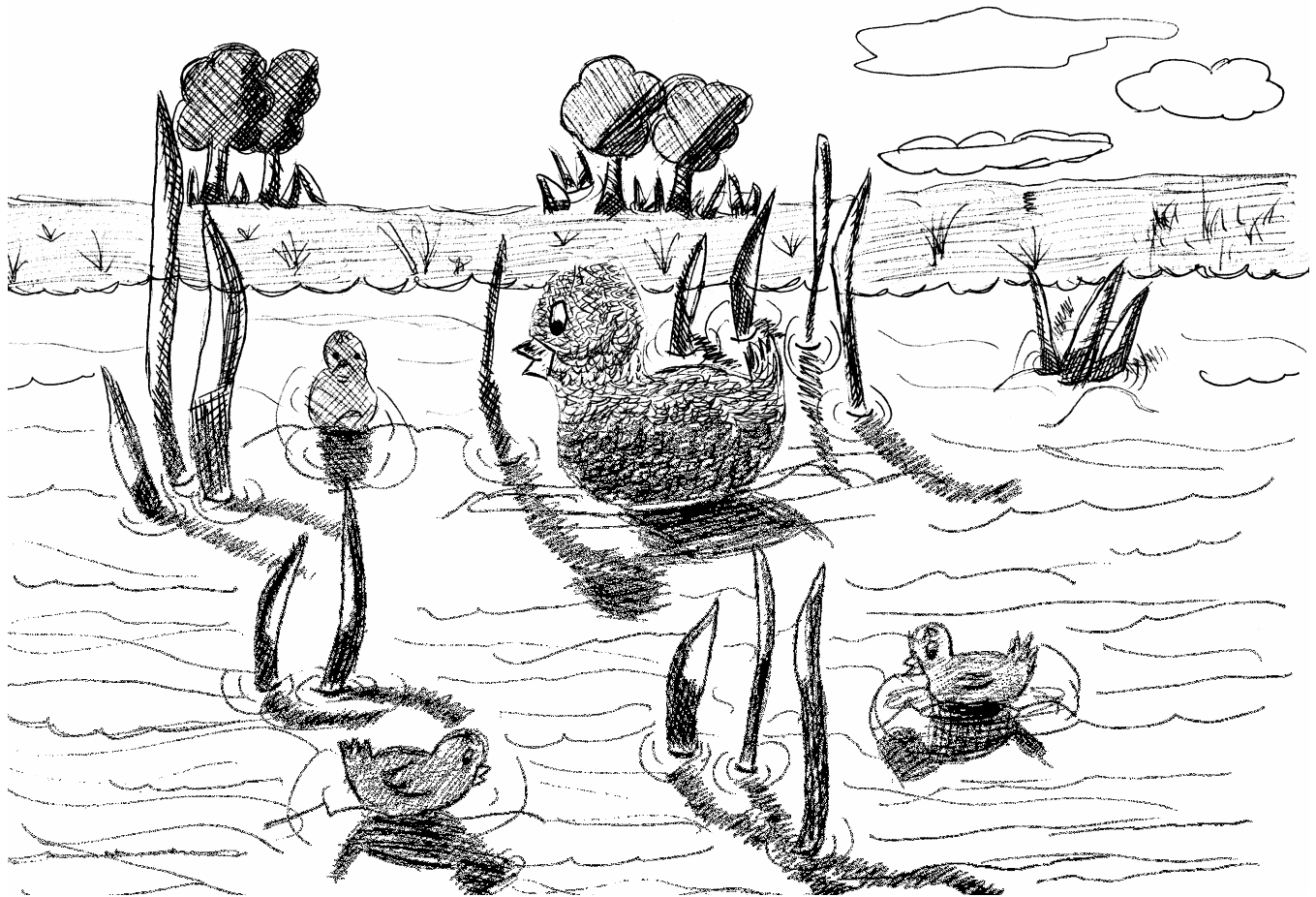

TEXAS REGISTER

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April 27, 2007

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Danielle Pelletier



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 463-5561 in Austin. For out-of-town callers our toll-free number is 800-226-7199. Or request a copy by email: register@sos.state.tx.us

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

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

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

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

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

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

...

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

THE GOVERNOR

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

Appointments

Appointments for April 2, 2007

Appointed to be a member of the Texas State University System Board of Regents for a term to expire February 1, 2013, Trisha S. Pollard of Bellaire. Ms. Pollard is replacing Pollyanna Stephens of San Angelo whose term expired.

Appointments for April 17, 2007

Appointed to be a member of the Texas State Board of Plumbing Examiners for a term to expire September 5, 2011, Ricardo Jose Guerra of Austin (replacing Min Chu of Houston whose term expired).

Appointed to be a member of the Texas State Board of Plumbing Examiners for a term to expire September 5, 2011, Carol Lynne McLemore of LaMarque (Reappointment).

Appointed to be a member of the Texas State Board of Plumbing Examiners for a term to expire September 5, 2011, Enrique Castro of El Paso (replacing Michael Thamm of Cuero whose term expired).

Appointed to be a member of the One Call Board for a term to expire August 31, 2009, John A. Menchaca II of Austin (replacing Trisha Pollard of Bellaire whose term expired).

Appointed to be a member of the One Call Board for a term to expire August 31, 2009, Billy Ray Daugette, Jr. of Huntsville (replacing Leopoldo Cervantes of San Antonio whose term expired).

Appointed to be a member of the One Call Board for a term to expire August 31, 2009, Dean D. Bernal of Austin (replacing Howard Pebley of McAllen whose term expired).

Appointed to be a member of the Texas Medical Board for a term to expire April 13, 2013, Timothy Webb of Houston (replacing Ed Miles of San Antonio whose term expired).

Appointed to be a member of the Texas Medical Board for a term to expire April 13, 2013, Margaret Carter McNeese, M.D. of Houston (Reappointment).

Appointed to be a member of the Texas Medical Board for a term to expire April 13, 2013, Michael Arambula, M.D., Pharm.D. of San Antonio (Reappointment).

Appointed to be a member of the Texas Medical Board for a term to expire April 13, 2013, Charles Edward Oswalt III, M.D. of Waco (Reappointment).

Appointed to be a member of the Texas Medical Board for a term to expire April 13, 2013, Melinda C. McMichael, M.D. of Austin (replacing John Pate of El Paso whose term expired).

Appointed to be a member of the Texas Medical Board for a term to expire April 13, 2013, Patricia S. Blackwell of Midland (Reappointment).

