under the Public Utility Regulatory Act (PURA), Texas Utilities Code Annotated §14.002 (Vernon 2007, Supplement 2008), which provides the Public Utility Commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; and Texas Government Code §2001.039 which requires each state agency to review its rules every four years.

Cross Reference to Statutes: Texas Government Code §2001.039; Texas Utilities Code Annotated, Title II, Public Utility Regulatory Act; and Title IV, Chapters 161, 163, 181, 182, 183, 184, and 185.

SUBCHAPTER A. GENERAL PROVISIONS.

- 16 TAC §25.1. Purpose and Scope of Rules.
- 16 TAC §25.2. Cross-Reference Transition Provision.
- 16 TAC §25.3. Severability Clause.
- 16 TAC §25.4. Statement of Nondiscrimination.
- 16 TAC §25.5. Definitions.
- 16 TAC §25.6. Cost of Copies of Public Information.
- 16 TAC §25.8. Classification System for Violations of Statutes, Rules, and Orders Applicable to Electric Service Providers.

SUBCHAPTER B. CUSTOMER SERVICE AND PROTECTION.

- 16 TAC §25.21. General Provisions of Customer Service and Protection Rules.
- 16 TAC §25.22. Request for Service.
- 16 TAC §25.23. Refusal of Service.
- 16 TAC §25.24. Credit Requirements and Deposits.
- 16 TAC §25.25. Issuance and Format of Bills.
- 16 TAC §25.26. Spanish Language Requirements.
- 16 TAC §25.27. Retail Electric Service Switchovers.
- 16 TAC §25.28. Bill Payment and Adjustments.
- 16 TAC §25.29. Disconnection of Service.
- 16 TAC §25.30. Complaints.
- 16 TAC §25.31. Information to Applicants and Customers.
- 16 TAC §25.41. Price to Beat.
- 16 TAC §25.43. Provider of Last Resort (POLR).

SUBCHAPTER C. QUALITY OF SERVICE.

- 16 TAC §25.51. Power Quality.
- 16 TAC §25.52. Reliability and Continuity of Service.
- 16 TAC §25.53. Electric Service Emergency Operations Plan.

SUBCHAPTER D. RECORDS, REPORTS, AND OTHER REQUIRED INFORMATION.

- 16 TAC §25.71. General Procedures, Requirements and Penalties.
- 16 TAC §25.72. Uniform System of Accounts.
- 16 TAC §25.73. Financial and Operating Reports.
- 16 TAC §25.74. Report on Change in Control, Sale of Property, Purchase of Stock, or Loan.
- 16 TAC §25.76. Gross Receipts Assessment Report.
- 16 TAC §25.77. Payments, Compensation, and Other Expenditures.
- 16 TAC §25.78. State Agency Utility Account Information.
- 16 TAC §25.79. Equal Opportunity Reports.
- 16 TAC §25.80. Annual Report on Historically Underutilized Businesses.
- 16 TAC §25.81. Service Quality Reports.
- 16 TAC §25.82. Fuel Cost and Use Information.
- 16 TAC §25.83. Transmission Construction Reports.
- 16 TAC §25.84. Annual Reporting of Affiliate Transactions for Electric Utilities.
- 16 TAC §25.85. Report of Workforce Diversity and Other Business Practices.
- 16 TAC §25.87. Distribution Unbundling Reports.
- 16 TAC §25.88. Retail Market Performance Measure Reporting.
- 16 TAC §25.89. Report of Loads and Resources.
- 16 TAC §25.90. Market Power Mitigation Plans.
- 16 TAC §25.91. Generating Capacity Reports.
- 16 TAC §25.93. Quarterly Wholesale Electricity Transaction Reports.

SUBCHAPTER E. CERTIFICATION, LICENSING AND REGISTRATION.

- 16 TAC §25.101. Certification Criteria.
- 16 TAC §25.102. Coastal Management Program.
- 16 TAC §25.105. Registration and Reporting by Power Marketers.
- 16 TAC §25.107. Certification of Retail Electric Providers (REPs).
- 16 TAC §25.108. Financial Standards for Retail Electric Providers Regarding the Billing and Collection of Transition Charges.
- 16 TAC §25.109. Registration of Power Generation Companies and Self-Generators.
- 16 TAC §25.111. Registration of Aggregators.
- 16 TAC §25.113. Municipal Registration of Retail Electric Providers (REPs).

SUBCHAPTER F. METERING.

- 16 TAC §25.121. Meter Requirements.
- 16 TAC §25.122. Meter Records.

- 16 TAC §25.123. Meter Readings.
- 16 TAC §25.124. Meter Testing.
- 16 TAC §25.125. Adjustments Due to Meter Errors.
- 16 TAC §25.126. Meter Tampering.
- 16 TAC §25.127. Generating Station Meters, Instruments, and Records.
- 16 TAC §25.128. Interconnection Meters and Circuit Breakers.
- 16 TAC §25.129. Pulse Metering.
- 16 TAC §25.130. Advanced Metering.
- 16 TAC §25.131. Load Profiling and Load Research.

SUBCHAPTER G. SUBMETERING.

- 16 TAC §25.141. Central System or Nonsubmetered Master Metered Utilities.
- 16 TAC §25.142. Submetering for Apartments, Condominiums, and Mobile Home Parks.

TRD-200902772
 Adriana A. Gonzales
 Rules Coordinator
 Public Utility Commission of Texas
 Filed: July 6, 2009

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Adopted Rule Reviews

Office of the Governor

Title 1, Part 1

The Office of the Governor has completed its review of Texas Administrative Code, Title 1, Part 1, Chapter 3 (Criminal Justice Division). The review was conducted in accordance with the requirements of Texas Government Code, §2001.039, which requires state agencies to review and consider for re-adoption their administrative rules every four years.

The notice of review was published in the April 17, 2009, issue of the *Texas Register* (34 TexReg 2545). The Office of the Governor received no comments regarding the proposed rule review or the amendments, repeals, and additions to Chapter 3 (Criminal Justice Division), which were proposed in the April 10, 2009, issue of the *Texas Register* (34 TexReg 2325) and adopted in the June 12, 2009, issue of the *Texas Register* (34 TexReg 3925).

After completing the review, the Office of the Governor readopts Texas Administrative Code, Title 1, Part 1, Chapter 3 (Criminal Justice Division) including the amendments, repeals, and additions to Chapter 3, effective June 21, 2009. The Office of the Governor determined that the reason for adopting these rules continues to exist.

TRD-200902789
 Kevin Green
 Assistant General Counsel
 Office of the Governor
 Filed: July 7, 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: 25 TAC §265.304(a)

Disinfectant Levels	Minimum	Ideal	Maximum
Free Residual Chlorine	1.0 ppm	3.0 - 5.0 ppm	8.0 ppm
Combined Chlorine	0.0 ppm	0.0 ppm	0.2 ppm
Bromine	2.5 ppm	5.5 - 7.5 ppm	12.0 ppm

Figure: 25 TAC §265.304(b)

pH Levels	Minimum	Ideal	Maximum
pH	Not less than 7.0	7.4 - 7.6	7.8

IN

ADDITION

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

Texas Department of Agriculture

Prohibited Noncommercial Cotton Administrative Penalty Matrix

The Texas Department of Agriculture (the department) published an interim prohibited noncommercial cotton administrative penalty matrix in the May 8, 2009, issue of the *Texas Register* (34 TexReg 2817) and sought comments from interested persons. No comments were received. The department is therefore adopting its interim matrix without changes, as its final prohibited noncommercial cotton administrative penalty matrix. This final penalty matrix is effective immediately upon publication in the *Texas Register*.

The Texas Agriculture Code (the Code) §12.020 confers administrative authority on the Texas Department of Agriculture (the department) to assess administrative penalties against any person who violates provisions of Chapter 74 of the Code or a rule adopted pursuant to Chapter 74. The department has implemented stricter enforcement procedures for prohibited noncommercial cotton to reduce hostable habitat for the boll weevil and advance boll weevil eradication in the state.

Three factors are to be considered when assessing administrative penalties: (1) the number of weeks, or portion of a week, the field or property has been out of compliance; (2) the number of acres out of compliance; and (3) any efforts by the producer or landowner to comply with a notice issued by the department. These factors were developed in accordance with §12.020(d) of the Code and with consideration of the purpose and function of the cotton pest control program. The longer a field is left undestroyed or untreated and the more acres that are not in compliance, the greater the probability that boll weevils will cause damage, reproduce, and enter diapause. Diapausing insects represent a threat the following season to cotton in neighboring fields.

PROHIBITED NONCOMMERCIAL COTTON PENALTY FORMULA

A penalty for failure to destroy prohibited noncommercial cotton plants or enter into a compliance agreement with the department within fourteen days of notification by the department of prohibited noncommercial cotton in a field or property will be calculated using the following formula: the penalty will consist of a base amount of \$250 per field plus an adjustable amount of \$5.00 per acre per each 7 days, or for each portion of a 7 day period, of noncompliance.

Calculation of the number of weeks, or each portion of a week, a field is out of compliance will be counted beginning on the fifteenth day after the official notification to the land operator until the day on which an inspection of the field was found to be compliant.

If a field or property is brought into compliance within fourteen days of the date of notification by the department, no penalty will be assessed. To the extent that the land operator brings a portion of the total acreage into compliance after fourteen days from date of notification of prohibited noncommercial cotton, the department may reduce the adjustable portion of a penalty up to 50%.

The department may increase the adjustable portion of a penalty up to 50% if in any of the previous three years the operator/landowner has committed a violation that resulted in a penalty for prohibited non-

commercial cotton. The department also may make reductions in the adjustable portion of a penalty based upon extenuating circumstances as justice may require.

TRD-200902783

Dolores Alvarado Hibbs

General Counsel

Texas Department of Agriculture

Filed: July 6, 2009



Request for Applications: Aquaculture Grant Program

In accordance with §102(d) of the American Recovery and Reinvestment Act of 2009 (Recovery Act), signed into law by President Obama on February 17, 2009, the Commodity Credit Corporation (CCC) will provide block grants to the Texas Department of Agriculture (TDA) to administer a 2008 Aquaculture Grant Program (AGP) to assist aquaculture producers for losses associated with high feed input costs during the 2008 calendar year. TDA is accepting applications until Friday, July 24, 2009, from eligible aquaculture producers in Texas.

Eligibility Criteria. To be eligible for the Texas 2008 Aquaculture Grant Program you must be an aquaculture producer who:

1. raised **any** aquaculture species in a controlled environment as part of a farming operation;
2. had a risk in the production of such species;
3. produced an aquaculture species for which 2008 feed costs represented at least 25 percent of the producer's total input costs;
4. experienced at least a 25 percent price increase of 2008 feed costs above the previous 5 year state average (2003 - 2007); and
5. has records on file with the USDA Farm Service Agency showing compliance with program adjusted gross income limitations and conservation compliance provisions.

Submitting an Application. Applications are currently being accepted, and must be submitted on the form provided by TDA. Application forms are currently available on TDA's website at www.TexasAgriculture.gov, or available upon request from TDA by calling (512) 463-6695. Applications must be submitted to TDA headquarters in Austin, Texas. If mailing in the application, please make sure it is in a properly addressed envelope, bearing sufficient postage and must be received by Friday, July 24, 2009. Applications must be certified by the applicant, include required supporting documentation, and bear a notarized signature of the aquaculture producer. A producer must complete Section 3 of the application for each species of aquaculture they are applying for.

Payment Calculations. The producer's loss for each aquaculture species will be calculated by subtracting the producer's 2008 average feed price minus the state's five-year average times the producer's total feed deliveries in calendar year 2008. TDA will provide assistance to eligible producers in the form of feed credits. The amount of assistance provided under this program to a farming operation would not be permitted to exceed the smaller of:

1. the amount of loss suffered by the eligible aquaculture producer as result of high feed input costs during the 2008 calendar year, as determined by Texas; or
2. \$100,000, except for general partnerships and joint ventures in which case assistance will not exceed \$100,000 times the number of members that constitute the general partnership or joint venture.

Deadline for Submission of Applications. Applications are due to TDA by 5:00 p.m. on Friday, July 24, 2009.

Further Information. Additional information about the 2008 Aquaculture Grant Program or the application process can be found on TDA's website at www.TexasAgriculture.gov. In addition, producers may contact Ms. Lindsay Dickens, TDA Grants Specialist, at (512) 463-6695 or Lindsay.Dickens@TexasAgriculture.gov for more information.

TRD-200902780
Dolores Alvarado Hibbs
General Counsel
Texas Department of Agriculture
Filed: July 6, 2009

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Comptroller of Public Accounts

Notice of Contract Award

The Comptroller of Public Accounts (Comptroller) announces the following contract award:

The notice of request for proposals (RFP #191c) was published in the January 16, 2009, issue of the *Texas Register* (34 TexReg 351).

The contractor will provide actuarial services to the Comptroller and the Texas Prepaid Higher Education Tuition Board.

The contract was awarded to Buck Consultants LLC, 260 Franklin Street, 8th Floor, Boston, MA 02110. The total amount of the contract is not to exceed \$248,750.00. The term of the contract is June 19, 2009 through June 30, 2014, with option to renew for up to two (2) additional one (1) year periods, one (1) year at a time.

TRD-200902732
William Clay Harris
Assistant General Counsel, Contracts
Comptroller of Public Accounts
Filed: July 1, 2009

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Notice of Contract Award

The Comptroller of Public Accounts (Comptroller) announces the following contract award:

The notice of request for proposals (RFP #191d) was published in the January 16, 2009, issue of the *Texas Register* (34 TexReg 352).

The contractor will provide professional certified public accounting services to the Comptroller and the Texas Prepaid Higher Education Tuition Board.

The contract was awarded to McConnell & Jones LLC, 3040 Post Oak Boulevard, Suite 1600, Houston, TX 77056. The total amount of the contract is not to exceed \$193,238.00. The term of the contract is June 30, 2009 through August 31, 2010, with option to renew for up to three (3) additional one (1) year periods, one (1) year at a time.

TRD-200902733

William Clay Harris
Assistant General Counsel, Contracts
Comptroller of Public Accounts
Filed: July 1, 2009

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Notice of Request for Proposals

Pursuant to Chapter 403; Chapter 2254, Subchapter A; and Chapter 2305, §2305.038, Texas Government Code, the Comptroller of Public Accounts (Comptroller), State Energy Conservation Office (SECO) announces its Request for Proposals (RFP #194c) and invites proposals from qualified, interested engineering firms and individuals to provide professional energy engineering services to the Local Government Program (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 17, 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 17, 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 24, 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 31, 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, August 7, 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 17, 2009, after 10:00 a.m. CZT; Non-Mandatory Letters of Intent and Questions Due - July 24, 2009, 2:00 p.m. CZT; Official Responses to Questions posted - July 31, 2009; Proposals Due - August 7, 2009, 2:00 p.m. CZT; Contract Execution -

September 1, 2009, or as soon thereafter as practical; Commencement of Services - September 1, 2009.

TRD-200902797

William Clay Harris

Assistant General Counsel, Contracts

Comptroller of Public Accounts

Filed: July 8, 2009



Notice of Withdrawal of Request for Proposals

The Comptroller of Public Accounts (Comptroller) announces the withdrawal of its Request for Proposals (RFP #191B) for Residential and Low Income Consumer Energy Efficiency Expansion Project for the Texas Housing Partnership Program State Energy Conservation Office.

Issuance Date: The Request for Proposals was published in the May 15, 2009, issue of the *Texas Register* (34 TexReg 2996).

TRD-200902795

William Clay Harris

Assistant General Counsel, Contracts

Comptroller of Public Accounts

Filed: July 8, 2009



Office of Consumer Credit Commissioner

Notice of Rate Ceilings

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

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 07/13/09 - 07/19/09 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 07/13/09 - 07/19/09 is 18% for Commercial over \$250,000.

The monthly ceiling as prescribed by §303.005³ for the period of 07/01/09 - 07/31/09 is 18% for Consumer/Agricultural/Commercial/credit through \$250,000.

The monthly ceiling as prescribed by §303.005 for the period of 07/01/09 - 07/31/09 is 18% for Commercial over \$250,000.

¹Credit for personal, family or household use.

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

³For variable rate commercial transactions only.

TRD-200902790

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: July 7, 2009



Texas Board of Professional Engineers

Policy Advisory Regarding Construction Materials Engineering

The Texas Board of Professional Engineers is given authority to issue Advisory Opinions under Subchapter M, Chapter 1001 of the Occupations Code (Texas Engineering Practice Act). The Board issued an advisory opinion regarding Construction Materials Engineering on May

19, 2005. In an effort to make the format of this policy advisory consistent with other policy advisories issued by the Board, the Frequently Asked Questions section of the policy advisory is being moved out of the body of the policy advisory and will be available on a separate page of the agency website that can be updated by Board staff as needed without necessitating a vote by the Policy Advisory Committee. The Board also approved an edit to Frequently Asked Question #2 that removes "that is to be used for acceptance purposes" from the second bulleted point in the question answer. These changes are being posted for public comment for a period of thirty (30) days from the date of posting in the *Texas Register*. Comments received during the posting period will be considered for inclusion in the final version of the Policy Advisory that will be presented to the Board for approval during the next regularly scheduled meeting of the Texas Board of Professional Engineers.

Comments should be directed to:

Texas Board of Professional Engineers, 1917 IH 35 South, Austin, Texas 78741, Attention: Policy Advisory Staff, Or by e-mail to: pe-board@tbpe.state.tx.us

Executive Summary: The assessment of a construction material for quality, appropriateness and acceptability is considered by the Board to be an engineering activity. These Construction Materials Engineering (CME) activities must be performed by licensed professional engineers. Construction materials testing (CMT), within the context of CME includes collecting samples, performing well-defined test procedures, and reporting of data. In certain situations, performing tests and construction materials sampling using well-defined engineering specifications may not be considered engineering activities.