Appointed to be the Criminal District Attorney for Comal County for a term until the next General Election and until his successor shall be duly elected and qualified, Geoffrey I. Barr of New Braunfels. Mr. Barr

is replacing Dibrell Waldrip who was appointed as Judge of the 433rd Judicial District Court.

Appointed to be a member of the Polygraph Examiners Board for a term to expire June 18, 2011, Gory Loveday of Winona (replacing Hugh Sutton of Lubbock whose term expired).

Appointed to be a member of the Polygraph Examiners Board for a term to expire June 18, 2011, Donald Kevin Schutte of Hooks (replacing Edward Hendrickson of Katy whose term expired).

Appointed to be a member of the Prepaid Higher Education Tuition Board for a term to expire February 1, 2009, Theresa W. Chang of Houston (replacing Michael Gollob of Tyler whose term expired).

Appointed to be a member of the Prepaid Higher Education Tuition Board for a term to expire February 1, 2009, Zan S. Statham of Weatherford (replacing Beth Weakley of San Antonio whose term expired).

Appointed to be a member of the Department of Information Resources for a term to expire February 1, 2009, Robert E. Pickering, Jr. of Houston (replacing William Transier of Houston who resigned).

Appointed to be a member of the Department of Information Resources for a term to expire February 1, 2013, Charles Edward Bacarisse of Houston (Mr. Bacarisse is being reappointed).

Appointed to be a member of the Department of Information Resources for a term to expire February 1, 2013, Rosemary R. Martinez of Brownsville (replacing Dr. Adam Mahmood of El Paso whose term expired).

Appointed to be Presiding Officer of the Camino Real Regional Mobility Authority for a term to expire February 1, 2009, John Broaddus of El Paso. Mr. Broaddus is being appointed pursuant to Transportation Code §370.251.

Appointed to be a member of the Texas Municipal Retirement System Board of Trustees for a term to expire February 1, 2009, April Nixon of Arlington. Ms. Nixon is replacing Kathryn Usrey of Flower Mound who is no longer eligible to serve.

Appointed to be a member of the Texas Woman's University Board of Regents for a term to expire February 1, 2013, George R. Schrader of Dallas (Replacing Annie Williams of Dallas whose term expired).

Appointed to be a member of the Texas Woman's University Board of Regents for a term to expire February 1, 2013, P. Mike McCullough of Dallas (Replacing Kenneth Ingram of Denton whose term expired).

Appointed to the South Texas Regional Review Committee for a term to expire January 1, 2008, Rogelio Ybarra, Mayor, of Roma (replacing Fernando Pena).

Appointed to the South Texas Regional Review Committee for a term to expire January 1, 2008, Ruben Rodriguez, Jim Hogg County Commissioner of Hebbronville (replacing Joe Stacy).

Appointed to the South Texas Regional Review Committee for a term to expire January 1, 2008, Rosaura "Wawi" Tijerina, Webb County Commissioner of Laredo (replacing Judith Gutierrez).

Appointed to the South Texas Regional Review Committee for a term to expire January 1, 2008, Danny Valdez, Webb County Judge of Laredo (replacing Louis Bruni).

Rick Perry, Governor
TRD-200701470

Appointed to the South Texas Regional Review Committee for a term to expire January 1, 2008, Sandalio Ruiz, Jim Hogg County Commissioner of Hebbronville (replacing Juan Ramirez).



Appointed to the South Texas Regional Review Committee for a term to expire January 1, 2008, Guadalupe S. Canales, Jim Hogg County Judge of Hebbronville (replacing Agapito Molina).

THE ATTORNEY GENERAL

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

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

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

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

Requests for Opinion

RQ-0579-GA

Requestor:

The Honorable Mike Stafford

Harris County Attorney

1019 Congress, 15th Floor

Houston, Texas 77002

Re: Constitutionality of the juvenile case management fee authorized by article 102.0174, Code of Criminal Procedure (RQ-0579-GA)

Briefs requested by May 14, 2007

RQ-0580-GA

Requestor:

The Honorable Marsha Monroe

Terrell County Attorney

P.O. Box 745

Sanderson, Texas 79848

Re: Dual employment for county officers and employees (RQ-0580-GA)

Briefs requested by May 18, 2007

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

TRD-200701451

Stacey Napier

Deputy Attorney General

Office of the Attorney General

Filed: April 18, 2007



Opinions

Opinion No. GA-0536

The Honorable Mike Jackson

Chair, Committee on Nominations

Texas State Senate

Post Office Box 12068

Austin, Texas 78711-2068

Re: Eligibility of an Assistant Chief of Police of the City of League City to serve as City Administrator (RQ-0539-GA)

S U M M A R Y

The present City Administrator of the City of League City is on approved leave of absence, with pay, as Assistant Chief of Police of that city. Because the City's Assistant Chief of Police is not a civil service position, such leave of absence was not an abandonment of a civil service position. Also, because the leave of absence was approved in accordance with the relevant personnel policies, he did not abandon his duties as Assistant Chief of Police.

However, because the City Administrator has supervisory authority over the Assistant Chief of Police and a leave of absence does not sever an employment relationship, the Assistant Chief of Police is barred by the self-employment aspect of the common-law doctrine of incompatibility from simultaneously serving as City Administrator.

Opinion No. GA-0537

The Honorable Ruth Jones McClendon

Chair, Committee on Rules and Resolutions

Texas House of Representatives

Post Office Box 2910

Austin, Texas 78768-2910

Re: Whether Juneteenth USA, a 501(c)(3) charitable organization, is entitled to receive a property tax exemption (RQ-0541-GA)

S U M M A R Y

Whether any property is entitled to a tax exemption is a fact question within the authority of the chief appraiser of the appraisal district to initially determine. Once property is included on the appraisal roll and tax roll, absent any action by Juneteenth USA under chapters 41 and 42, Texas Tax Code, the appraisal district and applicable taxing units are without power, respectively, to reinstate Juneteenth USA's tax exemption or to remove it and its tax obligation from the tax rolls.

Opinion No. GA-0538

The Honorable James L. Keffer

Chair, Ways and Means Committee

Texas House of Representatives

Post Office Box 2910
Austin, Texas 78768-2910

Re: Whether, under the common-law doctrine of incompatibility, a member of the governing board of a metropolitan transit authority may simultaneously serve as acting city manager for one of the cities within the authority's service area (RQ-0543-GA)

S U M M A R Y

An acting city manager who is subject to an employment agreement with the mayor or the city council is not barred by the common-law doctrine of incompatibility from serving as a member of the governing board of a metropolitan transit authority that includes the city within its service area.

Opinion No. GA-0539

The Honorable Dan W. Heard
Calhoun County Criminal District Attorney
Post Office Box 1001
Port Lavaca, Texas 77979

Re: Whether the Calhoun County Navigation District may enact a tax limitation under article VIII, section 1-b(h) of the Texas Constitution (RQ-0544-GA)

S U M M A R Y

Article VIII, section 1-b(h) of the Texas Constitution does not authorize a navigation district to adopt a property tax freeze under that section for persons with disabilities or persons sixty-five years of age or older.

Opinion No. GA-0540

The Honorable Rob Baiamonte
Goliad County Attorney
Post Office Box 24
Goliad, Texas 77963

Re: Whether an individual may simultaneously serve as a constable in Goliad County and as a member of the board of directors of the Goliad County Groundwater Conservation District (RQ-0548-GA)

S U M M A R Y

An individual is barred by article XVI, section 40(a) of the Texas Constitution from simultaneously serving as both a Goliad County constable and as a member of the board of directors of the Goliad County Groundwater Conservation District.

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

TRD-200701450
Stacey Napier
Deputy Attorney General
Office of the Attorney General
Filed: April 18, 2007



EMERGENCY RULES

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

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 3. TEXAS YOUTH COMMISSION

CHAPTER 85. ADMISSION, PLACEMENT, AND PROGRAM COMPLETION

SUBCHAPTER D. PROGRAM COMPLETION

37 TAC §85.53

The Texas Youth Commission adopts on an emergency basis an amendment to §85.95, concerning discharge of youth on parole and new §85.53, concerning release of offenders classified as other than Sentenced or Type A Violent.

Section 85.53 establishes criteria for release to parole for general offenders, Type B violent offenders (except those classified for manslaughter, criminally negligent homicide, or intoxication manslaughter offenses), chronic serious offenders, controlled substances dealers, and firearms offenders who have not otherwise met program completion criteria as set forth in §85.55 of this title or maximum length of stay criteria as set forth in §85.41 of this title.

Section 85.95 is amended to provide for the discharge from TYC parole supervision for youth other than Type A or Sentenced offenders who turn 19 years of age and meet certain discharge requirements.

The amendment and the new section are adopted on an emergency basis to reduce the population of youth in the commission's residential and parole programs.

The new rule is adopted on an emergency basis under the Human Resources Code, §61.081, which provides the commission authority to release under supervision any child in its custody and place the child in his/her home or in any situation or family approved by the commission.

§85.53. Emergency Release for Other Than Type A Violent or Sentenced Offenders.

(a) Purpose. This temporary rule establishes criteria for the release of general offenders, Type B violent offenders (except for manslaughter, criminally negligent homicide, or intoxication manslaughter offenses), chronic serious offenders, controlled substances dealers, firearms offenders who have not otherwise met program completion criteria as set forth in §85.55 of this title or maximum length of stay criteria as set forth in §85.41 of this title.

(b) Applicability.

(1) This rule is in effect immediately upon filing with the *Texas Register* and expires on July 1, 2007, unless withdrawn earlier.

(2) This rule does not apply to Type A violent offenders, sentenced offenders, or Type B violent offenders whose classifying offense is manslaughter, criminally negligent homicide, or intoxication manslaughter. See §85.23 of this title for more information on youth classifications.

(3) Definitions pertaining to this rule are under §85.51 of this title.

(c) General Requirements. For transition and notification requirements upon release of youth to the community, see §85.55 of this title, subsection (c).

(d) Release Criteria. A youth will qualify for release to TYC parole (home or home substitute) when:

(1) The youth meets the following phase and classification requirements:

(A) A youth who has never been classified as anything except general offender must currently be assessed, at minimum, on Phase A1, B1, C1; or

(B) A youth whose most serious classification is Type B violent offender (except for manslaughter, criminally negligent homicide, or intoxication manslaughter offenses), chronic serious offender, controlled substances dealer, or firearms offender must currently be assessed, at minimum, on Phase A3, B3, C3; AND

(2) The youth meets the following criteria:

(A) has completed his/her minimum length of stay (youth who have had their parole revoked or are recommitted to TYC with no minimum length of stay must complete at least 30 days in a TYC assigned or operated residential placement);

(B) has had no Category 1 rule violations confirmed through a due process hearing within 30 days prior to the date of release; and

(C) has no known pending criminal charges, is not on abscond or escape status, and is not in jail or detention; and

(D) is not currently assigned to the Aggression Management Program or the Behavior Management Program.

(e) Release Restrictions.

(1) A youth who has a medical condition that requires medication will not be released until the youth is provided with a 30-day supply of any necessary medication.

(2) A youth who is on suicide alert or demonstrates a physical act or stated intention associated with a potentially dangerous or life threatening outcome or imminent risk of serious self-injury will not be released until a mental health professional (MHP), with prior consultation with the MHP's supervisor, approves the release of the youth to TYC parole.

(3) Youth must have an approved home placement before the youth is released to TYC parole.

(4) If a Priority 1 youth is currently assigned to a Specialized Treatment Program other than a Mental Health Program, such youth will be reviewed by the Clinical Services Division in Central Office on a case-by-case basis to determine whether to waive the requirement to complete the treatment program.

(f) Special Conditions for Sex Offenders.

(1) A youth who is under a court order deferring sex offender registration requirements shall be given the option to remain in a high restriction program in order to complete his/her treatment program.

(2) Sex offenders who are returning home where the victim or potential victim resides must complete family reintegration requirements as set forth in §87.91 of this title.

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

Filed with the Office of the Secretary of State on April 12, 2007.

TRD-200701383

Jay Kimbrough

Conservator

Texas Youth Commission

Effective Date: April 12, 2007

Expiration Date: July 1, 2007

For further information, please call: (512) 424-6014



SUBCHAPTER E. PAROLE PLACEMENT AND DISCHARGE

37 TAC §85.95

The amendment is adopted on an emergency basis under the Human Resources Code, §61.075, which provides the Commission authority to discharge a child from control when it is satisfied that discharge will best serve the child's welfare and the protection of the public.

§85.95. *Parole Completion and Discharge.*

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

(c) Discharge Criteria.

(1) (No change.)

(2) Discharge Due to Age.

(A) (No change.)

(B) For All Other Classifications.

(i) A youth whose most serious classification is either general offender, Type B violent offender, chronic serious offender, controlled substances dealer, or firearms offender under the current commitment order(s) shall be discharged when the youth:

(I) completes 30 days on parole status after the youth turns 19 [~~20-6~~] years of age;

(II) receives at least one face-to-face contact [~~two (2) face-to-face contacts within the 30 day period listed in subclause (I) of this clause~~]; and

(III) no pending criminal charges and is not on abscond status or in jail or detention.