Discussion: On construction projects, engineers are called upon to assess the quality, appropriateness and acceptability of the materials that are used. These assessments are known collectively as CME. The CME includes the determination of the scope and procedures of testing for the project, the supervision of testing, and the analysis of test results for construction material acceptance purposes or for use in engineering recommendations. Although we most commonly associate CME with the analysis of concrete and soil, CME is conducted on any material used in construction including but not limited to timber, asphaltic concrete, steel, selected fill materials, recycled materials, aggregates, epoxies, and polymers.

Because it is engineering, CME must be personally performed by a licensed engineer or be directly supervised by a licensed engineer, and can only be offered to the public in full conformance with the Texas Engineering Practice Act (Act). Any CME activities that are contracted by a political subdivision of the State of Texas or an agency of the state, or on the political subdivision or agency's behalf, must be acquired in conformance with the Professional Services Procurement Act, §2254.004 of the Texas Government Code.

The CMT, within the context of CME includes collecting samples, performing well-defined test procedures, and reporting of data. In certain situations, performing tests and sampling by using well-defined engineering specifications may not be considered engineering activities. However, if analysis of test data is done or a determination is made that a material is acceptable, these activities would be considered to be CME and require a licensed professional engineer. Because the engineer is responsible for accepting the public works project, acceptance or rejection of materials or work, the direct supervision by an engineer of CMT for those acceptance decisions is needed.

Public Works: When constructing public works, the state or political subdivision of the state must ensure that the engineering construction is performed under the direct supervision of a licensed engineer (§1001.407, Occupations Code). This supervision must include the

direct supervision of materials testing and engineering necessary and appropriate for verification of compliance with construction plans and acceptance of the project by the public owner.

A licensed professional engineer must directly supervise any element of acceptance testing, from data collection to final determination. When engineers are hired for these services, they must be retained under the Professional Services Procurement Act (PSPA).

The CMT services unrelated to acceptance testing might be acquired using other purchasing procedures provided the CMT services do not include any CME function. For public entities with staff engineers who make acceptance decisions, the engineers must be in a position to determine if the testing and inspection services are properly performed at a frequency that provides confidence that the materials and work meet (or reasonably conform in some cases) the contract requirements or standards of practice. This requires reviewing qualifications, monitoring inspection and testing services and review of test and inspection data.

The validity of an engineering judgment in the construction materials area is integrally tied to the validity of test data, which is in turn directly related to training of technical staff, performance of testing equipment, and other elements associated with an accredited engineering laboratory. Therefore, by the standard established by §1001.407, Occupations Code, CMT conducted for the purpose of verification and acceptance of a facility is considered a CME function.

The Board recognizes as a specific exception for CMT conducted under a federally approved quality assurance program (QA) specifically governing the Texas Department of Transportation, provided that alternate methods of ensuring appropriate engineering direct supervision are in place. In addition, CMT services used for a contractor's internal quality control purposes only and are not used by the owner for verification and/or acceptance purposes may not be considered engineering.

TRD-200902748

Dale Beebe Farrow, P.E.

Executive Director

Texas Board of Professional Engineers

Filed: July 3, 2009



Policy Advisory Regarding Engineering Aspects of Public Works Facilities Assessments

The Texas Board of Professional Engineers is given authority to issue Advisory Opinions under Subchapter M, Chapter 1001 of the Occupations Code (Texas Engineering Practice Act). The Board is required to issue an advisory opinion about interpretations of the Texas Engineering Practice Act in regard to a specific existing or hypothetical factual situation if requested by a person and to respond to that request within 180 days. Pursuant to that requirement, the Board hereby presents the following Draft Policy Advisory Opinion regarding Engineering Aspects of Public Works Facilities Assessments. The Board, upon a written request to issue a Policy Advisory regarding the engineering aspects of public works facilities assessments, has authored a policy advisory based on the Texas Engineering Practice Act. The following Policy Advisory, "Policy Advisory Regarding Engineering Aspects of Public Works Facilities Assessments," is being posted for public comment for a period of thirty (30) days from the date of posting in the *Texas Register*. The Texas Board of Professional Engineers has not ratified the Policy Advisory as yet. Comments received during the posting period will be considered for inclusion in the final version of the Policy Advisory that will be presented to the Board for ratification during the next regularly scheduled meeting of the Texas Board of Professional Engineers.

Comments should be directed to:

Texas Board of Professional Engineers, 1917 IH 35 South, Austin, Texas 78741, Attention: Policy Advisory Staff, Or by e-mail to: peboard@tbpe.state.tx.us

Background: This policy advisory request is based on the submitter's review of several Requests for Proposals (RFPs) that included the requirement of cost data on engineering services that were associated with public works projects. The examples submitted had key phrases such as "assessment shall capture...structural, mechanical and electrical conditions..." and "estimate repairs...major structural, major mechanical, etc." The Texas Board of Professional Engineers (Board) agrees that these example activities are considered engineering.

Research: A simple internet search of the phrase "facility assessment" revealed a large variety of consultants and completed assessment projects. Projects varied widely in scope and included everything from information technology projects (internet and phone capability), public usability (does facility perform intended function) to full engineering assessments of structural, mechanical and electrical systems. Consultants included urban planning firms, engineering firms, and public research and demographics firms. Given the wide variety of projects, both engineering and non-engineering, possible under the "facilities assessment" title, it will be necessary to consider each facility assessment project individually for engineering components that would require qualification based consultant selection.

Engineering Aspects: Facility assessment projects that include any component of engineering and are public works projects must be procured with a qualification based selection process as prescribed in §2254.004 of the Texas Government Code. Engineering services include but are not limited to:

- (1) Engineering assessment of the structural integrity or soundness of a building or other structure.
- (2) Engineering assessment of the structural integrity of a building foundation and underlying supporting soil.
- (3) Engineering assessment of building mechanical and electrical systems.
- (4) Engineering assessment of building roof internal drain systems.

Examples of assessments that would not require the services of a professional engineer include:

- (1) Assessment of historical significance of structure or facility.
- (2) Assessment of building or property's highest and best use.
- (3) Assessment of information technology systems in building (telephone and/or internet capacity).

TRD-200902746

Dale Beebe Farrow, P.E.

Executive Director

Texas Board of Professional Engineers

Filed: July 3, 2009



Policy Advisory Regarding Procurement of Engineering Services by General Construction Contractors for Governmental Public Works Projects

The Texas Board of Professional Engineers is given authority to issue Advisory Opinions under Subchapter M, Chapter 1001 of the Occupations Code (Texas Engineering Practice Act). The Board is required to issue an advisory opinion about interpretations of the Texas Engineer-

ing Practice Act in regard to a specific existing or hypothetical factual situation if requested by a person and to respond to that request within 180 days. Pursuant to that requirement, the Board hereby presents the following Draft Policy Advisory Opinion regarding Procurement of Engineering Services by General Construction Contractors for Governmental Public Works Projects. The Board, upon a written request to issue a Policy Advisory regarding the procurement of engineering services by general construction contractors for governmental public works projects, has authored a policy advisory based on the Texas Engineering Practice Act. The following Policy Advisory, "Policy Advisory Regarding Procurement of Engineering Services by General Construction Contractors for Governmental Public Works Projects," is being posted here for public comment for a period of thirty (30) days from the date of posting in the *Texas Register*. The Texas Board of Professional Engineers has not ratified the Policy Advisory as yet. Comments received during the posting period will be considered for inclusion in the final version of the Policy Advisory that will be presented to the Board for ratification during the next regularly scheduled meeting of the Texas Board of Professional Engineers.

Comments should be directed to:

Texas Board of Professional Engineers, 1917 IH 35 South, Austin, Texas 78741, Attention: Policy Advisory Staff, Or by e-mail to: peboard@tbpe.state.tx.us

Definitions:

Project Professional Engineer--Engineer(s) or engineering firms retained by a governmental entity to perform engineering services for a specific public works project.

General Construction Contractor--Private entity retained by a governmental entity to construct a public works project designed by the Project Professional Engineer.

Other Professional Engineers--Engineer(s) or engineering firms which may be retained by the General Construction Contractor or his subcontractors or vendors to fulfill engineering requirements of the project during the construction phase.

Background: The Dallas-Ft. Worth International Airport Board (DFWIAB) has requested clarification on the Texas Board of Professional Engineers' (Board) interpretation of the Professional Services Procurement Act (PSPA) requirements contained in the Texas Engineering Practice Act (Act). In the course of complex public works projects, the need often arises for Other Professional Engineers to be engaged to perform tasks unforeseen by the Project Professional Engineers or tasks not authorized to be performed by the Project Professional Engineers since they would involve dictating the General Construction Contractor's means and methods of construction. Examples of such engineering tasks include but are not limited to:

- (1) Trench safety plans.
- (2) Traffic control plans.
- (3) Temporary construction structures (crane foundations, for example).

Applicable Board Rules from the Act are 22 TAC §137.53 (relating to Engineer Standards of Compliance with Professional Services Procurement Act) and 22 TAC §137.79 (relating to Standards for Compliance with Professional Services Procurement Act).

Analysis of Board Rules, Texas Administrative Code, Title 22, Part 6, Chapter 137: A reading of Board Rule §137.53 reveals that no language exists specific to the selection of Other Professional Engineers that may be required during the construction phase of the project and that would be selected by a General Construction Contractor. Section

137.53 is specific, however, in that all professional engineers must not divulge cost information prior to being selected solely on their qualifications. The rule also requires licensed professional engineers to report to the Board any instance where a governmental entity and/or their representative requests cost information prior to the qualification based selection phase. The board would interpret a General Construction Contractor to be a representative of the governmental entity. Similarly, Board Rule §137.79 requires that governmental entities or their representatives use qualification based selection processes.

Process: If professional engineering services are required during the course of the project, the public entity or the General Construction Contractor must use qualification based selection to procure all engineering services regardless of when the services are required. The following language is used by the DFWIAB in their contract documents to communicate this requirement to their contractors and representatives:

Ancillary/Integral Professional Services: In selecting an architect, engineer or land surveyor, etc., to provide professional services, if any, that are required by the specifications, bidder shall not do so on the basis of competitive bids but shall make such selection on the basis of demonstrated competence and qualifications to perform the services in the manner provided by §2254.004 of the Texas Government Code and so shall certify to the Board (DFWIAB) with its bid.

The above contract language covers instances where a General Construction Contractor's means and methods would trigger the requirement for Other Professional Engineering services that were not performed by the Project Professional Engineers. Examples include traffic control plans for contractor controlled disruptions of normal traffic, or instances where Other Professional Engineering services would be sought to build a temporary crane foundation. The General Construction Contractor would use a qualification based selection process to select Other Professional Engineers and would certify in writing to the governmental entity that the QBS process was followed and no pricing or costing data was used in the process.

Limitations: The QBS process performed by General Construction Contractors described in this policy advisory is intended only for those limited instances where:

- (1) Engineering decisions or designs performed by the governmental entity's Project Professional Engineer would interfere with the contractor's means and methods of construction or
- (2) Unforeseen construction issues necessitate the services of Other Professional Engineers in the course of the project.

TRD-200902747

Dale Beebe Farrow, P.E.

Executive Director

Texas Board of Professional Engineers

Filed: July 3, 2009

Texas Commission on Environmental Quality

Enforcement Orders

An agreed order was entered regarding Irma Maldonado-Rullan dba ACCI Forwarding, Inc., Docket No. 2004-0189-IHW-E on June 29, 2009 assessing \$18,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Gary Shiu, Staff Attorney at (713) 767-3500, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding J.C. Evans Construction Company, Inc., Docket No. 2005-0897-AIR-E on June 29, 2009 assessing \$210,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting James Sallans, Staff Attorney at (512) 239-2053, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Veolia ES Technical Solutions, L.L.C. formerly known as Onyx Environmental Services, L.L.C., Docket No. 2006-0455-IHW-E on June 29, 2009 assessing \$15,554 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Jennifer Cook, Staff Attorney at (512) 239-1873, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Goodrich, Docket No. 2006-1325-MWD-E on June 29, 2009 assessing \$12,150 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting James Sallans, Staff Attorney at (512) 239-2053, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Fort Worth Excavating, Inc., Docket No. 2007-0152-MSW-E on June 29, 2009 assessing \$15,900 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Kari Gilbreth, Staff Attorney at (512) 239-1320, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding INEOS Americas LLC, Docket No. 2007-0820-IHW-E on June 29, 2009 assessing \$6,880 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Lena Roberts, Staff Attorney at (512) 239-0019, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Aztec Waste, Inc., Docket No. 2007-0902-MLM-E on June 29, 2009 assessing \$3,210 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Gary Shiu, Staff Attorney at (713) 767-3500, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding The Dow Chemical Company, Docket No. 2007-0923-AIR-E on June 29, 2009 assessing \$166,465 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Lena Roberts, Staff Attorney at (512) 239-0019, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Victor C. Lopez, Docket No. 2007-1223-MSW-E on June 29, 2009 assessing \$2,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rudy Calderon, Staff Attorney at (512) 239-0600, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding James W. Hackney, Docket No. 2007-1273-LII-E on June 29, 2009 assessing \$736 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rudy Calderon, Staff Attorney at (512) 239-0600, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Alfonso Garza Jr., Trustee of the Alfonso Garza Testamentary Trust, and Emma G. Garza, Docket No. 2007-1276-MSW-E on June 29, 2009 assessing \$1,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Becky Combs, Staff Attorney at (512) 239-6939, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Roberto Lugo, Docket No. 2007-1697-LII-E on June 29, 2009 assessing \$262 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rudy Calderon, Staff Attorney at (512) 239-0600, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Silver Creek Lodge, Marina, and Yacht Club, Incorporated, Docket No. 2007-1709-MWD-E on June 29, 2009 assessing \$17,550 in administrative penalties with \$3,510 deferred.

Information concerning any aspect of this order may be obtained by contacting Craig Fleming, Enforcement Coordinator at (512) 239-5806, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding BP Products North America Inc., Docket No. 2007-1919-IHW-E on June 29, 2009 assessing \$650,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Mike Meyer, Enforcement Coordinator at (512) 239-4492, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Albert E. Ellis, Docket No. 2008-0056-LII-E on June 29, 2009 assessing \$872 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Peipey Tang, Staff Attorney at (512) 239-0600, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Gregory W. Boyd, Docket No. 2008-0135-LII-E on June 29, 2009 assessing \$207 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Barham Richard, Staff Attorney at (512) 239-0600, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Gilbert Espinosa, Docket No. 2008-0354-OSS-E on June 29, 2009 assessing \$627 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Barham Richard, Staff Attorney at (512) 239-0600, Texas

Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City Market Group of Sun City, L.P. dba City Market, Docket No. 2008-0369-MLM-E on June 29, 2009 assessing \$11,875 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Phillip Goodwin, Staff Attorney at (512) 239-0675, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Donald Castro dba Villarreal's Ice House, Docket No. 2008-0447-MSW-E on June 29, 2009 assessing \$1,050 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Anna Treadwell, Staff Attorney at (512) 239-0974, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Frank E. Daniels, Docket No. 2008-0597-MLM-E on June 29, 2009 assessing \$1,050 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Jacquelyn Boutwell, Staff Attorney at (512) 239-5846, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding King Ranch, Inc., Docket No. 2008-0756-AIR-E on June 29, 2009 assessing \$3,570 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Lena Roberts, Staff Attorney at (512) 239-0019, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding James F. Lunsford dba Fairview Joint Venture, Docket No. 2008-1086-MWD-E on June 29, 2009 assessing \$38,850 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Jacquelyn Boutwell, Staff Attorney at (512) 239-5846, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Chemical Lime, Ltd., Docket No. 2008-1122-AIR-E on June 29, 2009 assessing \$2,875 in administrative penalties with \$575 deferred.

Information concerning any aspect of this order may be obtained by contacting Trina Grieco, Enforcement Coordinator at (210) 403-4006, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Alejandro Romo, Docket No. 2008-1156-MSW-E on June 29, 2009 assessing \$5,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Tommy Tucker Henson, II, Staff Attorney at (512) 239-0946, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Exxon Mobil Corporation, Docket No. 2008-1163-AIR-E on June 29, 2009 assessing \$30,000 in administrative penalties with \$6,000 deferred.

Information concerning any aspect of this order may be obtained by contacting John Muennink, Enforcement Coordinator at (361) 825-

3423, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding E. I. du Pont de Nemours and Company, Docket No. 2008-1167-AIR-E on June 29, 2009 assessing \$31,408 in administrative penalties with \$6,281 deferred.

Information concerning any aspect of this order may be obtained by contacting Trina Grieco, Enforcement Coordinator at (210) 403-4006, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Mark A. Vasquez dba Maverick 1.50 Cleaners, Docket No. 2008-1198-MLM-E on June 29, 2009 assessing \$9,337 in administrative penalties with \$1,866 deferred.

Information concerning any aspect of this order may be obtained by contacting Danielle Porras, Enforcement Coordinator at (512) 239-2602, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Thompson Water Company, Inc., Docket No. 2008-1214-MWD-E on June 29, 2009 assessing \$16,500 in administrative penalties with \$3,300 deferred.