(ii) If such a youth does not meet the criteria listed in clause (i) of this subparagraph [~~above~~], the youth shall be discharged on:

(I) the day before the 21st birthday, if the youth is assigned to a residential placement; or

(II) the last working day prior to the 21st birthday, if the youth is assigned to a non-residential placement.

(3) - (4) (No change.)

(d) (No change.)

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

Filed with the Office of the Secretary of State on April 12, 2007.

TRD-200701384

Jay Kimbrough

Conservator

Texas Youth Commission

Effective Date: April 12, 2007

Expiration Date: July 1, 2007

For further information, please call: (512) 424-6014



PROPOSED RULES

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

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

TITLE 1. ADMINISTRATION

PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 353. MEDICAID MANAGED CARE SUBCHAPTER E. STANDARDS FOR MEDICAID MANAGED CARE

1 TAC §353.421

The Texas Health and Human Services Commission (HHSC) proposes to add new §353.421 to Title 1, Part 15, Chapter 353, Subchapter E to implement provisions for Medicaid managed care organizations' Special Disease Management programs as required by Senate Bill (S.B.) 1188, 79th Legislature, Regular Session, 2005 and House Bill (H.B.) 1252, 79th Legislature, Regular Session, 2005, both of which are codified at §533.009(f), Government Code.

Background and Justification

S.B. 1188 requires HHSC to promulgate rules prescribing the minimum requirements Medicaid Managed Care Organizations (MCOs) must meet to be eligible to contract with HHSC to provide disease management services. The proposed rule requires that MCO disease management programs have performance measures that are comparable to those of the Medicaid fee-for-service/Primary Care Case Management disease management program, and that the MCOs demonstrate an ability to manage complex diseases among the Medicaid population.

Pursuant to H.B.1252, the new rule also includes requirements for MCOs that provide disease management services for chronic kidney disease and its complications.

Section-by-Section Summary

Section 353.421 defines "special disease management," and describes the requirements MCOs must meet in order to contract with HHSC to provide disease management programs, including the requirement that MCOs establish performance measures comparable to those of the Medicaid fee-for-service/Primary Care Case Management disease management program and that they coordinate beneficiary care when patients transition between disease management programs. The rule also specifies requirements for MCOs that implement a disease management program for chronic kidney disease and its complications.

Fiscal Note

Thomas M. Suehs, Deputy Executive Commissioner for Financial Services, has determined that during the first five-year period the proposed new rule is in effect there will be no fiscal impact to

state government. The proposed rule will not result in any fiscal implications for local health and human services agencies. Local governments will not incur additional costs.

Small and Micro-business Impact Analysis

Mr. Suehs has also determined that there will be no effect on small businesses or micro businesses to comply with the proposed new rule as they will not be required to alter their business practices as a result of the rule. There are no anticipated economic costs to persons who are required to comply with the proposed rule. There is no anticipated negative impact on local employment.

Public Benefit

Mr. Chris Traylor, Associate Commissioner for Medicaid and CHIP, has determined that for each year of the first five years the proposed rule is in effect, the public will benefit from the adoption of the section. The anticipated public benefit, as a result of enforcing the proposed rule, will be the provision of high quality disease management services for Medicaid recipients enrolled in managed care.

Regulatory Analysis

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

Takings Impact Assessment

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

Public Comment

Written comments on the proposal may be submitted to Gary Young, Senior Project Specialist, Medicaid/CHIP Division, Texas Health and Human Services Commission, P.O. Box 85200, MC H-320, Austin, Texas 78708-5200; by fax to (512) 491-1969; or by e-mail to gary.young@hhsc.state.tx.us within 30 days of publication of this proposal in the *Texas Register*.

Public Hearing

A public hearing is scheduled for May 17, 2007 from 9:00 a.m. to 10:00 a.m. in the HHSC Lone Star Conference Room at 11209 Metric Boulevard, Austin, Texas 78758. Persons requiring fur-

ther information, special assistance, or accommodations should contact Meisha Spencer at (512) 491-1453.

Statutory Authority

The new rule is proposed under the Texas Government Code, §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; the Human Resources Code, §32.021, and the Texas Government Code, §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas.

The proposed new rule affects the Human Resources Code, Chapter 32, and the Texas Government Code, Chapter 531. No other statutes, articles, or codes are affected by this proposal.

§353.421. *Special Disease Management.*

(a) For purposes of this rule, "Special Disease Management" means a program of coordinated healthcare interventions and communications for populations with conditions in which patient self-care efforts are significant.

(b) In order for a managed care organization to receive a contract from the Health and Human Services Commission (HHSC) to provide special disease management services, the managed care organization must:

(1) Implement policies and procedures to ensure that members requiring special disease management services are identified and enrolled into a disease management program;

(2) Develop and maintain screening and evaluation procedures for the early detection, prevention, treatment, or referral of participants at risk for or diagnosed with chronic conditions such as heart disease, chronic kidney disease and its medical complications, respiratory illness including asthma, diabetes, and HIV infection or AIDS;

(3) Ensure that all members identified for special disease management are enrolled in and have the opportunity to opt out of special disease management services within 30 days while still maintaining access to all other covered services; and

(4) Show evidence of the ability to manage complex diseases in the Medicaid population. Such evidence shall be demonstrated by the managed care organization's compliance with this subchapter.

(c) Special disease management programs must include:

(1) Patient self-management education;

(2) Patient education regarding the role of the provider;

(3) Evidence-supported models, standards of care in the medical community, and clinical outcomes;

(4) Standardized protocols and participation criteria;

(5) Physician-directed or physician-supervised care;

(6) Implementation of interventions that address the continuum of care;

(7) Mechanisms to modify or change interventions that have not been proven effective;

(8) Mechanisms to monitor the impact of the special disease management program over time, including both the clinical and the financial impact;

(9) A system to track and monitor all special disease management participants for clinical, utilization, and cost measures;

(10) Designated staff to implement and maintain the program and assist members in accessing program services;

(11) A system that enables providers to request specific special disease management interventions; and

(12) Provider information, including the differences between recommended prevention and treatment and actual care received by special disease management participants, information concerning the participant's adherence to a service plan and reports on changes in each participant's health status.

(d) Special disease management programs must have performance measures for particular diseases. HHSC will review the performance measures submitted by a special disease management program for comparability with the relevant performance measures in §32.057, Human Resources Code, relating to contracts for disease management programs.