Information concerning any aspect of this order may be obtained by contacting Lauren Smitherman, Enforcement Coordinator at (512) 239-5223, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Nam Sun Paek dba Metro Cleaners, Docket No. 2008-1232-DCL-E on June 29, 2009 assessing \$2,006 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Stephanie Frazee, Staff Attorney at (512) 239-0600, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Tillie Grimes dba Gold Mine Restaurant, Docket No. 2008-1252-MLM-E on June 29, 2009 assessing \$3,350 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Stephanie Frazee, Staff Attorney at (512) 239-0600, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Raul Perez, Docket No. 2008-1356-MSW-E on June 29, 2009 assessing \$15,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Peipey Tang, Staff Attorney at (512) 239-0600, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Heiser Hollow Partners, LLC, Docket No. 2008-1360-EAQ-E on June 29, 2009 assessing \$1,500 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Becky Combs, Staff Attorney at (512) 239-6939, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Russell Giles dba Waco Wrecking, Docket No. 2008-1370-MLM-E on June 29, 2009 assessing \$1,757 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Benjamin Thompson, Staff Attorney at (512) 239-0600,

Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Bonham, Docket No. 2008-1512 MWD-E on June 29, 2009 assessing \$26,125 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Jorge Ibarra, Enforcement Coordinator at (817) 588-5890, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Fredericksburg, Docket No. 2008-1563-MSW-E on June 29, 2009 assessing \$1,070 in administrative penalties with \$214 deferred.

Information concerning any aspect of this order may be obtained by contacting Michael Graham, Enforcement Coordinator at (806) 796-7092, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding SUDAN FEEDYARD, INC., Docket No. 2008-1633-MLM-E on June 29, 2009 assessing \$7,280 in administrative penalties with \$1,456 deferred.

Information concerning any aspect of this order may be obtained by contacting Clinton Sims, Enforcement Coordinator at (512) 239-6933, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Baudelio Hernandez dba Chelas Landscaping, Docket No. 2008-1722-MSW-E on June 29, 2009 assessing \$2,625 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Jennifer Cook, Staff Attorney at Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Whiting Oil and Gas Corporation, Docket No. 2008-1733-AIR-E on June 29, 2009 assessing \$1,950 in administrative penalties with \$390 deferred.

Information concerning any aspect of this order may be obtained by contacting Rebecca Johnson, Enforcement Coordinator at (713) 422-8931, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding KLEMME ENTERPRISES, INC. dba Freeway Exxon, Docket No. 2008-1749-PST-E on June 29, 2009 assessing \$12,320 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Wallace Myers, Enforcement Coordinator at (512) 239-6580, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding PSW Real Estate, L.L.C., Docket No. 2008-1884-EAQ-E on June 29, 2009 assessing \$5,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Barham Richard, Staff Attorney at (512) 239-0600, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding The Lubrizol Corporation, Docket No. 2008-1904-AIR-E on June 29, 2009 assessing \$3,510 in administrative penalties with \$702 deferred.

Information concerning any aspect of this order may be obtained by contacting Trina Grieco, Enforcement Coordinator at (210) 403-4006,

Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Sonora, Docket No. 2008-1921-MWD-E on June 29, 2009 assessing \$26,912 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Tom Jecha, Enforcement Coordinator at (512) 239-2576, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Chevron Phillips Chemical Company LP, Docket No. 2008-1927-AIR-E on June 29, 2009 assessing \$23,624 in administrative penalties with \$4,724 deferred.

Information concerning any aspect of this order may be obtained by contacting Rebecca Johnson, Enforcement Coordinator at (713) 422-8931, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding TOTAL PETROCHEMICALS USA, INC., Docket No. 2009-0013-AIR-E on June 29, 2009 assessing \$20,000 in administrative penalties with \$4,000 deferred.

Information concerning any aspect of this order may be obtained by contacting Trina Grieco, Enforcement Coordinator at (210) 403-4006, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Eli Gravierel Sasson dba West Houston Mobile Home Park, Docket No. 2009-0024-MWD-E on June 29, 2009 assessing \$4,892 in administrative penalties with \$978 deferred.

Information concerning any aspect of this order may be obtained by contacting Craig Fleming, Enforcement Coordinator at (512) 239-5806, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding SELAWI UNLIMITED, INC. dba Sunny Food Store, Docket No. 2009-0077-PST-E on June 29, 2009 assessing \$10,915 in administrative penalties with \$2,183 deferred.

Information concerning any aspect of this order may be obtained by contacting Wallace Myers, Enforcement Coordinator at (512) 239-6580, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding The Dow Chemical Company, Docket No. 2009-0122-AIR-E on June 29, 2009 assessing \$3,000 in administrative penalties with \$600 deferred.

Information concerning any aspect of this order may be obtained by contacting Miriam Hall, Enforcement Coordinator at (512) 239-1044, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Huntsman Polymers Corporation N/K/A Huntsman Advanced Materials LLC, Docket No. 2009-0152-AIR-E on June 29, 2009 assessing \$45,208 in administrative penalties with \$9,041 deferred.

Information concerning any aspect of this order may be obtained by contacting Trina Grieco, Enforcement Coordinator at (210) 403-4006, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Enertech Industries, Inc., Docket No. 2009-0173-AIR-E on June 29, 2009 assessing \$1,070 in administrative penalties with \$214 deferred.

Information concerning any aspect of this order may be obtained by contacting Suzanne Walrath, Enforcement Coordinator at (512) 239-2134, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Rockfield Investments, LLC, Docket No. 2009-0174-EAQ-E on June 29, 2009 assessing \$5,625 in administrative penalties with \$1,125 deferred.

Information concerning any aspect of this order may be obtained by contacting Samuel Short, Enforcement Coordinator at (512) 239-5363, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Marathon Oil Company, Docket No. 2009-0180-AIR-E on June 29, 2009 assessing \$1,000 in administrative penalties with \$200 deferred.

Information concerning any aspect of this order may be obtained by contacting James Nolan, Enforcement Coordinator at (512) 239-6634, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Oak Manor Municipal Utility District, Docket No. 2009-0189-MWD-E on June 29, 2009 assessing \$2,740 in administrative penalties with \$548 deferred.

Information concerning any aspect of this order may be obtained by contacting Pam Campbell, Enforcement Coordinator at (512) 239-4493, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Harris County Fresh Water Supply District No. 61, Docket No. 2009-0200-MWD-E on June 29, 2009 assessing \$4,600 in administrative penalties with \$920 deferred.

Information concerning any aspect of this order may be obtained by contacting Jeremy Escobar, Enforcement Coordinator at (512) 239-1460, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding DCP Midstream, LP, Docket No. 2009-0201-AIR-E on June 29, 2009 assessing \$10,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Suzanne Walrath, Enforcement Coordinator at (512) 239-2134, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Montgomery County Municipal Utility District No. 15, Docket No. 2009-0228-MWD-E on June 29, 2009 assessing \$950 in administrative penalties with \$190 deferred.

Information concerning any aspect of this order may be obtained by contacting Harvey Wilson, Enforcement Coordinator at (512) 239-0321, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CLW, Inc., Docket No. 2009-0239-AIR-E on June 29, 2009 assessing \$2,000 in administrative penalties with \$400 deferred.

Information concerning any aspect of this order may be obtained by contacting Suzanne Walrath, Enforcement Coordinator at (512) 239-2134, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Gail A. Wright, Docket No. 2009-0250-LII-E on June 29, 2009 assessing \$356 in administrative penalties with \$71 deferred.

Information concerning any aspect of this order may be obtained by contacting Michael Graham, Enforcement Coordinator at (806) 796-7092, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of China, Docket No. 2009-0254-MWD-E on June 29, 2009 assessing \$10,322 in administrative penalties with \$2,064 deferred.

Information concerning any aspect of this order may be obtained by contacting Jennifer Graves, Enforcement Coordinator at (956) 430-6023, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Union Oil Company of California, Docket No. 2009-0269-IWD-E on June 29, 2009 assessing \$8,400 in administrative penalties with \$1,680 deferred.

Information concerning any aspect of this order may be obtained by contacting Charlie Konkol, Enforcement Coordinator at (361) 825-3422, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Reed Parque Limited Partnership, Docket No. 2009-0271-MWD-E on June 29, 2009 assessing \$2,700 in administrative penalties with \$540 deferred.

Information concerning any aspect of this order may be obtained by contacting Evette Alvarado, Enforcement Coordinator at (512) 239-2573, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Trinity @ Windfern LLC, Docket No. 2009-0327-MWD-E on June 29, 2009 assessing \$3,240 in administrative penalties with \$648 deferred.

Information concerning any aspect of this order may be obtained by contacting Samuel Short, Enforcement Coordinator at (512) 239-5363, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Mohammad Rafiul Habib dba South Buckner Food Mart, Docket No. 2006-0798-PST-E on June 29, 2009 assessing \$3,885 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Kari Gilbreth, Staff Attorney at (512) 239-1320, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding R.D.S.A., Inc. dba Texas Food Store, Docket No. 2006-1098-PST-E on June 29, 2009 assessing \$5,100 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Dinniah Chahin, Staff Attorney at (512) 239-0600, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding 10104, Inc. dba Northstar Food Store, Docket No. 2006-1472-PST-E on June 29, 2009 assessing \$7,650 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Dinniah Chahin, Staff Attorney at (512) 239-0600, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Melvin Terral dba T-Mart Food and Martha Terral dba T-Mart Food, Docket No. 2006-1685-PST-E on June 29, 2009 assessing \$8000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Dinniah Chahin, Staff Attorney at (512) 239-0600, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Ned H. Ward, Docket No. 2007-0235-PST-E on June 29, 2009 assessing \$5,250 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Tracy Chandler, Staff Attorney at (512) 239-0600, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Everett Custom Homes, L.L.C., Docket No. 2007-0356-WQ-E on June 29, 2009 assessing \$1,050 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Barham Richard, Staff Attorney at (512) 239-0600, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding G.P. Mullen and Janis Mullen, Docket No. 2007-0591-PST-E on June 29, 2009 assessing \$3,850 in administrative penalties with \$250 deferred.

Information concerning any aspect of this order may be obtained by contacting Jacquelyn Boutwell, Staff Attorney at (512) 239-5846, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Vicky Barnett dba Vicky's Playcare, Docket No. 2007-0803-PWS-E on June 29, 2009 assessing \$9,067 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Benjamin Thompson, Staff Attorney at (512) 239-0600, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding John R. Preston dba Refugio Exxon North, Docket No. 2007-0944-PST-E on June 29, 2009 assessing \$26,250 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Tracy Chandler, Staff Attorney at (512) 239-0600, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding David Golden dba Nema Enterprises, Docket No. 2007-1067-WQ-E on June 29, 2009 assessing \$3,280 in administrative penalties with \$656 deferred.

Information concerning any aspect of this order may be obtained by contacting Heather Brister, Enforcement Coordinator at (254) 761-3034, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Pat Walker dba Walker Waterfront, Docket No. 2007-1241-PWS-E on June 29, 2009 assessing \$3,196 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Dinniah Chahin, Staff Attorney at (512) 239-0600, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of McGregor, Docket No. 2007-1641-PWS-E on June 29, 2009 assessing \$10,812 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Benjamin Thompson, Staff Attorney at (512) 239-0600, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Lupe Mercado, Docket No. 2007-1653-PST-E on June 29, 2009 assessing \$7,875 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Anna Cox, Staff Attorney at (512) 239-0600, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding TETH Investment, Docket No. 2007-1783-PST-E on June 29, 2009 assessing \$2,625 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Anna Cox, Staff Attorney at (512) 239-0600, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding John M. Harris, Docket No. 2007-1980-WOC-E on June 29, 2009 assessing \$250 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Benjamin Thompson, Staff Attorney at (512) 239-0600, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Ali Shahjhan dba Brownies, Docket No. 2007-2035-PST-E on June 29, 2009 assessing \$5,821 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Jacquelyn Boutwell, Staff Attorney at (512) 239-5846, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Gator Stop, Inc. dba Gator Stop Raywood, Docket No. 2008-0326-PST-E on June 29, 2009 assessing \$5,160 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Peipey Tang, Staff Attorney at (512) 239-0600, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Gladys Carter, Docket No. 2008-0351-PST-E on June 29, 2009 assessing \$6,300 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Gary Shiu, Staff Attorney at (713) 767-3500, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Sonntag Materials, Inc. Docket No. 2008-0432-WR-E on June 29, 2009 assessing \$1,875 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting James Sallans, Staff Attorney at (512) 239-2053, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding J.R.'s Concrete Incorporated, Docket No. 2008-0658-WQ-E on June 29, 2009 assessing \$5,400 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting James Sallans, Staff Attorney at (512) 239-2053, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Adnan Najm dba Sunmart 352, Docket No. 2008-0752-PST-E on June 29, 2009 assessing \$22,708 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Barham Richard, Staff Attorney at (512) 239-0600, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Red Rock Water Supply Corporation, Docket No. 2008-0836-PWS-E on June 29, 2009 assessing \$624 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Stephanie Frazee, Staff Attorney at (512) 239-0600, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Suncoast Environmental & Construction, Inc., Docket No. 2008-0871-WQ-E on June 29, 2009 assessing \$2,100 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Gary Shiu, Staff Attorney at (713) 767-3500, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding New Star Holdings, L.L.C. dba Friendswood Texaco 106 aka Friendswood Shell and Northstar Equities, Inc. dba Friendswood Texaco 106 aka Friendswood Shell, Docket No. 2008-0879-PST-E on June 29, 2009 assessing \$4,725 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Peipey Tang, Staff Attorney at (512) 239-0600, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Clarence Reeves dba Pleasant Ridge Addition and Timber Creek Addition, Docket No. 2008-0929-PWS-E on June 29, 2009 assessing \$3,117 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Jacquelyn Boutwell, Staff Attorney at (512) 239-5846, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding John R. Eggen, Docket No. 2008-0969-WOC-E on June 29, 2009 assessing \$328 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Stephanie Frazee, Staff Attorney at (512) 239-0600, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Martha Chapman dba Martha K. Chapman, Docket No. 2008-0986-PST-E on June 29, 2009 assessing \$16,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Tammy Mitchell, Staff Attorney at (512) 239-0701, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Lometa Davis, Docket No. 2008-1015-PST-E on June 29, 2009 assessing \$17,600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Tommy Tucker Henson, II, Staff Attorney at (512) 239-0946, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Farah Chaudhry aka Nick Chaudhry dba Nicks Food Mart 2, Docket No. 2008-1035-PST-E on June 29, 2009 assessing \$6,300 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Tammy Mitchell, Staff Attorney at (512) 239-0701, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Leroy Leonard Limas dba Lee Limas Mobile Home Park, Docket No. 2008-1118-PWS-E on June 29, 2009 assessing \$598 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rudy Calderon, Staff Attorney at (512) 239-0600, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding MSMS Inc. dba Golden Stop, Docket No. 2008-1158-PST-E on June 29, 2009 assessing \$12,300 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Phillip Goodwin, Staff Attorney at (512) 239-0675, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Armando Cantu dba E-Z Mart 5, Docket No. 2008-1218-PST-E on June 29, 2009 assessing \$5,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Peipey Tang, Staff Attorney at (512) 239-0600, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Y-D Enterprises, LLC, Docket No. 2008-1239-WQ-E on June 29, 2009 assessing \$3,150 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Kari Gilbreth, Staff Attorney at (512) 239-1320, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding AZY Corporation, Inc., Docket No. 2008-1279-PST-E on June 29, 2009 assessing \$10,500 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Phillip Goodwin, Staff Attorney at (512) 239-0675, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Yunusali Badarpura dba Super Corner, Docket No. 2008-1390-PST-E on June 29, 2009 assessing \$17,893 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Tommy Tucker Henson, II, Staff Attorney at (512) 239-0946, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Henry Chennault, Docket No. 2008-1427-PST-E on June 29, 2009 assessing \$5,250 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Stephanie Frazee, Staff Attorney at (512) 239-0600, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Jay L. Hutchins, Docket No. 2008-1489-WOC-E on June 29, 2009 assessing \$1,367 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Tommy Henson, Staff Attorney at (512) 239-0946, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Warren Hughes dba Hughes Development, Inc., Docket No. 2008-1565-WQ-E on June 29, 2009 assessing \$7,280 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Becky Combs, Staff Attorney at (512) 239-6939, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Gulf, Colorado & San Saba Railway Corporation, Docket No. 2008-1566-WR-E on June 29, 2009 assessing \$2,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting James Sallans, Staff Attorney at (512) 239-2053, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding AMK Enterprises, LLC dba The Olde Tymer, Docket No. 2008-1783-PWS-E on June 29, 2009 assessing \$4,867 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Phillip Goodwin, Staff Attorney at (512) 239-0675, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Edward Wiesen, Docket No. 2008-1845-PST-E on June 29, 2009 assessing \$3,675 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Jacquelyn Boutwell, Staff Attorney at (512) 239-5846, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Geaux Corporation, Docket No. 2008-1881-WQ-E on June 29, 2009 assessing \$12,625 in administrative penalties with \$2,525 deferred.

Information concerning any aspect of this order may be obtained by contacting Craig Fleming, Enforcement Coordinator at (512) 239-5806, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Texas ARRM Investments Inc. dba Gastar II Store 020, Docket No. 2008-1896-PST-E on June 29, 2009 assessing \$10,227 in administrative penalties with \$2,045 deferred.

Information concerning any aspect of this order may be obtained by contacting Wallace Myers, Enforcement Coordinator at (512) 239-6580, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Texas Parks & Wildlife Department, Docket No. 2009-0083-PWS-E on June 29, 2009 assessing \$1,095 in administrative penalties with \$219 deferred.

Information concerning any aspect of this order may be obtained by contacting Yuliya Dunaway, Enforcement Coordinator at (210) 490-3096, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Post Oak Hill Water Supply Corporation, Docket No. 2009-0092-PWS-E on June 29, 2009 assessing \$355 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Richard Croston, Enforcement Coordinator at (512) 239-5717, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Brazos Valley Septic & Water, Inc., Docket No. 2009-0165-PWS-E on June 29, 2009 assessing \$735 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Epifanio Villarreal, Enforcement Coordinator at (210) 490-3095, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Big Diamond, Inc. dba Diamond Shamrock 1260, Docket No. 2009-0178-PST-E on June 29, 2009 assessing \$4,401 in administrative penalties with \$880 deferred.

Information concerning any aspect of this order may be obtained by contacting Brianna Carlson, Enforcement Coordinator at (956) 425-6021, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Rolling Hills Water Service, Inc., Docket No. 2009-0198-PWS-E on June 29, 2009 assessing \$355 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Amanda Henry, Enforcement Coordinator at (713) 767-3672, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding RACETRAC PETROLEUM, INC. dba Racetrac 573, Docket No. 2009-0280-PST-E on June 29, 2009 assessing \$4,846 in administrative penalties with \$969 deferred.

Information concerning any aspect of this order may be obtained by contacting Tom Greimel, Enforcement Coordinator at (512) 239-5690, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Conroe Independent School District, Docket No. 2009-0289-MWD-E on June 29, 2009 assessing \$3,020 in administrative penalties with \$604 deferred.

Information concerning any aspect of this order may be obtained by contacting Heather Brister, Enforcement Coordinator at (254) 761-3034, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Ledezma Ready-Mix, LLC, Docket No. 2009-0295-WQ-E on June 29, 2009 assessing \$4,000 in administrative penalties with \$800 deferred.

Information concerning any aspect of this order may be obtained by contacting Cheryl Thompson, Enforcement Coordinator at (817) 588-5886, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Buena Vista Water Supply Corporation, Docket No. 2009-0310-PWS-E on June 29, 2009 assessing \$1,060 in administrative penalties with \$212 deferred.

Information concerning any aspect of this order may be obtained by contacting Yuliya Dunaway, Enforcement Coordinator at (210) 490-3096, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding RJR RESTAURANTS OF DENTON LIMITED PARTNERSHIP dba Rudy's Bar-B-Que and Country Store, Docket No. 2009-0323-PST-E on June 29, 2009 assessing \$2,403 in administrative penalties with \$480 deferred.

Information concerning any aspect of this order may be obtained by contacting Michael Pace, Enforcement Coordinator at (817) 588-5933, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Southwest Convenience Stores, LLC, Docket No. 2009-0397-PST-E on June 29, 2009 assessing \$750 in administrative penalties with \$150 deferred.

Information concerning any aspect of this order may be obtained by contacting Wallace Myers, Enforcement Coordinator at (512) 239-6580, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding John D. Sims, Docket No. 2009-0376-OSI-E on June 29, 2009 assessing \$175 in administrative penalties.

Information concerning any aspect of this citation may be obtained by contacting Melissa Keller, SEP Coordinator at (512) 239-1768, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Timberlake Trails, LLC, Docket No. 2009-0381-WQ-E on June 29, 2009 assessing \$700 in administrative penalties.

Information concerning any aspect of this citation may be obtained by contacting Melissa Keller, SEP Coordinator at (512) 239-1768, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding M. J. Boyle General Contractor, Inc., Docket No. 2009-0382-WQ-E on June 29, 2009 assessing \$700 in administrative penalties.

Information concerning any aspect of this citation may be obtained by contacting Melissa Keller, SEP Coordinator at (512) 239-1768, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Shepherd Place Homes, Inc., Docket No. 2009-0383-WQ-E on June 29, 2009 assessing \$700 in administrative penalties.

Information concerning any aspect of this citation may be obtained by contacting Melissa Keller, SEP Coordinator at (512) 239-1768, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Shanco Group LLC dba Midtown Grocery, Docket No. 2009-0423-PST-E on June 29, 2009 assessing \$875 in administrative penalties.

Information concerning any aspect of this citation may be obtained by contacting Melissa Keller, SEP Coordinator at (512) 239-1768, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Eberle Materials, Inc., Docket No. 2009-0425-WR-E on June 29, 2009 assessing \$325 in administrative penalties.

Information concerning any aspect of this citation may be obtained by contacting Melissa Keller, SEP Coordinator at (512) 239-1768, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Cooper Medical Buildings, Inc., Docket No. 2009-0426-WQ-E on June 29, 2009 assessing \$700 in administrative penalties.

Information concerning any aspect of this citation may be obtained by contacting Melissa Keller, SEP Coordinator at (512) 239-1768, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Moss Lake Water Supply Corporation, Docket No. 2006-0743-MLM-E on June 30, 2009 assessing \$4,453 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Dinniah Chahin, Staff Attorney at (512) 239-0600, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Andrea Bennett, Trustee of the Randy Bennett GST Trust, Docket No. 2007-1777-PST-E on July 1, 2009 assessing \$2,625 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Barham Richard, Staff Attorney at (512) 239-0600, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-200902801

LaDonna Castañuela

Chief Clerk

Texas Commission on Environmental Quality

Filed: July 8, 2009



Notice of Opportunity for Comments Concerning a Proposed Amendment to the List of *De Minimis* Facilities or Sources

The Texas Commission on Environmental Quality (TCEQ), under 30 Texas Administrative Code (TAC) Chapter 116, requests public comment concerning a proposed amendment to the List of *De Minimis* Facilities or Sources authorized by 30 TAC §116.119.

The TCEQ is proposing to amend the List of *De Minimis* Facilities or Sources by adding the following:

"Application of argon, ethane, helium, hydrogen, methane, neon, nitrogen, and propane for testing, purging, and leak checking of equipment."

The TCEQ is also proposing to clarify the List of *De Minimis* Facilities or Sources by making several administrative revisions including renaming the Domestic category, removing the duplicate listing of comfort heating and cooling facilities, and clarifying aerosol propellant usage.

Section 116.119(c)(1) allows for amendments to the List of *De Minimis* Facilities or Sources by the executive director for facilities or sources considered to be *de minimis*. If added to the List of *De Minimis* Facilities or Sources, the specified facilities or sources are no longer required to obtain authorization from the TCEQ prior to construction. The Air Permits Division and Toxicology Division of TCEQ have evaluated the potential impacts of the proposed *de minimis* facilities or sources from

previous case-by-case reviews and determined that the emissions from these inert gases pose little risk to human health or the environment. The TCEQ has determined there would be no impact to public health or the environment by adding these activities to the List of *De Minimis* Facilities or Sources. Therefore, the previous facilities or sources are proposed to be *de minimis* facilities or sources.

The addition or deletion of a category of facilities, sources, or groups of facilities or sources to the List of *De Minimis* Facilities or Sources is subject to the procedural requirements of 30 TAC §116.119, which includes a 30-day public comment period. The List of *De Minimis* Facilities and Sources is located on the TCEQ Web site at: <http://www.tceq.state.tx.us/permitting/air/guidance/newsourcesreview/list-of-de-minimis-facilities.html>. Any interested or affected person has the opportunity to provide written comments pertaining to the addition or deletion of a category of facilities, sources, or groups of facilities or sources to the List of *De Minimis* Facilities or Sources.

Comments may be mailed to Lori Wilson, Texas Commission on Environmental Quality, Office of Permitting and Registration, Air Permits Division, MC 163, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-1070. All comments must be received by 5:00 p.m., August 17, 2009. To inquire about the technical review of the *de minimis* request, contact Ms. Wilson at (512) 239-1635.

TRD-200902787

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: July 7, 2009



Notice of Water Quality Applications

The following notices were issued during the period of June 24, 2009 through July 1, 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

TEXAS DEPARTMENT OF CRIMINAL JUSTICE has applied for a renewal of TPDES Permit No. WQ0011475003, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 750,000 gallons per day. The facility is located within the Beauford H. Jester State Prison Farm property, approximately 8,000 feet north of the intersection of U.S. Highway 90A and Harlem Road, approximately 5.0 miles west of Sugar Land in Fort Bend County, Texas 77342.

FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO 151 has applied for a minor amendment to the Texas Pollutant Discharge Elimination System (TPDES) permit WQ0014528001 to authorize an increase in the daily average flow of the interim I phase from 200,000 gallons per day to 400,000 gallons per day, and an increase in the interim II phase from 400,000 gallons per day to 600,000 gallons per day. The existing permit authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 900,000 gallons per day.

CITY OF CONROE has applied for a renewal of TPDES Permit No. WQ0010008002, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 10,000,000 gallons per day. The facility is located immediately north of the confluence of

Lake Creek with the San Jacinto River, at the end of Sgt. Ed Holcomb Blvd. South, approximately 2.5 miles west of Interstate Highway 45 and approximately 2.5 miles south of Farm-to-Market-Road 2854 in Montgomery County, Texas.

TEXAS AGRILIFE EXTENSION SERVICE has applied for a renewal of TCEQ Permit No. WQ0011664001, which authorizes the disposal of treated domestic wastewater at a daily average flow not to exceed 18,000 gallons per day via surface irrigation of 6.47 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 south of Lake Brownwood and north of Farm-to-Market Road 3021, approximately 1.25 miles east-northeast of the intersection of State Highway 279 and Farm-to-Market Road 3021 in Brown County, Texas.

EL PASO COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO 4, has applied for a renewal of TPDES Permit No. WQ0010166001, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 1,200,000 gallons per day. The facility is located approximately 8,000 feet southeast of the intersection of State Highway No. 20 and 76 near the town of Fabens in El Paso County, Texas.

BRAZOS VALLEY ENERGY LP AND CALPINE OPERATING SERVICES COMPANY INC which operate the Brazos Valley Energy Electric Generating facility, has applied for a major amendment to TPDES Permit No. WQ0004258000 to remove Other Requirements, item No. 11, establish chlorine limits at Outfall 001, eliminate internal Outfall 101, reduce the daily average flow rate from 5 MGD to 1.5 MGD and the daily maximum flow rate from 10 MGD to 3 MGD at Outfall 001 for phase I, reduce the daily average flow rate from 10 MGD to 3 MGD and the daily maximum flow rate from 16 MGD to 6 MGD. The current permit authorizes the discharge of cooling tower blowdown and low volume wastewater at a daily average flow not to exceed 5,000,000 gallons per day via Outfall 001 during phase I, and cooling tower blowdown and low volume wastewater at a daily average flow not to exceed 10,000,000 gallons per day via Outfall 001 during phase II. The facility is located at the intersection of Rabbs Prairie Road, Smithers Lake Road, and Lockwood Road, approximately two miles southwest of the City of Thompson, Fort Bend County, Texas 77469.

CONOCOPHILLIPS COMPANY which operates Freeport Terminal I, a facility that engages in marine loading/unloading and temporary storage of crude oil and petroleum products and the Jones Creek Terminal, a temporary crude oil storage facility, has applied for a renewal of TPDES Permit No. WQ0001852000, which authorizes the discharge of storm water on an intermittent and variable basis via Outfalls 001, 004, 005, and 009.

HEWLETT PACKARD COMPANY which proposes to operate Hewlett Packard Data Center, an office building, has applied for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0004879000 to authorize the discharge of cooling tower blowdown and condensate from cooling coils at a daily average flow not to exceed 150,000 gallons per day via Outfall 001. The facility is located at 28401 Betka Road, approximately 4,500 feet southwest of the intersection of U.S. Highway 290 and Kermier Road, Harris County, Texas.

CITY OF PEARLAND has applied for a renewal of TPDES Permit No. WQ0010134010, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 2,500,000 gallons per day. At the request of the applicant, the 2,000,000 gallons per day final phase at the Outfall 002 was removed from the draft permit. The facility is located on Dixie Farm Road, approximately 2.8 miles south-

west of the Interstate Highway 45 and Dixie Farm Road interchange in Brazoria and Harris County, Texas.

CITY OF LITTLEFIELD has applied for a renewal of TCEQ Permit No. WQ0010207002, which authorizes the disposal of treated domestic wastewater at a daily average flow not to exceed 1,500,000 gallons per day via surface irrigation of 476 acres of non-public access agricultural land. This permit will not authorize a discharge of pollutants into waters in the State. The wastewater treatment facility is located on the north side of Farm-to-Market Road 54 and approximately 1.4 miles east-northeast of the intersection of U.S. Highway 385 and Farm-to-Market Road 54 in Lamb County, Texas. The disposal site is located south of County Road 272 and approximately 1.5 miles east of the intersection of U.S. Highway 385 and County Road 272, approximately 2.6 miles southeast of the intersection of U.S. Highway 385 and Farm-to-Market Road 2197 in Lamb County, Texas. The wastewater treatment facility and disposal site are located in the drainage basin of Double Mountain Fork Brazos River Basin in Segment No. 1241 of the Brazos River Basin.

CITY OF CROSS PLAINS has applied for a major amendment to TCEQ Permit No. WQ0010434001, to authorize a change in the method of effluent disposal from discharge to a receiving body of water to surface irrigation of 79 acres of non-public access agricultural land at the currently permitted daily average flow not to exceed 87,500 gallons per day. This permit will not authorize a discharge of pollutants into waters in the State. The wastewater treatment facility and disposal site are located approximately 2,500 feet west of State Highway 279 and 4,000 feet south of State Highway 36 in Callahan County, Texas.

CITY OF EDMONSON has applied for a renewal of Permit No. WQ0013611001, which authorizes the disposal of treated domestic wastewater at a daily average flow not to exceed 20,000 gallons per day via surface irrigation of 10 acres of non-public access agricultural land. This permit will not authorize a discharge of pollutants into waters in the State. The wastewater treatment facility and disposal site are located approximately 2,000 feet south and 3,700 feet west of the intersection of State Highway 194 and Farm-to-Market Road 1424 in Hale County, Texas.

GRANITE STONEBRIDGE HEALTH CENTER LLC has applied for a renewal of TCEQ Permit No. WQ0013860001, which authorizes the disposal of treated domestic wastewater at a daily average flow not to exceed 10,000 gallons per day via subsurface drip irrigation with a minimum area of 69,400 square feet. This permit will not authorize a discharge of pollutants into waters in the State. TCEQ received this application on February 5, 2009. The wastewater treatment facility and disposal site are located at 11127 Circle Drive, approximately 1,200 feet northeast of the intersection of U.S. Highway 290 and Circle Drive, approximately 5.0 miles west of the intersection of U.S. Highway 290 and State Highway 71 in Travis County, Texas.

LOWER COLORADO RIVER AUTHORITY has applied for a renewal of TPDES Permit No. WQ0013977001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 50,000 gallons per day. The facility is located approximately 1,000 feet north of State Highway 71 at a point 11,500 feet northwest (along State Highway 71) of the intersection of State Highway 71 and Farm-to-Market Road 1209 in Bastrop County, Texas 78612.

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-200902800

LaDonna Castañuela
Chief Clerk
Texas Commission on Environmental Quality
Filed: July 8, 2009

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Texas Facilities Commission

Request for Proposals #303-9-10308-B

The Texas Facilities Commission (TFC), on behalf of the Department of Assistive and Rehabilitative Services (DARS) and Health and Human Services Commission (HHSC), announces the issuance of Request for Proposals (RFP) #303-9-10308-B. TFC seeks a 5 or 10 year lease of approximately 15,711 square feet of office space in Tyler, Smith County, Texas.

The deadline for questions is July 24, 2009 and the deadline for proposals is August 7, 2009 at 3:00 p.m. The award date is September 16, 2009. TFC reserves the right to accept or reject any or all proposals submitted. TFC is under no legal or other obligation to execute a lease on the basis of this notice or the distribution of an RFP. Neither this notice nor the RFP commits TFC to pay for any costs incurred prior to the award of a grant.

Parties interested in submitting a proposal may obtain information by contacting TFC Purchaser Sandy Williams at (512) 475-0453. A copy of the RFP may be downloaded from the Electronic State Business Daily at http://esbd.cpa.state.tx.us/bid_show.cfm?bidid=83672.

TRD-200902807
Kay Molina
General Counsel
Texas Facilities Commission
Filed: July 8, 2009

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Texas Health and Human Services Commission

Notice of Public Hearing on Proposed Medicaid Payment Rates

Hearing. The Texas Health and Human Services Commission (HHSC) will conduct a public hearing on August 18, 2009, at 1:30 p.m. to receive public comment on the proposed Medicaid payment rates for Suture of Wounds procedure code services. The public hearing will be held in the Lone Star Conference Room of HHSC, Braker Center, Building H, located at 11209 Metric Boulevard, Austin, Texas. Entry is through Security at the main entrance of the building, which faces Metric Boulevard. The hearing will be held in compliance with Human Resources Code §32.082 and 1 Texas Administrative Code (TAC) §355.201(e) - (f), which require public hearings on proposed Medicaid reimbursements.

Proposal. The proposed suture of wounds procedure codes payment rates are proposed to be effective October 1, 2009.

Methodology and Justification. The proposed updated payment rates are calculated in accordance with 1 TAC §355.8121, which addresses the reimbursement methodology for ambulatory surgical centers (ASCs).

Briefing Package. A briefing package describing the proposed payment rates will be available on or after August 4, 2009. Interested parties may obtain a copy of the briefing package prior to the hearing by contacting 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 p.m. the day of the hearing. Written comments may be sent by U.S. mail to the attention of HHSC, Rate Analysis, Mail Code H-400, P.O. Box 85200, Austin, Texas 78708-5200; by fax to Rate Analysis 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 HHSC, Rate Analysis, Mail Code H-400, Braker Center, Building H, 11209 Metric Boulevard, Austin, Texas 78758-4021.

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

TRD-200902734

Steve Aragón

Chief Counsel

Texas Health and Human Services Commission

Filed: July 1, 2009



Notice of Public Hearing on Proposed Medicaid Payment Rates

Hearing. The Texas Health and Human Services Commission (HHSC) will conduct a public hearing on August 3, 2009, at 9:00 a.m. to receive

public comment on proposed rates for the Nursing Facility program 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 rates for nursing facility services for all providers under the Nursing Facility program. The proposed rates were determined in accordance with the rate setting methodologies listed below under "Methodology and Justification." The proposed payment rates for the Nursing Facility program, which will be effective September 1, 2009, are as follows.