(e) Managed care organizations implementing a special disease management program for chronic kidney disease and its medical complications that includes screening for and diagnosis and treatment of this disease and its medical complications, must, for the screening, diagnosis and treatment, use generally recognized clinical practice guidelines and laboratory assessments that identify chronic kidney disease on the basis of impaired kidney function or the presence of kidney damage.

(f) A managed care organization that develops and implements a special disease management program shall coordinate participant care with a provider of a disease management program under §32.057, Human Resources Code, during a transition period for patients that move from one disease management program to another program.

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

Filed with the Office of the Secretary of State on April 16, 2007.

TRD-200701418

Steve Aragón

Chief Counsel

Texas Health and Human Services Commission

Earliest possible date of adoption: May 27, 2007

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

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CHAPTER 354. MEDICAID HEALTH SERVICES

SUBCHAPTER A. PURCHASED HEALTH SERVICES

DIVISION 1. MEDICAID PROCEDURES FOR PROVIDERS

1 TAC §354.1003

The Texas Health and Human Services Commission (HHSC) proposes to amend §354.1003, Time Limits for Submitted Claims, in order to revise the time limits for submitting Medicaid claims for school districts delivering School Health and Related Services (SHARS).

Background and Justification

The Centers for Medicare & Medicaid Services (CMS) require that school districts, as public entities, not be paid in excess of their Medicaid-allowable costs for providing school-based services, known in Texas as SHARS. As a result, HHSC is imple-

menting annual cost reporting, cost reconciliation, and cost settlement processes beginning with State Fiscal Year (SFY) 2007 (i.e., September 1, 2006, through August 31, 2007). The annual SFY 2007 Cost Report is due on or before March 1, 2008. The cost reconciliation and cost settlement processes for SFY 2007 services must be completed no later than August 31, 2009, in accordance with the CMS-approved Medicaid state plan reimbursement methodology language for SHARS providers.

Currently SHARS providers have to submit Medicaid claims within 365 days of the date of service, which is the federal filing deadline. The proposed amendment to the SHARS claims filing deadline rule will require initial claims to be submitted for SFY 2007 services on or before December 4, 2007, rather than on or before August 31, 2008. The revised due date of December 4, 2007, allows the vast majority of the claims to be processed through any appeals by late 2008, when the cost reconciliation and cost settlement processes begin. The proposed amendment is required in order to comply with the new CMS requirements that the cost reconciliation and cost settlement processes be completed no later than August 31, 2009, for SFY 2007 services, since SFY 2007 claims that are not cost reconciled and cost settled by August 31, 2009, cannot be processed during SFY 2010. Implementation of the proposed amendment should eliminate the need for HHSC staff to perform the cost reconciliation and cost settlement processes multiple times.

Section-by-Section Summary

In §354.1003(a)(5)(I), "School Health and Related Services" is removed and the remaining language is revised for clarity. A new subparagraph (J) is added after (a)(5)(I) that describes the claims filing deadline for School Health and Related Services.

Fiscal Note

Thomas M. Suehs, Deputy Executive Commissioner for Financial Services, has determined that during the first five-year period the proposed amendment is in effect there will be no fiscal impact to state government. The proposed amendment will not result in any fiscal implications for local health and human services agencies. Local governments will not incur additional costs.

Small and Micro-business Impact Analysis

Mr. Suehs has also determined that there will be no effect on small businesses or micro businesses to comply with the proposed amendment, as they will not be required to alter their business practices as a result of the rule. There are no anticipated economic costs to persons who are required to comply with the proposed rule. There is no anticipated negative impact on local employment.

Public Benefit

Mr. Chris Traylor, Associate Commissioner for Medicaid and CHIP, has determined that for each year of the first five years the rule is in effect, the public will benefit from the adoption of the section. The anticipated public benefit, as a result of enforcing the section, will be that the Medicaid reimbursement for SHARS providers will be in compliance with the new CMS requirements.

Regulatory Analysis

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

Takings Impact Assessment

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

Public Comment

Written comments on the proposal may be submitted to Clarice Cefai, Senior Policy Analyst, Medicaid/CHIP Division, Texas Health and Human Services Commission at 4900 N. Lamar Blvd, P.O. Box 13247, Austin, Texas 78711; by fax to (512) 506-7806; or by e-mail to Clarice.Cefai@hhsc.state.tx.us within 30 days of publication of this proposal in the *Texas Register*.

Public Hearing

A public hearing is scheduled for May 17, 2007 from 2:00 p.m. to 3:00 p.m. in the HHSC Lone Star Conference Room at 11209 Metric Boulevard, Austin, Texas 78758. Persons requiring further information, special assistance, or accommodations should contact Meisha Spencer at (512) 491-1453.

Statutory Authority

The amendment is proposed under the Texas Government Code, §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; the Human Resources Code, §32.021, and the Texas Government Code, §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas.

The proposed amendment affects the Human Resources Code, Chapter 32, and the Texas Government Code, Chapter 531. No other statutes, articles, or codes are affected by this proposal.

§354.1003. Time Limits for Submitted Claims.

(a) Claims filing deadlines. Claims must be received by the Health and Human Services Commission (HHSC) or its designee in accordance with the following time limits to be considered for payment. Due to the volume of claims processed, claims that do not comply with the following deadlines will be denied payment.

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

(5) The following exceptions to the claims-filing deadline apply to all claims received by HHSC or its designee regardless of provider or service type.

(A) - (H) (No change.)

(I) Claims for services rendered by the [health care programs, such as School Health and Related Services or] County Indigent Health Care Program, [where the program must also account] for which [also require a] certification of the expenditures of local or state funds is required, are due to HHSC or its designee within the 365-day federal filing deadline.

(J) Claims for services rendered by school districts under the School Health and Related Services (SHARS) program, for which certification of the expenditures of local or state funds is required, are due to HHSC or its designee within the 365-day federal filing deadline or 95 days after the last day of the State Fiscal Year (SFY), whichever comes first.

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

(e) Exceptions to the 95-day claim filing deadline. HHSC shall consider exceptions only when at least one of the situations included in this subsection exists. The final decision of whether a claim falls within one of the exceptions will be made by HHSC.