Base Rates by RUG (Resource Utilization Group) class:

RUG	RUG Base Rate
RAD (Rehabilitation D)	\$188.06
RAC (Rehabilitation C)	\$166.11
RAB (Rehabilitation B)	\$156.01
RAA (Rehabilitation A)	\$137.20
SE3 (Extensive Services 3)	\$224.60
SE2 (Extensive Services 2)	\$190.69
SE1 (Extensive Services 1)	\$165.58
SSC (Special Care C)	\$161.71
SSB (Special Care B)	\$152.88
SSA (Special Care A)	\$152.54
CC2 (Clinically Complex C2)	\$132.09
CC1 (Clinically Complex C1)	\$125.12
CB2 (Clinically Complex B2)	\$121.17
CB1 (Clinically Complex B1)	\$115.70
CA2 (Clinically Complex A2)	\$109.84
CA1 (Clinically Complex A1)	\$103.26
IB2 (Impaired Cognition B2)	\$110.01
IB1 (Impaired Cognition B1)	\$102.56
IA2 (Impaired Cognition A2)	\$93.66
IA1 (Impaired Cognition A1)	\$88.83
BB2 (Behavior Problems B2)	\$108.02
BB1 (Behavior Problems B1)	\$97.76
BA2 (Behavior Problems A2)	\$91.90
BA1 (Behavior Problems A1)	\$83.16
PE2 (Reduced Physical Function E2)	\$116.32
PE1 (Reduced Physical Function E1)	\$109.97
PD2 (Reduced Physical Function D2)	\$111.52
PD1 (Reduced Physical Function D1)	\$104.94
PC2 (Reduced Physical Function C2)	\$102.16
PC1 (Reduced Physical Function C1)	\$97.96
PB2 (Reduced Physical Function B2)	\$95.37
PB1 (Reduced Physical Function B1)	\$90.75
PA2 (Reduced Physical Function A2)	\$85.10
PA1 (Reduced Physical Function A1)	\$80.29

Default when Minimum Data Set assessment data are incomplete	\$80.29
Default when a Minimum Data Set assessment is missing.	\$80.29
Supplemental Payments:	
Ventilator - Continuous	\$125.09
Ventilator - Less than Continuous	\$50.04
Pediatric Tracheostomy	\$75.05

Facilities participating in the Enhanced Direct Care Staff Rate will receive one of the following payment rates per day in addition to the above payment rates based upon their level of enrollment in the Enhanced Direct Care Staff Rate:

Minutes Associated with Proposed Rate*	Proposed Rate Per Diem
1 LVN Minute = 2.05 Aide Minutes = 0.68 RN Minutes	\$0.39
2 LVN Minutes = 4.11 Aide Minutes = 1.37 RN Minutes	\$0.78
3 LVN Minutes = 6.16 Aide Minutes = 2.05 RN Minutes	\$1.17
4 LVN Minutes = 8.21 Aide Minutes = 2.74 RN Minutes	\$1.56
5 LVN Minutes = 10.26 Aide Minutes = 3.42 RN Minutes	\$1.95
6 LVN Minutes = 12.32 Aide Minutes = 4.11 RN Minutes	\$2.34
7 LVN Minutes = 14.37 Aide Minutes = 4.79 RN Minutes	\$2.73
8 LVN Minutes = 16.42 Aide Minutes = 5.47 RN Minutes	\$3.12
9 LVN Minutes = 18.47 Aide Minutes = 6.16 RN Minutes	\$3.51
10 LVN Minutes = 20.53 Aide Minutes = 6.84 RN Minutes	\$3.90
11 LVN Minutes = 22.58 Aide Minutes = 7.53 RN Minutes	\$4.29
12 LVN Minutes = 24.63 Aide Minutes = 8.21 RN Minutes	\$4.68
13 LVN Minutes = 26.68 Aide Minutes = 8.89 RN Minutes	\$5.07
14 LVN Minutes = 28.74 Aide Minutes = 9.58 RN Minutes	\$5.46
15 LVN Minutes = 30.79 Aide Minutes = 10.26 RN Minutes	\$5.85
16 LVN Minutes = 32.84 Aide Minutes = 10.95 RN Minutes	\$6.24
17 LVN Minutes = 34.89 Aide Minutes = 11.63 RN Minutes	\$6.63
18 LVN Minutes = 36.95 Aide Minutes = 12.32 RN Minutes	\$7.02
19 LVN Minutes = 39.00 Aide Minutes = 13.00 RN Minutes	\$7.41
20 LVN Minutes = 41.05 Aide Minutes = 13.68 RN Minutes	\$7.80
21 LVN Minutes = 43.10 Aide Minutes = 14.37 RN Minutes	\$8.19
22 LVN Minutes = 45.16 Aide Minutes = 15.05 RN Minutes	\$8.58
23 LVN Minutes = 47.21 Aide Minutes = 15.74 RN Minutes	\$8.97
24 LVN Minutes = 49.26 Aide Minutes = 16.42 RN Minutes	\$9.36
25 LVN Minutes = 51.32 Aide Minutes = 17.11 RN Minutes	\$9.75
26 LVN Minutes = 53.37 Aide Minutes = 17.79 RN Minutes	\$10.14
27 LVN Minutes = 55.42 Aide Minutes = 18.47 RN Minutes	\$10.53

* LVN = Licensed Vocational Nurse; RN = Registered Nurse

Facilities that verify liability insurance coverage acceptable to HHSC will receive one of the following payment rates per day in addition

to the above payment rates based upon the type of liability insurance coverage they maintain:

Type of Liability Insurance	Proposed Rate Per Diem
General and Professional	\$1.63
Professional Only	\$1.49
General Only	\$0.13

Methodology and Justification. The proposed rates were determined in accordance with the rate setting methodologies codified at 1 TAC Chapter 355, Subchapter C, §355.307, Reimbursement Setting Methodology and §355.308, Direct Care Staff Rate Component; and §355.312, Reimbursement Setting Methodology - Liability Insurance Costs. 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 \$55.6 million in general revenue funds for State Fiscal Year 2010 for provider rate increases for the DADS Nursing Facility Program.

Briefing Package. A briefing package describing the proposed payment rates will be available on July 20, 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-200902775

Steve Aragón

Chief Counsel

Texas Health and Human Services Commission

Filed: July 6, 2009



Notice of Public Hearing on Proposed Medicaid Payment Rates

Hearing. The Texas Health and Human Services Commission (HHSC) will conduct a public hearing on August 3, 2009, at 1:30 p.m. to receive public comment on proposed rate adjustments for the non-state operated Intermediate Care Facilities for Persons with Mental Retardation (ICF/MR). The ICF/MR program is 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 rates for non-state operated ICF/MRs. The proposed payment 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 methodology codified at Texas Administrative Code (TAC) Title 1, Chapter 355, Subchapter D, §355.456, Rate Setting Methodology. 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 \$4.5 million general revenue funds for the State Fiscal Year 2008-2009 biennium for Medicaid rate increases for the DADS' ICF/MR program.

Briefing Package. A briefing package describing the proposed payment rates will be available on or after July 20, 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-200902779

Steve Aragón

Chief Counsel

Texas Health and Human Services Commission

Filed: July 6, 2009



Public Notice

The Texas Health and Human Services Commission (HHSC) intends to submit to the Centers for Medicare and Medicaid Services a request to renew the waiver for the reimbursement methodology for a Primary Care Case Management (PCCM) program under the authority of §1915(b) of the Social Security Act. The current waiver will expire December 31, 2009. The proposed effective date for the renewal is January 1, 2010.

The waiver renewal allows a reimbursement methodology that would permit the Texas Medicaid claims administrator to continue negotiating PCCM hospital contracts and discount rates with non-TEFRA (Tax Eq-

uity Fiscal Responsibility Act) hospitals. To date, a total of 390 PCCM hospitals are contracted throughout the state. HHSC has the oversight authority to approve the final negotiated contracts and rates.

HHSC will request that the waiver renewal be approved for an additional two-year period beginning January 1, 2010, and extending through December 31, 2011. When compared to the costs of serving individuals in ICFs-MR, this waiver maintains cost neutrality for waiver years 2010 through 2011.

To obtain copies of the proposed waiver, interested parties may contact Christine Longoria by mail at Texas Health and Human Services Commission, P.O. Box 85200, mail code H-600, Austin, Texas 78708-5200, by phone at (512) 491-1152, by fax at (512) 491-1953, or by e-mail at christine.longoria@hhsc.state.tx.us.

TRD-200902730

Steve Aragón

Chief Counsel

Texas Health and Human Services Commission

Filed: July 1, 2009



Revision of Public Hearing on Proposed Medicaid Payment Rates

Hearing. The Texas Health and Human Services Commission is revising the notice published in the *Texas Register* on July 10, 2009, pertaining to the public hearing which was to be held 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 public hearing is being cancelled at this time and will be rescheduled at a later date.

TRD-200902805

Steve Aragón

Chief Counsel

Texas Health and Human Services Commission

Filed: July 8, 2009



Department of State Health Services

Licensing Actions for Radioactive Materials

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

NEW LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Bremond	Optim Energy Twin Oaks	L06252	Bremond	00	06/12/09
Spring	Southwestern Imaging Systems and Services L.P.	L06241	Spring	00	06/15/09
Throughout Tx	Alamo Environmental Inc. dba Alamo1	L06247	San Antonio	00	06/29/09

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Allen	Texas Health Presbyterian Hospital Allen	L05765	Allen	17	06/23/09
Austin	Austin Radiological Association	L00545	Austin	155	06/16/09
Austin	ARA Imaging	L05862	Austin	45	06/12/09
Austin	Austin Radiological Association	L00545	Austin	154	06/12/09
Benbrook	Weatherford International Inc.	L00747	Benbrook	85	06/23/09
Big Spring	Big Spring Hospital Corporation dba Scenic Mountain Medical Center	L00763	Big Spring	55	06/12/09
College Station	Texas A&M University	L05683	College Station	11	06/22/09
Corpus Christi	The Corpus Christi Medical Center Bay Area	L04723	Corpus Christi	51	06/11/09
Dallas	Deuteronomy dba The Harper Clinic	L06195	Dallas	01	06/22/09
Dallas	IBA Molecular North America Inc. dba IBA Molecular	L06174	Dallas	04	06/22/09
Dallas	Methodist Hospital Of Dallas Radiology Services	L00659	Dallas	65	06/17/09
Dallas	Afridi Heart Care P.A.	L06005	Dallas	05	06/22/09
Dallas	Texas Health Presbyterian Hospital Dallas	L04288	Dallas	26	06/22/09
Dallas	Texas Health Presbyterian Hospital Dallas	L01586	Dallas	94	06/22/09
El Paso	East El Paso Physicians' Medical Center L.L.C.	L05676	El Paso	15	06/23/09
El Paso	Southwest Cardiovascular Intervention Clinic P.A.	L06230	El Paso	01	06/16/09
Fort Worth	CMJ Engineering Inc.	L05564	Fort Worth	06	06/18/09
Friendswood	Raj K. Bhalla, M.D. P.A.	L05469	Friendswood	06	06/12/09
Gilmer	East Texas Medical Center Gilmer	L05959	Gilmer	04	06/15/09
Harlingen	Texas Oncology P.A. dba South Texas Cancer Center Harlingen	L00154	Harlingen	37	06/22/09
Harlingen	Valley Baptist Medical Center	L01909	Harlingen	73	06/24/09
Henrietta	Clay County Memorial Hospital	L03228	Henrietta	25	06/16/09
Houston	Houston Northwest Operating Company L.L.C. dba Houston Northwest Medical Center	L06190	Houston	01	06/16/09
Houston	Hotwell U.S. Ltd.	L06145	Houston	05	06/16/09
Houston	The Methodist Hospital	L00457	Houston	168	06/16/09
Houston	Gulf Coast MRI & Diagnostic	L05333	Houston	16	06/16/09
Houston	NIS Holdings Inc. dba Nuclear Imaging Services	L05775	Houston	52	06/12/09
Houston	S.J. Medical Center L.L.C. dba St. Joseph Medical Center	L02279	Houston	68	06/11/09
Houston	Harris County Hospital District dba LBJ General Hospital	L04412	Houston	39	06/11/09
Houston	Halliburton Energy Services Inc.	L00442	Houston	118	06/17/09

AMENDMENTS TO EXISTING LICENSES ISSUED: (CONTINUED)

Location	Name	License #	City	Amend- ment #	Date of Action
Houston	CHCA West Houston L.P. dba West Houston Medical Center	L06055	Houston	05	06/23/09
Huntsville	Sam Houston Cancer Center	L06113	Huntsville	02	06/16/09
Lamesa	Dawson County Hospital District dba Medical Arts Hospital	L06244	Lamesa	01	06/11/09
Longview	Longview Regional Hospital Inc. dba Longview Regional Medical Center	L02882	Longview	40	06/18/09
Lubbock	Bayer Crop Science	L05811	Lubbock	03	06/16/09
Lubbock	ISORX Texas Ltd.	L05284	Lubbock	25	06/11/09
Lubbock	Covenant Health System dba Joe Arrington Cancer Research and Treatment Center	L06028	Lubbock	10	06/23/09
North Richland Hills	Dallas Cardiology Associates dba Heartplace North Richland Hills	L05548	North Richland Hills	13	06/26/09
Orange	Chevron Phillips Chemical Company L.P.	L00031	Orange	59	06/11/09
Pasadena	Turner Industries Group L.L.C.	L06235	Pasadena	01	06/12/09
Pasadena	Basell USA Inc.	L01854	Pasadena	39	06/29/09
Pittsburg	Southwestern Electric Power Company	L02008	Pittsburg	20	06/17/09
Plano	Columbia Medical Center of Plano Subsidiary L.P. dba Medical Center of Plano	L02032	Plano	90	06/22/09
Plano	Mordecai N. Klein, M.D. P.A.	L06237	Plano	01	06/12/09
Plano	Dallas Cardiology Associates dba Heartplace Plano	L05699	Plano	08	06/24/09
Richardson	TRUGLO Inc.	L05519	Richardson	06	06/23/09
Richmond	Oakbend Medical Center	L02406	Richmond	52	06/18/09
Richmond	Oakbend Medical Center	L02406	Richmond	51	06/15/09
Rio Grande City	Advanced Nuclear Imaging Inc.	L05467	Rio Grande City	11	06/15/09
San Angelo	San Angelo Hospital L.P. dba San Angelo Community Medical Center	L02487	San Angelo	46	06/25/09
San Angelo	Miltiadis Leon, M.D.	L06102	San Angelo	02	06/25/09
San Antonio	Christus Santa Rosa Health Care	L02237	San Antonio	103	06/23/09
San Antonio	University of Texas at San Antonio	L01962	San Antonio	61	06/22/09
San Antonio	VHS San Antonio Partners L.L.C. dba Baptist Health System	L00455	San Antonio	188	06/25/09
Stephenville	Stephenville Medical and Surgical Clinic	L05309	Stephenville	16	06/22/09
Sugar Land	Methodist Sugar Land Hospital	L05788	Sugar Land	17	06/12/09
The Woodlands	Memorial Hermann Hospital System dba Memorial Hermann Hospital The Woodlands	L03772	The Woodlands	72	06/26/09
Throughout Tx	Desert Industrial X-ray L.P.	L04590	Abilene	97	06/29/09
Throughout Tx	Recon Petrotechnologies Inc.	L06026	Alvarado	10	06/25/09
Throughout Tx	Team Industrial Services Inc.	L00087	Alvin	207	06/17/09
Throughout Tx	Team Industrial Services Inc.	L00087	Alvin	208	06/25/09
Throughout Tx	Professional Services Industries	L04947	Austin	19	06/17/09
Throughout Tx	Radiation Technology Inc.	L04633	Austin	26	06/23/09
Throughout Tx	Thermo Finigan L.L.C.	L01186	Austin	45	06/23/09
Throughout Tx	ExxonMobil Oil Corporation	L00603	Beaumont	90	06/23/09
Throughout Tx	Brazos Valley Inspection Services Inc.	L02859	Bryan	70	06/23/09
Throughout Tx	Phoenix Non Destructive Testing Company	L04454	Channelview	58	06/26/09
Throughout Tx	Arctic Pipe Inspection	L05210	Channelview	05	06/22/09
Throughout Tx	NDE Solutions L.L.C.	L05879	College Station	23	06/25/09
Throughout Tx	N-Spec Quality Services Inc.	L05113	Corpus Christi	37	06/18/09
Throughout Tx	Wilson Inspection X-Ray Services Inc.	L04469	Corpus Christi	61	06/22/09
Throughout Tx	GAF Materials Corporation	L03811	Dallas	16	06/23/09

AMENDMENTS TO EXISTING LICENSES ISSUED: (CONTINUED)

Location	Name	License #	City	Amendment #	Date of Action
Throughout Tx	Waggoner & Associates Inc. dba Waggoner-Texas & Associates Inc.	L06159	Flint	09	06/18/09
Throughout Tx	H & H X-Ray Services Inc	L02516	Flint	80	06/18/09
Throughout Tx	Radiation Environmental Management L.L.C.	L06217	Graham	01	06/11/09
Throughout Tx	Pioneer Wireline Services L.L.C.	L06220	Graham	02	06/25/09
Throughout Tx	Professional Services Industries	L04944	Harlingen	10	06/29/09
Throughout Tx	Aster Corporation	L04741	Houston	31	06/22/09
Throughout Tx	Halliburton Energy Services Inc.	L03284	Houston	35	06/23/09
Throughout Tx	Material Inspection Technology Inc.	L05672	Houston	33	06/24/09
Throughout Tx	HVJ Associates Inc	L03813	Houston	38	06/29/09
Throughout Tx	QC Laboratories Inc.	L05956	Houston	06	06/23/09
Throughout Tx	QC Laboratories Inc.	L05956	Houston	07	06/30/09
Throughout Tx	Acuren Inspection Inc.	L01774	La Porte	256	06/17/09
Throughout Tx	Non Destructive Inspection Corporation	L02712	Lake Jackson	139	06/23/09
Throughout Tx	Howland Surveying Company Inc. dba Howland Engineering and Surveying Company.	L05543	Laredo	06	06/08/09
Throughout Tx	Longview Asphalt Inc.	L04827	Longview	09	06/11/09
Throughout Tx	Spectro Analytical Instruments Inc.	L02788	Marble Falls	48	06/23/09
Throughout Tx	Perf - O - Log L.L.C.	L05478	Midland	23	06/15/09
Throughout Tx	American X-Ray & Inspection Services Inc. dba A X I S Inc.	L05974	Midland	19	06/16/09
Throughout Tx	American X-Ray & Inspection Services Inc. dba A X I S Inc.	L05974	Midland	20	06/26/09
Throughout Tx	TechCorr USA L.L.C.	L05972	Pasadena	62	06/16/09
Throughout Tx	Ludlum Measurements Inc.	L01963	Sweetwater	85	06/23/09
Throughout Tx	Blazer Inspection Inc.	L04619	Texas City	59	06/22/09
Tomball	Tomball Hospital Authority dba Tomball Regional Hospital	L02514	Tomball	48	06/16/09
Tomball	Northwest Houston Heart Center	L05958	Tomball	03	06/22/09
Tyler	The University of Texas Health Science Center at Tyler	L04117	Tyler	42	06/22/09
Uvalde	Uvalde County Hospital Authority dba Uvalde Memorial Hospital	L03327	Uvalde	17	06/22/09
Victoria	Citizens Medical Center	L00283	Victoria	79	06/15/09
Wichita Falls	United Regional Health Care Systems Inc.	L00350	Wichita Falls	106	06/22/09
Winnsboro	Texas Health Presbyterian Hospital Winnsboro	L03336	Winnsboro	23	06/23/09

RENEWAL OF LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Angleton	Dr. Salim F. Dabaghi dba Angleton Cardiology Clinic	L05353	Angleton	07	06/17/09
Houston	METCO	L03018	Houston	199	06/18/09

TERMINATIONS OF LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Bremond	Altura Power L.P.	L04280	Bremond	13	06/18/09
Dallas	Spectrum Global Services Inc.	L05593	Dallas	02	06/22/09
Mission	Baaxten Imaging Center L.L.C.	L05941	Mission	01	06/18/09
Navasota	St. Joseph Regional Health Center dba Grimes St. Joseph Health Center	L05968	Navasota	02	06/11/09

TERMINATIONS OF LICENSES ISSUED: (CONTINUED)

Location	Name	License #	City	Amendment #	Date of Action
Throughout Tx	Mikell Clifton Gallagher dba Gallagher Materials Testing	L05897	Bryant	03	06/10/09
Throughout Tx	City of Dallas Water Utilities	L03829	Dallas	18	06/19/09

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

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

TRD-200902802
 Lisa Hernandez
 General Counsel
 Department of State Health Services
 Filed: July 8, 2009



Notice of Amendment to the Texas Schedules of Controlled Substances

This amendment was signed by the Commissioner of Health on July 2, 2009, and will become effective 21 days after date of publication of this notice in the *Texas Register*.

Senate Bill 904, passed by the 81st Texas Legislature amends Health and Safety Code, Chapter 481, the Texas Controlled Substances Act (CSA), adding new §481.037, which places carisoprodol into Schedule IV of the CSA. This notice of amendment documents the addition of carisoprodol to Schedule IV.

The Deputy Administrator of the Drug Enforcement Administration (DEA) placed the substance tapentadol into Schedule II of the United States Controlled Substance Act (USCSA) and lacosamide [(R)-2-acetoamido-N-benzyl-3-methoxy-propionamide] into Schedule V of the USCA effective June 22, 2009. This final rule was published in the *Federal Register*, Volume 74, Number 97, pages 23789 - 23793. The Deputy Administrator of the DEA based these actions on the following:

- (1) Tapentadol has a high potential for abuse;
- (2) Tapentadol has a currently accepted medical use in treatment in the United States; and
- (3) Abuse of tapentadol may lead to severe psychological or physical dependence.
- (4) Lacosamide has a low potential for abuse relative to the drugs or other substances in Schedule IV;
- (5) Lacosamide has a currently accepted medical use in treatment in the United States; and

(6) Abuse of lacosamide may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in Schedule IV.

Pursuant to §481.034(g), as amended by the 75th legislature, of the Texas Controlled Substances Act, Health and Safety Code, Chapter 481, at least thirty-one days have expired since notice of the above referenced action was published in the *Federal Register*; and, David L. Lakey, M.D., Commissioner of the Texas Department of State Health Services, does hereby order that the substance tapentadol be added to Schedule II and lacosamide [(R)-2-acetoamido-N-benzyl-3-methoxy-propionamide] be added to Schedule V of the Texas Controlled Substances Act. Additionally, carisoprodol is added to Schedule IV to reflect the enactment of §481.037 of the Texas Health and Safety Code. Schedule II, Schedule IV and Schedule V of the Texas Controlled Substances Act are hereby amended to read as follows:

SCHEDULE II

Schedule II consists of:

Schedule II substances, vegetable origin or chemical synthesis * * *

Opiates

The following opiates, including their isomers, esters, ethers, salts, and salts of isomers, if the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (1) Alfentanil;
- (2) Alphaprodine;
- (3) Anileridine;
- (4) Bezitramide;
- (5) Carfentanil;
- (6) Dextropropoxyphene, bulk (nondosage form);
- (7) Dihydrocodeine;
- (8) Diphenoxylate;
- (9) Fentanyl;
- (10) Isomethadone;

- (11) Levo-alphaacetylmethadol (some trade or other names: levo-alphaacetylmethadol, levomethadyl acetate, LAAM);
- (12) Levomethorphan;
- (13) Levorphanol;
- (14) Metazocine;
- (15) Methadone;
- (16) Methadone-Intermediate, 4-cyano-2-dimethylamino-4,4-diphenyl butane;
- (17) Moramide-Intermediate, 2-methyl-3-morpholino-1,1-diphenylpropane-carboxylic acid;
- (18) Pethidine (meperidine);
- (19) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
- (20) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
- (21) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- (22) Phenazocine;
- (23) Piminodine;
- (24) Racemethorphan;
- (25) Racemorphan;
- (26) Remifentanil; and
- (27) Sufentanil.
- (28) Tapentadol*

Schedule II stimulants * * *

Schedule II depressants * * *

Schedule II hallucinogenic substances * * *

SCHEDULE IV

Schedule IV consists of:

Schedule IV depressants * * *

Schedule IV stimulants * * *

Schedule IV narcotics * * *

Schedule IV other substances

Unless specifically excepted or unless listed in another schedule, a material, compound, substance's salts:

- (1) Butorphanol, including its optical isomers; and
- (2) Pentazocine, its salts, derivatives, compounds, or mixtures
- (3) Carisoprodol*

SCHEDULE V

Schedule V consists of:

Schedule V narcotics containing non-narcotic active medicinal ingredients * * *

Schedule V stimulants * * *

Schedule V depressants

Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation, which con-

tains any quantity of the following substances having a depressant effect on the central nervous system, including its salts:

- (1) Lacosamide [(R)-2-acetoamido-N-benzyl-3-methoxy-propionamide]*
- (2) Pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic acid]

Changes to the Schedules are designated by a single asterisk (*)

TRD-200902766

Lisa Hernandez

General Counsel

Department of State Health Services

Filed: July 3, 2009



Notice of Availability of Texas Community Mental Health Services State Plan (Federal Community Mental Health Block Grant)

The Federal Community Mental Health Block Grant statute (42 USC 300x-51) requires that the Department of State Health Services (DSHS) make the Texas Community Mental Health Services State Plan available for public comment during its development.

DSHS is currently preparing the plan for Fiscal Year (FY) 2010 to describe the intended use of the Federal Community Mental Health Block Grant funds. These funds must be utilized by DSHS to develop new initiatives and/or enhance already existing service delivery systems for adults with severe mental illness and children with serious emotional disturbance.

The draft of the FY 2010 Texas Community Mental Health Services State Plan, when available on or about July 15, 2009, may be obtained on the DSHS website <http://www.dshs.state.tx.us/mhsa/mhbg>; or by contacting Mary Sowder at Operation Services, Community Mental Health and Substance Abuse Section, Department of State Health Services, Mail Code 2053, P.O. Box 149347, Austin, Texas 78714-9347, telephone (512) 206-5814.

Comments regarding the FY 2010 Texas Community Mental Health Services State Plan should be directed to MHBG@dshs.state.tx.us; or Mary Sowder, Operation Services, Community Mental Health and Substance Abuse Section, Department of State Health Services, Mail Code: 2053, P.O. Box 149347, Austin, Texas 78714-9347.

Comments must be received by 5:00 p.m. Central Daylight Saving Time, Friday, August 14, 2009.

TRD-200902798

Lisa Hernandez

General Counsel

Department of State Health Services

Filed: July 8, 2009



Notice of Opportunity for Public Comment on the Fiscal Year (FY) 2010 Statewide Substance Abuse Block Grant (Federal Substance Abuse Prevention and Treatment Block Grant)

Federal statutes (42 USC 300x-21-64) governing the Substance Abuse Prevention and Treatment Block Grant (SAPTBG) include provisions that require the state to provide an annual report of current service activities and make available for public comment a description of the intended use of block grant funds in advance of each federal fiscal year.

The funds made available through the SAPTBG are to be used for maintaining and enhancing a quality statewide substance abuse service sys-

tem and highlighting priority issues related to federally funded substance abuse prevention and treatment services statewide. When the SAPTBG Intended Use Plan is available on or about August 11, 2009, it can be obtained on the Department of State Health Services (DSHS) website <http://www.dshs.state.tx.us/mhsa/sabg>; or by contacting Mary Sowder at Operation Services, Community Mental Health and Substance Abuse Section, Department of State Health Services, Mail Code: 2053, P.O. Box 149347, Austin, Texas 78714-9347, telephone (512) 206-5814.

Public comments received by DSHS will be considered in the preparation and development of the FY 2010 Continuation Application.

Comments regarding the FY 2010 SAPTBG and the Intended Use Plan should be directed to: SAPTBG@dshs.state.tx.us; or Mary Sowder, Operation Services, Community Mental Health and Substance Abuse Section, Department of State Health Services, Mail Code 2053, P.O. Box 149347, Austin, Texas 78714-9347.

Comments must be received by 5:00 p.m. Central Daylight Saving Time, Friday, September 11, 2009.

TRD-200902799

Lisa Hernandez

General Counsel

Department of State Health Services

Filed: July 8, 2009

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Texas Higher Education Coordinating Board

Request for Proposal: Program Evaluation of Summer/Transition Programs 2009 to 2011

PURPOSE: The five (5) major objectives of the Program Evaluation of Summer/Transition Programs 2009 to 2011 are as follows:

To collect data on the effectiveness of five programs that are funded by the Texas Higher Education Coordinating Board (THECB):

High School Summer Bridge

Transition

Developmental Education Summer Bridge

Adult Basic Education (ABE), and

Intensive Summer programs

Program evaluation may include site visits, collection and analysis of data, submission of written and oral reports to the THECB and the program participants.

AWARDING OF CONTRACT: Agreement/Contract will be negotiated with an entity that is selected from among the Applicants who submit a Proposal under a Request for Proposals and that are determined through the evaluation process to have a successful Proposal. Submission of a Proposal confers no rights of Applicant to an award or to a subsequent Contract/Agreement, if there is one. The issuance of the RFP does not guarantee that a Contract/Agreement will ever be awarded. THECB reserves the right to amend the terms and provisions of the RFP, negotiate with Applicant, add, delete, or modify the Contract/Agreement and/or the terms of Proposal submitted, extend the deadline for submission of Proposal, or withdraw the RFP entirely for any reason solely at THECB's discretion. An individual Proposal may be rejected if it fails to meet any requirement of the RFP.

INQUIRIES: All inquiries shall be directed to Robin Etter Zuniga, Senior Program Evaluator, at robin.zuniga@theccb.state.tx.us.

Applicant must not discuss a Proposal with any other THECB employee unless authorized by the Point of Contact. Questions must be submitted in writing and received no later than July 15, 2009 at 5:00 p.m. C.S.T. All responses by THECB must be in writing in order to be binding. Any information deemed by THECB to be important and of general interest or which modify requirements of the RFP shall be sent in the form of an addendum to all Applicants that have submitted a Notice of Intent or a Proposal.

CLOSING DATE: July 31, 2009 at 5:00 p.m. C.S.T.

TRD-200902808

Bill Franz

General Counsel

Texas Higher Education Coordinating Board

Filed: July 8, 2009

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Texas Department of Insurance

Third Party Administrator Applications

The following third party administrator (TPA) applications have been filed with the Texas Department of Insurance and are under consideration.

Application of NATIONAL BENEFIT SERVICES, LLC, a foreign third party administrator. The home office is WEST JORDAN, UTAH.

Application to change the name of HARRINGTON BENEFIT SERVICES, INC. (doing business as FISERV HEALTH - HARRINGTON) to HARRINGTON HEALTH SERVICES, INC., a foreign third party administrator. The home office is WILMINGTON, DELAWARE.

Application to change the name of PHYSICIANS HEALTHCARE ASSOCIATES, P.A. to EL PASO MED PARTNERS, P.A., a domestic third party administrator. The home office is EL PASO, TEXAS.

Application to change the name of DENTAL NETWORK OF AMERICA, INC. to DENTAL NETWORK OF AMERICA, LLC, a foreign third party administrator. The home office is DOVER, DELAWARE.

Application to change the name of MULTINATIONAL UNDERWRITERS, LLC to HCC MEDICAL INSURANCE SERVICES, LLC., a foreign third party administrator. The home office is MILWAUKEE, WISCONSIN.

Application to change the home office of USB ENROLLMENT SERVICES, LLC, DALLAS, TEXAS to BEDFORD, TEXAS, a domestic third party administrator.

Any objections must be filed within 20 days after this notice is published in the *Texas Register*, addressed to the attention of David Moskowitz, MC 305-2E, 333 Guadalupe, Austin, Texas 78701.

TRD-200902809

Gene C. Jarmon

General Counsel and Chief Clerk

Texas Department of Insurance

Filed: July 8, 2009

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Texas Department of Licensing and Regulation

Vacancies on Polygraph Advisory Committee

The Texas Department of Licensing and Regulation (Department) announces vacancies on the Polygraph Advisory Committee established by Texas Occupations Code, Chapter 1701. The purpose of the Polygraph Advisory Committee (Committee) is to advise the Texas Com-

mission of Licensing and Regulation (Commission) and the Department on: educational requirements for a polygraph examiner; the content of licensing examination; technical issues related to a polygraph examination; the specific offenses for which a conviction would constitute grounds for the department to take action under §53.021; and administering and enforcing Chapter 1701.

The Committee is composed of five members appointed by the presiding officer of the Commission, with the Commission's approval. The advisory board consists of the following members: two polygraph examiner members who are qualified polygraph examiners for a governmental law enforcement agency; two polygraph examiner members who are qualified polygraph examiners in the commercial field; and one member who represents the public. A member must have been a United States citizen and a resident of this state for at least two years before the date of appointment. A polygraph examiner member must be actively engaged as a polygraph examiner on the date of appointment. Two committee members may not be employed by the same person. Members serve terms of six years, with the terms of one or two members, as appropriate, expiring on February 1 of each odd-numbered year. This announcement is for the five aforementioned positions.

Interested persons should request an application from the Texas Department of Licensing and Regulation by telephone (512) 475-4765, FAX (512) 475-2874 or Email advisory.boards@license.state.tx.us. Applications may also be downloaded from the Department website at: www.license.state.tx.us. Applicants may be asked to appear for an interview; however, any required travel for an interview would be at the applicant's expense.

TRD-200902810

William H. Kuntz, Jr.
Executive Director

Texas Department of Licensing and Regulation

Filed: July 8, 2009



Vacancies on Texas Tax Professional Advisory Committee

The Texas Department of Licensing and Regulation (Department) announces vacancies on the Texas Tax Professional Advisory Committee established by Texas Occupations Code, Chapter 1151. The purpose of the Texas Tax Professional Advisory Committee (Committee) is to recommend to the Texas Commission on Licensing and Regulation (Commission) rules and standards regarding technical issues relating to tax professionals; provide advice to the Commission regarding continuing education courses and curricula for registrants; provide advice to the Commission regarding the contents of any examination required by the Commission under this Chapter 1151; and educate, and respond to questions from, the Commission and the Department regarding issues affecting tax professionals.

The Committee is composed of seven members appointed by the presiding officer of the Commission, with the Commission's approval. The advisory board consists of the following members: two members who are certified under this chapter as registered professional appraisers; two members who are certified under this chapter as registered Texas collectors or registered Texas assessors; and three members who represent the public. A person may not be a public member of the committee if the person or the person's spouse: is registered, certified, or licensed by a regulatory agency in the field of property tax appraisal, assessment, or collection; is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the department; owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the department; uses or receives

a substantial amount of tangible goods, services, or money from the department other than compensation or reimbursement authorized by law for committee membership, attendance, or expenses; or at any time has served on an appraisal review board. A person may not be a member of the committee if: the person is an officer, employee, or paid consultant of a Texas trade association in the field of property tax appraisal, assessment, or collection; or the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of property tax appraisal, assessment, or collection. A person may not be a member of the committee if the person or the person's spouse is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the Committee or the Department. Members serve terms of six years, with the terms of one or two members expiring on March 1 of each odd-numbered year. This announcement is for the seven aforementioned positions.

Interested persons should request an application from the Texas Department of Licensing and Regulation by telephone (512) 475-4765, FAX (512) 475-2874 or Email advisory.boards@license.state.tx.us. Applications may also be downloaded from the Department website at: www.license.state.tx.us. Applicants may be asked to appear for an interview; however, any required travel for an interview would be at the applicant's expense.