(1) Exceptions to the filing deadline are considered when one of the following situations exists:

(A) Catastrophic [~~catastrophic~~] event that substantially interferes with normal business operations of the provider, or damage or destruction of the provider's business office or records by a natural disaster, including but not limited to fire, flood, or earthquake; or damage or destruction of the provider's business office or records by circumstances that are clearly beyond the control of the provider, including but not limited to criminal activity. The damage or destruction of business records or criminal activity exception does not apply to any negligent or intentional act of an employee or agent of the provider because these persons are presumed to be within the control of the provider. The presumption can only be rebutted when the intentional acts of the employee or agent leads to termination of employment and filing of criminal charges against the employee or agent; or

(B) Delay [~~delay~~] or error in the eligibility determination of a recipient, or delay due to erroneous written information from HHSC or its designee, or another state agency; or

(C) Delay [~~delay~~] due to electronic claim or system implementation problems experienced by HHSC and its designee or providers; or

(D) Submission [~~submission~~] of claims occurred within the 365-day federal filing deadline, but the claim was not filed within 95-days from the date of service because the service was determined to be a benefit of the Medicaid program and an effective date for the new benefit was applied retroactively; or

(E) Recipient [~~recipient~~] eligibility is determined retroactively and the provider is not notified of retroactive coverage.

(2) (No change.)

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

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

Filed with the Office of the Secretary of State on April 16, 2007.

TRD-200701419

Steve Aragón

Chief Counsel

Texas Health and Human Services Commission

Earliest possible date of adoption: May 27, 2007

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



DIVISION 5. PHYSICIAN AND PHYSICIAN ASSISTANT SERVICES

1 TAC §354.1069

The Texas Health and Human Services Commission (HHSC) proposes to add new §354.1069, Sign Language Interpreter Services to Title 1, Part 15, Chapter 354, Subchapter A, Division 5, Physician and Physician Assistant Services. The proposed new rule adds definitions, describes sign language interpreter ser-

vices, specifies the requirements for sign language interpreters, and addresses physician reimbursement.

Background and Justification

The new rule is proposed to comply with House Bill (H.B.) 3235, 79th Legislature, Regular Session, 2005. Subject to the availability of funds, H.B. 3235 requires sign language interpreter services be available to Medicaid recipients who are deaf or hard of hearing, or to a parent or guardian of a person receiving Medicaid, if the parent or guardian is deaf or hard of hearing.

Section-by-Section Summary

Section 354.1069 lists the definitions for terms used in the rule. In addition, the proposed new rule describes sign language interpreter service benefits and limitations, documentation requirements, and physician reimbursement requirements.

Fiscal Note

Thomas M. Suehs, Deputy Executive Commissioner for Financial Services, has determined that during the first two-years the proposed rule is in effect, there will be a FY07-08 cost to state government of \$582,053 state funds and \$1,862,317 all funds. For the five-year period the proposed new rule is in effect there will be a fiscal impact to state government of \$1,245,432 state funds and \$2,975,583 all funds. The proposed rule will not result in any fiscal implications for local health and human services agencies. Local governments will not incur additional costs.

Small and Micro-Business Impact Analysis

Mr. Suehs has also determined that there will be no effect on small businesses or micro businesses to comply with the proposed new rule, as they will not be required to alter their business practices as a result of the rules. There are no anticipated economic costs to persons who are required to comply with the proposed rules. There is no anticipated negative impact on local employment.

Public Benefit

Chris Traylor, Associate Commissioner for Medicaid and CHIP, has determined that for each year of the first five years the proposed rule is in effect, the public will benefit from the adoption of the rule. The anticipated public benefit, as a result of enforcing the proposed rule, is broader availability of sign language interpreting services during the provision of physician services under the Medicaid program.

Regulatory Analysis

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

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

Public Comment

Written comments on the proposal may be submitted to Garry Walsh, Senior Policy Analyst, Medicaid/CHIP Division, Texas Health and Human Services Commission, P.O. Box 85200, Austin, TX 78708-5200, Mail Code H-390 91X; by fax to (512) 506-7806; or by e-mail to Garry.Walsh@hpsc.state.tx.us within 30 days of publication of this proposal in the *Texas Register*.

Public Hearing

A public hearing is scheduled for May 24, 2007 from 2:00 p.m. to 3:00 p.m. in the HHSC Lone Star Conference Room at 11209 Metric Boulevard, Austin, Texas 78758. Persons requiring further information, special assistance, or accommodations should contact Meisha Spencer at (512) 491-1453.

Statutory Authority

The new rule is proposed under the Texas Government Code, §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; the Human Resources Code, §32.021 and the Texas Government Code, §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas.

The proposed new rule affects the Human Resources Code, Chapter 32, and the Texas Government Code, Chapters 531 and 533. No other statutes, articles, or codes are affected by this proposal.

§354.1069. Sign Language Interpreter Services.

(a) Definitions. The following words and terms, when used in this chapter, have the following meanings.

(1) Deaf--The term "deaf" is defined in the Human Resources Code, Title 4, Services for the Deaf, Chapter 81, Texas Commission for the Deaf and Hard of Hearing, §81.001, Definitions.

(2) Hard of Hearing--The term "hard of hearing" is defined in the Human Resources Code, Title 4, Services for the Deaf, Chapter 81, Texas Commission for the Deaf and Hard of Hearing, §81.001, Definitions.

(3) Interpreter--An interpreter is an individual who possesses one of the following certification levels (i.e., levels A-H) issued by either the Department of Assistive and Rehabilitative Services, Office for Deaf and Hard of Hearing Services, Board for Evaluation of Interpreters (BEI) or the National Registry of Interpreters for the Deaf (RID):

(A) Certification level A:

(i) Level I/Ii; and

(ii) OC:B (Oral Certificate: Basic).

(B) Certification level B:

(i) BEI Basic; and

(ii) RID NIC (National Interpreter Certificate) Cer-

tified.

(C) Certification level C:

(i) BEI Level II/Iii;

(ii) RID CI (Certificate of Interpretation);

(iii) RID CT (Certificate of Transliteration);

(iv) RID IC, (Interpretation Certificate); and

(v) RID TC (Transliteration Certificate).

(D) Certification level D:

(i) BEI Level III/IIIi;

(ii) BEI OC: C (Oral Certificate: Comprehensive);

(iii) BEI OC: V (Oral Certificate: Visible);

(iv) RID CSC (Comprehensive Skills Certificate);

(v) RID IC/TC (Interpretation Certificate/Transliteration Certificate);

(vi) RID CI/CT (Certificate of Interpretation/Certificate of Transliteration);

(vii) RID RSC (Reverse Skills Certificate); and

(viii) RID CDI (Certified Deaf Interpreter).

(E) Certification level E:

(i) A BEI Advanced; and

(ii) RID NIC Advanced.

(F) Certification level F:

(i) BEI IV/IVi;

(ii) RID MCSC (Master Comprehensive Skills Certificate); and

(iii) RID SC: L (Specialist Certificate: Legal).