TRD-200902812

William H. Kuntz, Jr.

Executive Director

Texas Department of Licensing and Regulation

Filed: July 8, 2009



Vacancies on Used Automotive Parts Recycling Advisory Board

The Texas Department of Licensing and Regulation (Department) announces vacancies on the Used Automotive Parts Recycling Advisory Board (Board) established by Texas Occupations Code, Chapter 2309. The purpose of the Used Automotive Parts Recycling Advisory Board is to provide advice and recommendations to the Texas Commission of Licensing and Regulation (Commission) and the Department on: technical matters relevant to the administration and enforcement of Chapter 2309, including licensing standards.

The Board is composed of five members appointed by the presiding officer of the Commission, with the Commission's approval. The advisory board consists of the following members: four members who represent used automotive parts businesses owned by domestic entities, as defined by §1.002, Business Organizations Code, one member who represents a used automotive parts business owned by a foreign entity, as defined by §1.002, Business Organizations Code; and may not include more than one member from any one used automotive parts business entity. Members serve terms of six years, with the terms of one or two members expiring on February 1 of each odd-numbered year. This announcement is for the five positions listed above.

Interested persons should request an application from the Texas Department of Licensing and Regulation by telephone (512) 475-4765, FAX (512) 475-2874 or Email advisory.boards@license.state.tx.us. Applications may also be downloaded from the Department website at: www.license.state.tx.us. Applicants may be asked to appear for an interview; however, any required travel for an interview would be at the applicant's expense.

TRD-200902811

William H. Kuntz, Jr.
Executive Director
Texas Department of Licensing and Regulation
Filed: July 8, 2009

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Texas Lottery Commission

Instant Game Number 1208 "Tripler"

1.0 Name and Style of Game.

A. The name of Instant Game No. 1208 is "TRIPLER". The play style is "key number match with tripler".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 1208 shall be \$3.00 per ticket.

1.2 Definitions in Instant Game No. 1208.

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, CIRCLED \$ SIGN SYMBOL, \$3.00, \$6.00, \$9.00, \$10.00, \$15.00, \$18.00, \$27.00, \$30.00, \$60.00, \$90.00, \$100, \$300, \$1,000, \$3,000, 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. 1208 - 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
CIRCLED \$ SIGN SYMBOL	WIN
\$3.00	THREE\$
\$6.00	SIX\$
\$9.00	NINE\$
\$10.00	TEN\$
\$15.00	FIFTN
\$18.00	EGHTN
\$27.00	TWY SVN
\$30.00	THIRTY
\$60.00	SIXTY
\$90.00	NINTY
\$100	ONE HUND
\$300	THR HUND
\$1,000	ONE THOU
\$3,000	THR THOU
\$30,000	30 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 \$3.00, \$6.00, \$9.00, \$15.00 or \$18.00.

G. Mid-Tier Prize - A prize of \$27.00, \$30.00, \$60.00, \$90.00 or \$300.

H. High-Tier Prize - A prize of \$3,000 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 (1208), 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: 1208-0000001-001.

K. Pack - A pack of "TRIPLER" 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 "TRIPLER" Instant Game No. 1208 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 "TRIPLER" Instant Game is determined once the latex on the ticket is scratched off to expose 48 (forty-eight) Play Symbols. If a player reveals 2 matching numbers within a GAME, the player wins PRIZE shown for that GAME. If a player reveals 3 matching numbers within a GAME, the player wins TRIPLE the PRIZE shown for that GAME. If a player reveals a "CIRCLED \$ SIGN" play symbol, the player wins the PRIZE shown for that GAME instantly! No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly 48 (forty-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 48 (forty-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 48 (forty-eight) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 48 (forty-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 will not have identical play data, spot for spot.

B. The "CIRCLED \$ SIGN" (auto-win) play symbol will never appear more than once on a ticket.

C. When the "CIRCLED \$ SIGN" (auto-win) play symbol appears, there will be no occurrence of any matching play symbols within that GAME.

D. No more than two matching non-winning prize symbols will appear on a ticket.

E. Non-winning prize symbols will never be the same as the winning prize symbol(s).

F. No prize amount in a non-winning spot will correspond with one of the play symbols in that GAME (i.e. 10 and \$10).

G. There will be three matching play symbols within a GAME on winning tickets only as dictated by the prize structure.

H. There will be no duplicate non-winning GAMES in any order on a ticket.

I. Non-winning tickets will contain no more than 6 of the same play symbols.

J. There will be no occurrence of two matching play symbols within a GAME with an adjacent GAME having the same symbol.

K. The top prize symbol will appear on every ticket unless otherwise restricted.

2.3 Procedure for Claiming Prizes.

A. To claim a "TRIPLER" Instant Game prize of \$3.00, \$6.00, \$9.00, \$15.00, \$18.00, \$27.00, \$30.00, \$60.00, \$90.00 or \$300, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$27.00, \$30.00, \$60.00, \$90.00 or \$300 ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "TRIPLER" Instant Game prize of \$3,000 or \$30,000, the claimant must sign the winning ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "TRIPLER" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;
2. delinquent in making child support payments administered or collected by the Attorney General;
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 "TRIPLER" 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 "TRIPLER" 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 Section 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. 1208. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 1208 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in**
\$3	384,000	15.63
\$6	528,000	11.36
\$9	108,000	55.56
\$15	36,000	166.67
\$18	60,000	100.00
\$27	48,000	125.00
\$30	48,000	125.00
\$60	16,650	360.36
\$90	6,500	923.08
\$300	1,400	4,285.71
\$3,000	16	375,000.00
\$30,000	6	1,000,000.00

*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 4.85. 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. 1208 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. 1208, 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-200902785
 Kimberly L. Kiplin
 General Counsel
 Texas Lottery Commission
 Filed: July 7, 2009



Instant Game Number 1210 "Lucky Slots"

1.0 Name and Style of Game.

A. The name of Instant Game No. 1210 is "LUCKY SLOTS". The play style is "slots-straight line".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 1210 shall be \$1.00 per ticket.

1.2 Definitions in Instant Game No. 1210.

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: APPLE SYMBOL, ORANGE SYMBOL, MELON SYMBOL, BANANA SYMBOL, STAR SYMBOL, LEMON SYMBOL, BELL SYMBOL, HORSE SHOE SYMBOL, CLOVER SYMBOL, GOLD BAR SYMBOL, SEVEN SYMBOL, WISHBONE SYMBOL, CROWN SYMBOL, DIAMOND SYMBOL, CHERRY SYMBOL, \$1.00, \$2.00, \$4.00, \$5.00, \$10.00, \$20.00, \$40.00, \$100 and \$1,000.

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. 1210 - 1.2D

PLAY SYMBOL	CAPTION
APPLE SYMBOL	APL
ORANGE SYMBOL	ORG
MELON SYMBOL	MEL
BANANA SYMBOL	BAN
STAR SYMBOL	STA
LEMON SYMBOL	LEM
BELL SYMBOL	BEL
HORSE SHOE SYMBOL	SHO
CLOVER SYMBOL	CLO
GOLD BAR SYMBOL	BAR
SEVEN SYMBOL	SVN
WISHBONE SYMBOL	WBN
CROWN SYMBOL	CRN
DIAMOND SYMBOL	DMD
CHERRY SYMBOL	CHY
\$1.00	ONE\$
\$2.00	TWO\$
\$4.00	FOUR\$
\$5.00	FIVE\$
\$10.00	TEN\$
\$20.00	TWENTY
\$40.00	FORTY
\$100	ONE HUND
\$1,000	ONE 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 \$1.00, \$2.00, \$4.00, \$5.00, \$10.00 or \$20.00.

G. Mid-Tier Prize - A prize of \$40.00 or \$100.

H. High-Tier Prize - A prize of \$1,000.

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 (1210), a seven (7) digit pack number, and a three (3) digit ticket number. Ticket numbers start with 001 and end with 150 within each pack. The format will be: 1210-0000001-001.

K. Pack - A pack of "LUCKY SLOTS" Instant Game tickets contains 150 tickets, packed in plastic shrink-wrapping and fanfolded in pages

of five (5). Tickets 001 to 005 will be on the top page; tickets 006 to 010 on the next page; etc.; and tickets 146 to 150 will be on the last page with backs exposed. Ticket 001 will be folded over so the front of ticket 001 and 010 will be exposed.

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

M. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "LUCKY SLOTS" Instant Game No. 1210 ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general ticket validation requirements set forth in Texas Lottery Rule 401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each instant ticket. A prize winner in the "LUCKY SLOTS" Instant Game is determined once the latex on the ticket is scratched off to expose 16 (sixteen) Play symbols. If a player reveals 3 matching symbols within a GAME, the player wins the PRIZE for that GAME. If a player reveals a "BAR" play symbol, the player wins the PRIZE for that GAME instantly. No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly 16 (sixteen) 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 16 (sixteen) 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 16 (sixteen) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures.
17. Each of the 16 (sixteen) 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. No matching non-winning prize symbols on a ticket.
- C. No matching non-winning games on a ticket (in any order).
- D. Non-winning prize symbols will never be the same as the winning prize symbol(s).
- E. The BAR (auto win) play symbol will only appear once on a ticket.
- F. There will be many near wins (two matching symbols within a game) on a ticket.
- G. The top prize will appear on every ticket unless otherwise restricted by the prize structure.

2.3 Procedure for Claiming Prizes.

A. To claim a "LUCKY SLOTS" Instant Game prize of \$1.00, \$2.00, \$4.00, \$5.00, \$10.00, \$20.00, \$40.00 or \$100, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, 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 \$40.00 or \$100 ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "LUCKY SLOTS" Instant Game prize of \$1,000, 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 "LUCKY SLOTS" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;
 2. delinquent in making child support payments administered or collected by the Attorney General; or
 3. delinquent in reimbursing the Texas 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 "LUCKY SLOTS" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of more than \$600 from the "LUCKY SLOTS" 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 11,040,000 tickets in the Instant Game No. 1210. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 1210 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in**
\$1	662,400	16.67
\$2	1,104,000	10.00
\$4	276,000	40.00
\$5	73,600	150.00
\$10	73,600	150.00
\$20	32,200	342.86
\$40	17,940	615.38
\$100	920	12,000.00
\$1,000	92	120,000.00

*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 4.93. 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. 1210 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. 1210, 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-200902786
 Kimberly L. Kiplin
 General Counsel
 Texas Lottery Commission
 Filed: July 7, 2009



Instant Game Number 1212 "\$50,000 Cash"

1.0 Name and Style of Game.

A. The name of Instant Game No. 1212 is "\$50,000 CASH". The play style is "key number match with auto win".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 1212 shall be \$5.00 per ticket.

1.2 Definitions in Instant Game No. 1212.

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, DOLLAR BILL SYMBOL, MONEYBAG SYMBOL, \$5.00, \$10.00, \$15.00, \$20.00, \$25.00, \$40.00, \$50.00, \$100, \$500, \$1,000 and \$50,000.

Figure 1: GAME NO. 1212 - 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
DOLLAR BILL SYMBOL	BILL
MONEYBAG SYMBOL	WINX5
\$5.00	FIVE\$
\$10.00	TEN\$
\$15.00	FIFTN
\$20.00	TWENTY

\$25.00	TWY FIV
\$40.00	FORTY
\$50.00	FIFTY
\$100	ONE HUND
\$500	FIV HUND
\$1,000	ONE THOU
\$50,000	50 THOU

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

F. Low-Tier Prize - A prize of \$5.00, \$10.00, \$15.00 or \$20.00.

G. Mid-Tier Prize - A prize of \$50.00, \$100 or \$500.

H. High-Tier Prize - A prize of \$1,000, \$5,000 or \$50,000.

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 (1212), 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: 1212-0000001-001.

K. Pack - A pack of "\$50,000 CASH" 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 "\$50,000 CASH" Instant Game No. 1212 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 "\$50,000 CASH" Instant Game is determined once the latex on the ticket is scratched off to expose 45 (forty-five) Play Symbols. If a player matches any of YOUR NUMBERS play symbols to any of the WINNING NUMBERS play symbols, the player wins the PRIZE shown for that number. If the player reveals a "dollar bill" play symbol, the player wins PRIZE shown for that symbol instantly. If the player reveals a "moneybag" play symbol, the player wins 5 TIMES the PRIZE shown for that symbol No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly 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 "DOLLAR BILL" (auto win) play symbol will never appear more than once on a ticket.

C. The "MONEYBAG" (win x 5) play symbol will only appear on intended winning tickets and only as dictated by the prize structure.

D. No more than three (3) matching non-winning prize symbols will appear 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. No prize amount in a non-winning spot will correspond with the YOUR NUMBERS play symbol (i.e. 5 and \$5).

I. The top prize symbol will appear on every ticket unless otherwise restricted.

2.3 Procedure for Claiming Prizes.

A. To claim a "\$50,000 CASH" Instant Game prize of \$5.00, \$10.00, \$15.00, \$20.00, \$50.00, \$100 or \$500, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$50.00, \$100 or \$500 ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "\$50,000 CASH" Instant Game prize of \$1,000, \$5,000 or \$50,000, the claimant must sign the winning ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by

the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "\$50,000 CASH" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;

2. delinquent in making child support payments administered or collected by the Attorney General;

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 "\$50,000 CASH" 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 "\$50,000 CASH" 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 7,080,000 tickets in the Instant Game No. 1212. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 1212 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in**
\$5	566,400	12.50
\$10	755,200	9.38
\$15	212,400	33.33
\$20	188,800	37.50
\$50	94,400	75.00
\$100	9,086	779.22
\$500	944	7,500.00
\$1,000	177	40,000.00
\$5,000	20	354,000.00
\$50,000	7	1,011,428.57

*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 3.87. 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. 1212 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. 1212, 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-200902796
 Kimberly L. Kiplin
 General Counsel
 Texas Lottery Commission
 Filed: July 8, 2009



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-200902770
 Leslie Hardin
 Training and Support Coordinator, Workforce Development Facilities
 Panhandle Regional Planning Commission
 Filed: July 6, 2009

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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 3,000 square feet of contiguous space that can be appropriately configured for business/professional use. The office is currently located at 121 West 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-200902771

Leslie Hardin
Training and Support Coordinator, Workforce Development Facilities
Panhandle Regional Planning Commission
Filed: July 6, 2009

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Texas Parks and Wildlife Department

Notice of Contested Case Hearing

Application of Joe Long and Mark Stephenson

This is notice of a contested case hearing on the application of Joe Long and Mark Stephenson for a permit from the Texas Parks and Wildlife Department (TPWD) under Parks and Wildlife Code, Chapter 86, to remove sedimentary material from the bed of the Llano River in Llano County. The location of the proposed dredging operation is approximately 12 miles downstream from the Highway 16 crossing and 2 miles upstream from the FM 3404 crossing.

The hearing will begin at 9:00 a.m. on Tuesday, August 4, 2009, at the William P. Clements Building, 300 W. 15th Street, 4th floor, Austin, Texas 78701. The hearing will be held under the authority and jurisdiction of Parks and Wildlife Code, Chapter 86. The hearing will concern whether the application meets the criteria in sections of Water Code, §§86.003 - 86.005 and 31 TAC §§69.101, 69.102, 69.104 - 69.108, and 69.114.

TRD-200902784

Ann Bright
General Counsel
Texas Parks and Wildlife Department
Filed: July 7, 2009

◆ ◆ ◆
Public Utility Commission of Texas

Announcement of Application for Amendment to a State-Issued Certificate of Franchise Authority

The Public Utility Commission of Texas received an application on June 30, 2009, for an amendment to a state-issued certificate of franchise authority (CFA), pursuant to §§66.001 - 66.016 of the Public Utility Regulatory Act (PURA).

Project Title and Number: Application of Friendship Cable of Texas, Inc. d/b/a Suddenlink Communications for an Amendment to its State-Issued Certificate of Franchise Authority, Project Number 37170 before the Public Utility Commission of Texas.

The requested amendment is to expand the service area footprint to include the City Limits of Center and Nocona, 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 (800) 735-2989. All inquiries should reference Project Number 37170.

TRD-200902781

Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: July 6, 2009

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Notice of Application for Waiver of Denial of Request for NXX Code

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on July 6, 2009, for waiver of denial by the Pooling Administrator (PA) of Southwestern Bell Telephone Company d/b/a AT&T Texas' (AT&T Texas) request for one thousand-block of numbers on behalf of its customer, the H.E.B. Grocery Company in the 254 NPA, in the Temple rate center.

Docket Title and Number: Petition of Southwestern Bell Telephone Company d/b/a AT&T Texas for Waiver of Denial of Numbering Resources, Docket Number 37186.

The Application: AT&T Texas submitted an application to the PA for the requested NPA/NXX in accordance with the current guidelines. The PA denied the request because AT&T Texas did not meet the months-to-exhaust and utilization criteria established by the Federal Communications Commission.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477 no later than July 22, 2009. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All comments should reference Docket Number 37186.

TRD-200902793

Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: July 7, 2009

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Notice of a Petition for Declaratory Order

Notice is given to the public of a petition for declaratory order filed with the Public Utility Commission of Texas on July 1, 2009.

Docket Style and Number: Petition for Declaratory Order of Southwestern Public Service Company Regarding the Generation Demand Charge as a Cap On Compensation for Interruptible Resources, Docket Number 37173.

The Application: Southwestern Public Service Company (SPS) filed a petition for declaratory order regarding the generation demand charge as a cap on compensation for interruptible resources. SPS stated that this petition results from an unopposed settlement reached by the parties in *Application of Southwestern Public Service Company to (1) Revise its Interruptible Credit Option Tariff; (2) Implement a New Saver's Switch Tariff; and (3) Related Relief*, Docket Number 35668, SOAH Docket Number 473-08-3859, Order (November 24, 2008), which al-

lowed SPS to increase the credits it pays to interruptible customers and make other changes to its Interruptible Credit Option (ICO) tariff, which is a program for acquiring interruptible capacity from large commercial and industrial customers.

SPS seeks a declaratory order finding (1) that SPS may compensate customers for interruptible capacity consistent with an assessment of the value of that capacity based on avoided costs; (2) that SPS is not required to cap the compensation paid to customers for interruptible resources at the level of the customer's generation demand charge; and (3) that SPS may pay credits that are above the generation portion of the demand charge to customers participating in its ICO tariff.

Persons who wish to intervene in the proceeding or comment upon the action sought should contact the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326, or call the Commission's Customer Protection Division at (512) 936-7120 or (888) 782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or use Relay Texas (toll-free) 1-800-735-2989. All correspondence should refer to Docket Number 37173.

TRD-200902782

Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: July 6, 2009



Public Notice of Workshop on Cable and Video Service Provider Study

The staff of the Public Utility Commission of Texas (commission) will hold a workshop regarding the cable and video service provider study required by Texas Senate Bill (SB) 1, 81st Legislature, R.S. (2009), Rider 10 (Study) on Wednesday, July 22, 2009, at 9:00 a.m. in the Commissioner's Hearing Room, located on the 7th floor of the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701. Project Number 37172, *Study Concerning Cable and Video Providers Mandated by Texas Legislature*, has been established for this proceeding. The Commission asks attendees to come prepared to discuss the following questions relative to the Study.

1. What level of data is necessary to properly conduct the Study (*i.e.*, zip code, census block, census tract, etc.)?
2. How should this data be collected or obtained (*i.e.*, Staff-issued data requests, etc.)?
3. What are the possible sources of this data (*i.e.*, cable and video service providers, municipalities, etc.)?
4. What format should be used to present the Study the Legislature (*i.e.*, a spreadsheet, a map, a combination of both)?

Questions concerning the workshop or this notice should be referred to Susan E. Goodson, Attorney, Legal Division, (512) 936-7292. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136.

TRD-200902792

Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: July 7, 2009



Sabine County

Request for Comments and Proposals: Additional Medicaid Beds

Texas Department of Aging and Disability Services (DADS) rule 40 TAC §19.2322(h)(6) permits the county commissioners court of a rural county with a population of less than 100,000 and with no more than two Medicaid-Certified nursing facilities to request that DADS contract for additional Medicaid nursing facility beds in that county. This may be done without regard to the occupancy rate of available beds in the county.

The Sabine County Commissioners Court is considering requesting that DADS contract for additional Medicaid nursing facility beds in Sabine County. The Commissioners Court is soliciting public input and comments on whether the request should be made. Further, the Commissioners Court seeks proposals from persons interested in providing additional Medicaid beds in Sabine County to determine if qualified entities are interested in submitting proposals to provide these additional Medicaid beds in Sabine County. Comments and proposals may be submitted to Judge Charles Watson at P.O. Box 716, Hemphill, Texas 75948.

TRD-200902806

Charles Watson
County Judge
Sabine County
Filed: July 8, 2009



Texas Department of Savings and Mortgage Lending

Notice of Application

Notice is hereby given that on July 6, 2009, application was filed with the Savings and Mortgage Lending Commissioner of Texas for change of control of Colorado Valley Bank ssb, La Grange, Texas, by Austin Bancshares, Inc., Austin, Texas.

This application is filed pursuant to 7 TAC §§75.121 - 75.127 of the Rules and Regulations Applicable to Texas Savings Banks. These rules are on file with the Secretary of State, Texas Register Division, or may be seen at the Department's offices in the Finance Commission Building, 2601 North Lamar, Suite 201, Austin, Texas 78705.

TRD-200902791

Douglas B. Foster
Commissioner
Texas Department of Savings and Mortgage Lending
Filed: July 7, 2009



Texas State Technical College System

Request for Proposals for Bond Counsel

Texas State Technical College System (TSTC) is requesting proposals for bond counsel services for a local revenue bond issue. The deadline for proposal submission is 1:00 p.m., Friday, July 24, 2009.

TSTC's Board of Directors (the Board) will make its selection based upon demonstrated competence and qualifications. Firms responding to the Request for Proposal must maintain a Texas office staffed with personnel who are responsible for providing bond counsel services to TSTC. All things being equal, the Board will give first consideration to firms headquartered in Texas. By the Request for Proposal, however, the Board has not committed itself to employ bond counsel nor does the suggested scope of service or term of agreement therein require that the

bond counsel be employed for any or all of those purposes. The Board reserves the right to make those decisions after receipt of proposals and the Board's decision on these matters is final. The Board reserves the right to negotiate individual elements of the Firm's proposal and to reject any and all proposals.

Copies of the Request for Proposal may be obtained from the Electronic State Business Daily website at: <http://esbd.cpa.state.tx.us/>.

TRD-200902736

J. Gary Hendricks

Vice Chancellor for Financial and Administrative Services

Texas State Technical College System

Filed: July 1, 2009



Request for Proposals for Financial Advisor

Texas State Technical College System (TSTC) is requesting proposals for financial advisory services for a local revenue bond issue. The deadline for proposal submission is 1:00 p.m., July 24, 2009.

TSTC's Board of Directors (the "Board") will make its selection based upon demonstrated competence and qualifications. Firms responding to the Request for Proposal must maintain a Texas office staffed with personnel who are responsible for providing financial advisor services to TSTC. All things being equal, the Board will give first consideration to firms headquartered in Texas. By the Request for Proposal, however, the Board has not committed itself to employ a financial advisor nor does the suggested scope of service or term of agreement therein require that the financial advisor be employed for any or all of those purposes. The Board reserves the right to make those decisions after receipt of proposals and the Board's decision on these matters is final. The Board reserves the right to negotiate individual elements of the Firm's proposal and to reject any and all proposals.

Copies of the Request for Proposal may be obtained from Electronic State Business Daily website at <http://esbd.cpa.state.tx.us>.

TRD-200902737

J. Gary Hendricks

Vice Chancellor for Financial and Administrative Services

Texas State Technical College System

Filed: July 1, 2009



Texas Department of Transportation

Notice of Public Hearing and Extension of Comment Deadline on Proposed Revisions to 43 TAC §25.977

The Texas Department of Transportation (department) will conduct a public hearing to receive testimony concerning proposed revisions to 43 TAC §25.977, Reporting by Investigating Officers.

The proposed changes to 43 TAC §25.977 were posted in the June 12, 2009, issue of the *Texas Register* (34 TexReg 3920). The original comment deadline has been extended to **August 7, 2009**.

Pursuant to the Administrative Procedure Act, Government Code, Chapter 2001, the Texas Department of Transportation will conduct a public hearing to receive comments concerning the proposed rules. The public hearing will be held at 9:00 a.m. on August 4, 2009, in the first floor hearing room of the Dewitt C. Greer State Highway Building, 125 East 11th Street, Austin, Texas and will be conducted in accordance with the procedures specified in 43 TAC §1.5. Those desiring to make comments or presentations may register starting at

8:30 a.m. Any interested persons may appear and offer comments, either orally or in writing; however, questioning of those making presentations will be reserved exclusively to the presiding officer as may be necessary to ensure a complete record. While any person with pertinent comments will be granted an opportunity to present them during the course of the hearing, the presiding officer reserves the right to restrict testimony in terms of time and repetitive content. Organizations, associations, or groups are encouraged to present their commonly held views and identical or similar comments through a representative member when possible. Comments on the proposed text should include appropriate citations to sections, subsections, paragraphs, etc. for proper reference. Any suggestions or requests for alternative language or other revisions to the proposed text should be submitted in written form. Presentations must remain pertinent to the issues being discussed. A person may not assign a portion of his or her time to another speaker. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or Braille, are requested to contact Government and Public Affairs Division, 125 East 11th Street, Austin, Texas 78701-2483, (512) 305-9137 at least two working days prior to the hearing so that appropriate services can be provided.

Written comments on the proposed amendments to §25.977, as well as proposed revisions to the CR-3 form, may be submitted to Carol Rawson, P.E., Interim Director, Traffic Operations Division, 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 7, 2009.

TRD-200902788

Bob Jackson

General Counsel

Texas Department of Transportation

Filed: July 7, 2009



The Texas A&M University System

Award Notification

In accordance with the provisions of Texas Government Code, Chapter 2254, The Texas A&M University System has entered into a contract for Environmental Management System (EMS) Consulting Services and EMS Implementation Services for TAMUS and for participating TAMUS members under the direction and supervision of The TAMUS Office of Risk Management and Safety.

The Name and Address of Consultant is as follows: Avery Environmental Services, Inc., 1900 Georgia Landing Cove, Austin, Texas 78746.

The A&M System will pay an amount of \$115,900.00. The contract will begin on July 7, 2009 and shall terminate in one year, unless renewed for additional years not to exceed four years.

If any, the consultant will submit documents, films, recordings, or reports compiled by the consultant under the contract to TAMUS, no later than one year after completion of services.

Any questions regarding this posting should be directed to: Don Barwick, HUB and Procurement Manager, Office of HUB and Procurement Programs, The Texas A&M University System, 200 Technology Way, Ste. 1273, College Station, Texas 77845, Voice: (979) 458-6410, E-mail: dbarwick@tamu.edu.

TRD-200902803

Don Barwick
HUB and Procurement Manager
The Texas A&M University System
Filed: July 8, 2009

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Texas State University System

Request for Proposals for Outside Counsel

The Texas State University System (System) solicits responses to this Request for Proposal (RFP) from law firms interested in providing outside counsel services in the intellectual property area to the System and its component institutions for a one year renewable contract. The System may extend the agreement for these services for an additional period of up to 12 months. Based upon consideration of the responses to this RFP, the System may select one or more firms with which to contract for intellectual matters. The time and number of contracts resulting from this RFP and all procedures relating to such contracts are within the discretion of the System, contingent upon approval of the Office of the Attorney General.

It is the policy of the System to make a good faith effort to include participation of Historically Underutilized Businesses (HUB) certified firms in its contracts. A "HUB" is a for profit business that meets the requirements of Texas Government Code, Chapter 2161 and administrative rules of the Texas Comptroller of Public Accounts in 34 TAC Chapter 20, Subchapter B. In order to comply with the System's HUB policy, the System may select, from firms responding to this RFP, one or more firms to serve as intellectual property counsel.

THE SYSTEM

The System was created by the Texas Legislature in 1911; its institutional components include Lamar University, Sam Houston State University, Sul Ross State University (including Sul Ross Rio Grande College), Texas State University - San Marcos, Lamar Institute of Technology, Lamar State College - Orange, and Lamar State College - Port Arthur.

The System is governed by a nine-member Board plus one non-voting student regent. Regents are appointed by the Governor with consent of the Senate for six-year, staggered terms. The student regent is appointed by the Governor for a one-year term. The current members of the Board are: Ron Blatchley, Chairman; Trisha S. Pollard, Vice Chairman; Charlie Amato, Michael J. Truncale, Kevin Lilly, David Montagne, Ron Mitchell, Greg Wilkinson, and Donna Williams. The current student regent is William Patterson. Charles R. Matthews is Chancellor of the Texas State University System.

SCOPE OF SERVICES

Responses to this RFP should be based upon performance, under the direction of the Vice Chancellor and General Counsel, of the following tasks:

- (1) Assisting in making presentations and required submissions and obtaining approval of patents and other intellectual property.
- (2) Preparing resolutions, agreements, contracts, and other documents to which the System is a party and which will be necessary in connection with the issuance of patents.
- (3) Attending meetings as requested.
- (4) Preparing patents, licensing agreements, and other such documents.
- (5) Representing the System and its component institutions in presentations and proceedings involving patent applications.

(6) Rendering advice to the System and its component institutions on intellectual property matters.

(7) Assisting on other matters necessary or incidental to the intellectual property operations of the System and its component institutions.

Contract(s) resulting from this RFP shall be in the form provided by the Office of the Attorney General. With the approval of the Attorney General's office, a contract may include the following sentence: "This contract does not include litigation or contested case services." No other provision relating to the exclusion of services will be accepted.

SCHEDULE OF EVENTS

The System anticipates that the intellectual counsel RFP process will proceed in accordance with the following schedule:

July 1, 2009 - RFP Issued

July 15, 2009 - DEADLINE FOR SUBMISSION OF PROPOSALS (2:00 p.m.)

Evaluation Completed by August 1, 2009

Selection of firm(s) - August 8, 2009

The System reserves the right to change this schedule. Notice of any changes will be posted on the System's website at www.tsus.edu.

FORM OF RESPONSE

1. Overview of the Firm

Provide a brief description of your firm, including the total number of attorneys and employees, the number of attorneys practicing in the intellectual property area, and the number of years the firm has been engaged in such practice in Texas. Explain how your firm is organized and how its resources will be applied to the System's work.

2. Qualifications

Provide a brief narrative updating your firm's work since JANUARY 2006 assisting higher education clients with intellectual property work.

3. Resumes

Provide resumes of those persons who would be assigned to serve the System, and indicate specifically the proposed role of each individual. The resumes must clearly specify the number of years the attorney has been licensed to practice law in Texas, and/or other jurisdiction, and the number of years experience in intellectual property work. Further, identify who would be assigned as the primary, day-to-day contact for the System.

4. Business Practices

A. Participation of minorities and women.

(1) Describe your previous experience and involvement working with HUB certified firms (if your firm is not HUB certified) or as a HUB certified firm in a co-bond counsel relationship. Please describe your firm's approach to working with co-bond counsel, including level of effort, division of duties and providing opinions.

(2) Describe efforts made by the firm to encourage and develop the participation of minorities and women in the provision both of the firm's legal services generally and bond matters in particular. Specify whether the firm has adopted formal Equal Employment Opportunity and Affirmative Action policies, and provide a summary of the firm's hiring and promotion statistics for women and minority attorneys from January 2006 to date. Complete the grid describing workforce composition of your firm, which is attached as Exhibit B, and return it as part of your proposal. **Exhibit B is posted on the Texas State University System website at www.tsus.edu.**

5. Conflicts of Interest

Please disclose any actual or potential conflicts of interest. In addition, identify each matter in which the firm has, within the past calendar year, represented any entity or individual with an interest adverse to the System or to State of Texas, or any of its boards, agencies, commissions, universities, or elected or appointed officials.

6. References

Please provide names, addresses, and phone numbers of three references.

PROPOSAL MODIFICATION

Any response to this RFP may be modified or withdrawn at any time prior to the proposal due date. No changes will be allowed after the expiration of the proposal due date. The System reserves the right to make amendments to the RFP by giving written notice to all firms who receive the RFP or posting notice thereof as indicated in the RFP Notice published at www.tsus.edu.

TIME SCHEDULE AND SUBMISSION DIRECTIONS

Proposals are due no later than **2:00 p.m., July 15, 2009**. Proposals may be submitted electronically or by mail. If you submit your proposal electronically, email it to: melissa.dix@tsus.edu and enter the phrase PROPOSAL - OUTSIDE COUNSEL in the subject line of the email message. If you submit your proposal by mail, please mail four (4) copies to: Fernando Gomez, Vice Chancellor and General Counsel, Texas State University System, 200 E. 11th Street, Suite 600, Austin, Texas 78701. Additional information may be found at www.tsus.edu regarding Exhibit B.

If you submit your proposal by mail, mark the outside of the envelope or shipping container as "PROPOSAL - OUTSIDE COUNSEL." All proposals become the property of the System. Proposals must set forth accurate and complete information as required by this RFP. Oral instructions or offers will not be considered. **Contact with Board Members, System or component institution officials regarding this RFP is expressly prohibited and will result in disqualification of your firm from consideration.**

The System's staff will review the proposals.

CONTRACT FORMATION AND CONTRACT ADMINISTRATION INFORMATION

The System has the sole discretion and reserves the right to reject any and all responses to this RFP and to cancel the RFP if it is deemed in the best interest of the System to do so. Issuance of this RFP in no way constitutes a commitment by the System to award a contract or to pay for any expenses incurred either in the preparation of a response to this RFP or in the production of a contract for legal services Firms

responding must maintain a Texas office staffed with personnel who are responsible for providing legal services to the System.

In accordance with Texas Government Code, §1201.027 and §2254.004, the System will evaluate responses to this RFP to identify the firm it judges to be the most highly qualified. Fees may not be considered and may not be indicated in responses to this RFP. The System will then attempt to negotiate a contract at a fair and reasonable price with such firm(s) deemed to be most highly qualified. If a satisfactory contract cannot be negotiated, the System will proceed with another firm.

The System reserves the right to negotiate all elements of the contract for legal services and to approve all personnel assigned to the System's work. If personnel assignments are to be changed, the firm will have to submit resumes of the to-be assigned attorneys and their addition to the contract will be subject to the System's approval.

Further, the System reserves the right to terminate a resulting contract for legal services, for any reason, subject to thirty (30) days prior written notice, and upon payment of earned fees and expenses accrued as of the date of termination.

Any contract resulting from this RFP must be approved by the General Counsel Division of the Office of the Attorney General.

COST INCURRED IN RESPONDING

All costs directly or indirectly related to preparation of a response to this RFP or any supplemental information required to clarify your original response shall be the sole responsibility of, and shall be borne by, your firm.

RELEASE OF INFORMATION AND OPEN RECORDS

Information submitted in response to this RFP shall not be released by the System during the proposal evaluation process. After the evaluation process is completed as determined by the Board, all proposals and the information contained therein may be subject to public disclosure under the public information act, Texas Government Code, Chapter 552.

The Texas State University System will not participate in any programs, nor will it conduct business, with any entity that is found to knowingly discriminate against persons on the basis of race, color, gender, age, national origin, religion, physical or mental disability.

TRD-200902727
Fernando Gomez
Vice Chancellor and General Counsel
Texas State University System
Filed: July 1, 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).