(G) Certification level G is BEI V/VI.

(H) Certification level H:

(i) BEI Master; and

(ii) RID NIC Master.

(4) Interpreting Services--The provision of voice-to-sign, sign-to-voice, gestural-to-sign, sign-to-gestural, voice-to-visual, visual-to-voice, sign-to-visual, or visual-to-sign services for communication access provided by a certified interpreter.

(b) Benefit and Limitations. Sign language interpreting services are a health care benefit of the State Medical Assistance (Medicaid) Program.

(1) Sign language interpreting services must be requested by a physician and provided by a qualified interpreter to facilitate communication between:

(A) A client who is deaf or hard of hearing and a physician during the course of a medically necessary medical examination or other medical services; or,

(B) A client's parent or guardian who is deaf or hard of hearing and a physician during the course of the client's medically necessary medical examination or other medical services.

(2) A physician's determination of the need for sign language interpreting services shall give primary consideration to the needs of the individual who is deaf or hard of hearing.

(3) The physician requesting interpreting services must maintain documentation verifying the provision of interpreting services.

(A) Documentation of the service must be included in the patient's medical record and must include the name of the sign language interpreter and the interpreter's certification level.

(B) Documentation must be made available if requested by the Commission or its designee.

(c) Physician requirements for billing of and reimbursement for sign language interpreting services.

(1) Physicians must be enrolled in the Texas Medicaid Program to be considered for reimbursement.

(2) Reimbursement for sign language interpreting services is limited to physicians or physician groups employing fewer than fifteen employees.

(3) Providers seeking reimbursement for sign language interpreting services must provide and bill for the service in the manner prescribed by the Texas Medicaid Program and in accordance with §355.8085 of this title (relating to Texas Medicaid Reimbursement Methodology (TMRM) for Physicians and Certain Other Practitioners).

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

Filed with the Office of the Secretary of State on April 16, 2007.

TRD-200701420

Steve Aragón

Chief Counsel

Texas Health and Human Services Commission

Earliest possible date of adoption: May 27, 2007

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



DIVISION 33. TELEMEDICINE SERVICES

1 TAC §§354.1430, 354.1432, 354.1434

The Texas Health and Human Services Commission (HHSC) proposes to amend §354.1430, Definitions; §354.1432, Benefits and Limitations; and §354.1434, Requirements for Telemedicine Providers.

Background and Justification

These amendments add state schools and state hospitals throughout the state to the list of remote sites where a Medicaid recipient can receive telemedicine services. The amendments also replace the references to "local mental health authorities" with "community centers" to clarify that all community centers contracted with the Department of State Health Services are allowable telemedicine hub sites, and those in rural or underserved areas are allowable remote sites.

Section-by-Section Summary

Section 354.1430, Definitions, is updated to replace the definition of Local Mental Health Authority with Community Center, and adds definitions for a State School and State Hospital. The definition of Remote Site is revised to allow state schools and hospitals throughout the state to serve as telemedicine remote sites, which is where the patient is physically located during a telemedicine visit. The entities where a physician may be a hub site provider are re-numbered

Section 354.1432, Benefits and Limitations, is revised to specify that providers can be reimbursed for telemedicine services when the remote site is a state school or state hospital. The references to local mental health authority are changed to community center.

Section 354.1434, Requirements for Telemedicine Providers, is revised and the section on confidential information is updated

so that permission to release information may be authorized by a client's legally authorized representative. Also added to this section is a reference to the requirements for authorized disclosure of confidential information for residents of state schools and patients of state hospitals.

Fiscal Note

Thomas M. Suehs, Deputy Executive Commissioner for Financial Services, has determined that during the first five-year period the amended rules are in effect there will be no fiscal impact to state government. The proposed rule will not result in any fiscal implications for local health and human services agencies. Local governments will not incur additional costs.

Small and Micro-Business Impact Analysis

Mr. Suehs has also determined that there will be no effect on small businesses or micro businesses to comply with the amendments, as they will not be required to alter their business practices as a result of the rules. There are no anticipated economic costs to persons who are required to comply with the proposed rules. There is no anticipated negative impact on local employment.

Public Benefit

Chris Traylor, Associate Commissioner for Medicaid and CHIP, has determined that for each year of the first five years the proposed rules are in effect, the public will benefit from the adoption of the proposed rules. The anticipated public benefit, as a result of enforcing the proposed rules, is increased availability of telemedicine services to residents of state schools and patients in state hospitals.

Regulatory Analysis

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

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

Public Comment

Written comments on the proposal may be submitted to Garry Walsh, Senior Policy Analyst, Medicaid/CHIP Division, Texas Health and Human Services Commission, P.O. Box 85200, Austin, TX 78708-5200, Mail Code H-390 91X; by fax to (512) 506-7806; or by e-mail to Garry.Walsh@hhsc.state.tx.us within 30 days of publication of this proposal in the *Texas Register*.

Public Comment

A public hearing is scheduled for May 24, 2007 from 11:00 a.m. to 12:00 p.m. in the HHSC Lone Star Conference Room at 11209 Metric Boulevard, Austin, Texas 78758. Persons requiring further information, special assistance, or accommodations should contact Meisha Spencer at (512) 491-1453.

Statutory Authority

The amendments are proposed under the Texas Government Code, §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; the Human Resources Code, §32.021 and the Texas Government Code, §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas.

The amendments affect the Human Resources Code, Chapter 32, and the Texas Government Code, Chapters 531 and 533. No other statutes, articles, or codes are affected by this proposal.

§354.1430. Definitions.

Definitions. The following words and terms, when used in this chapter, have the following meanings.

(1) (No change.)

(2) Hub Site Provider--A hub site provider must be a physician at a rural health facility or an accredited medical or osteopathic school located in Texas, or a physician at one of the following entities affiliated through a written contract or agreement with a government agency, accredited medical, or osteopathic school located in Texas:

~~[(A) Physician at a rural health facility or an accredited medical or osteopathic school located in Texas, or a physician at one of the following entities affiliated through a written contract or agreement with a government agency, accredited medical, or osteopathic school located in Texas:]~~

~~(A) [(B)] Hospital;~~

~~(B) [(C)] Teaching hospital;~~

~~(C) [(D)] Tertiary center;~~

~~(D) [(E)] Health clinic; or~~

~~(E) [(F)] Community center [Local Mental Health Authority] as defined in Health and Safety Code §534.001 [§533.035].~~

(3) Remote Site--A remote site is where the Medicaid client is physically located. Remote sites are limited to the following:

(A) State Hospitals;

(B) State Schools; or

(C) Locations in rural or medically underserved areas.

(4) Remote Site Provider--A remote site provider [is located in rural or medically underserved areas and] is limited to the following provider types:

(A) (No change.)

(B) Advanced practice nurse (APN), including nurse practitioner (NP) [practitioners (NPs)] and clinical nurse specialist (CNS) [specialists (CNSs)], 1 TAC §355.8281; certified nurse midwife (CNM) [midwives (CNMs)], 1 TAC §355.8161; and certified registered nurse anesthetist (CRNA) [anesthetists (CRNAs)], 1 TAC §355.8221;

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

(G) One of the following qualified professionals contracted with or employed by a community center [local mental health authority]:

(i) - (v) (No change.)

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

(7) State hospital--A state hospital is a hospital with an inpatient component and operated by the Department of State Health Services.

(8) State school--Also referred to as a "State MR Facility." A state school or state center with a mental retardation residential component as defined in 40 TAC §2.253(42) (relating to Definitions).

(9) [(7)] Telemedicine--Telemedicine is a method of health care service delivery used to facilitate medical consultations by a physician to health care providers [in rural or underserved areas] for purposes of patient diagnosis or treatment that requires advanced telecommunications technologies.

(10) [(8)] Telepathology--Telepathology is the practice of pathology (consultation, education and research) using telecommunications to transmit data and images between two or more sites remotely located from each other.

(11) [(9)] Teleradiology--Teleradiology is a means of electronically transmitting radiographic patient images and consultative text from one location to another.

(12) [(10)] Underserved--An underserved area that meets the definition of Medically Underserved Area (MUA) or Medically Underserved Population (MUP) by the U.S. Department of Health and Human Services.

§354.1432. Benefits and Limitations.

(a) Telemedicine services are a health care benefit of the Texas Medicaid Program. Telemedicine services are described below.

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

(3) Telemedicine remote sites may be reimbursed for services when any one of the following places of service are utilized [and billed]:

(A) - (F) (No change.)

(G) ICF-MR facility; [or]

(H) Community center [A local mental health authority] clinic as defined in Health and Safety Code §534.001 [§533.035] or outreach site associated with a community center [local mental health authority];

(I) State school, or

(J) State hospital.

(4) - (6) (No change.)

(b) Reimbursement for Services Performed Using Telemedicine.

(1) (No change.)

(2) Telemedicine services are reimbursed in accordance with the [existing] Medicaid reimbursement methodology as defined in §355.7001 of this title (relating to Telemedicine Services Reimbursement).

§354.1434. Requirements for Telemedicine Providers.

(a) A provider [Providers] of telemedicine services must be enrolled in the Texas Medicaid Program to be eligible for reimbursement. [adhere to the requirements listed in this section.]

~~[(1) Must be enrolled in the Texas Medicaid Program to be eligible for reimbursement.]~~

(b) [(2)] The hub site provider's findings must be documented in writing in the client's [recipient's] medical records at the remote site.

(c) [(3)] The remote site provider must be present with the client during the interactive video telemedicine visit.

(d) [(4)] The remote site provider is responsible for providing or coordinating the plan of care and treatment after consulting with the hub site provider.

(e) [(5)] Information about the diagnosis, evaluation, or treatment of a client with Medicaid coverage by a person licensed or certified to perform the diagnosis, evaluation or treatment of any medical, mental or emotional disorder, or drug abuse, is confidential information that the provider may disclose only to authorized people. Only the client or legally authorized representative may give written permission for release of any pertinent information before client information can be released, and confidentiality must be maintained in all other aspects. The signed consent form or documentation of consent for release of information is to become part of the medical record at the remote site.

(f) The requirements for authorized disclosure of confidential information relating to clients in state hospitals and residents in state schools are included in Health and Safety Code §611.004.

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

Filed with the Office of the Secretary of State on April 16, 2007.

TRD-200701421

Steve Aragón

Chief Counsel

Texas Health and Human Services Commission

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



CHAPTER 355. REIMBURSEMENT RATES

SUBCHAPTER J. PURCHASED HEALTH SERVICES

DIVISION 4. MEDICAID HOSPITAL SERVICES

1 TAC §355.8063

The Health and Human Services Commission (HHSC) proposes an amendment to §355.8063, concerning the reimbursement methodology for freestanding psychiatric inpatient services, in Chapter 355, Reimbursement Rates.

Background and Purpose

The purpose of the amendment is to revise the Medicaid reimbursement methodology for freestanding psychiatric inpatient hospitals. The reimbursement methodology for freestanding psychiatric hospitals will change from Tax Equity Fiscal Responsibility Act (TEFRA) principles, which is a cost-based reimbursement, to a hospital-specific per diem rate, which will be reimbursed under a prospective payment system (PPS).

The proposed amendment is estimated to result in an additional annual cost of \$4.7 million all funds for State Fiscal Year (SFY) 2007 due to the change in the reimbursement rate being implemented November 1, 2006. For SFY 2008 and thereafter, the estimated additional cost is expected to be \$5.6 million all funds. Using the provider's Medicaid costs to calculate its hospital-spe-

cific per diem amount yields a reimbursement rate that better reflects the provider's actual costs.

Fiscal Note

Thomas M. Suehs, Deputy Executive Commissioner for Financial Services, has determined that during the first five-year period the amended rule is in effect there will be an additional average cost of over \$2 million in general revenue and over \$3.17 million in federal funds for each state fiscal year the rule is implemented. The proposed rule will not result in any fiscal implications for local health and human services agencies. Local governments will incur no additional costs.

Small Business and Micro-business Impact Analysis

HHSC has determined that there is no adverse economic effect on small businesses or micro-businesses, or on businesses of any size, as a result of enforcing or administering the amendment, since providers will be reimbursed for their Medicaid inpatient psychiatric services based upon their actual costs of providing those services.

Cost to Persons and Effect on Local Economies

HHSC does not anticipate that there will be any economic cost to persons who are required to comply with this amendment. The amendment will not affect a local economy.

Public Benefit

Carolyn Pratt, Director of Rate Analysis, has determined that, for each year of the first five years the amendment is in effect, the public benefit expected as a result of enforcing the amendment is that freestanding psychiatric facilities will be reimbursed based upon their actual costs of providing psychiatric inpatient services.

Takings Impact Assessment

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

Regulatory Analysis

HHSC has determined that this proposal is not a "major environmental rule" as defined by §2001.0225 of the Texas Government Code. "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.

Public Comment

Questions about the content of this proposal may be directed to Alisa Jacquet (telephone: (512) 491-1432; FAX: (512) 491-1998) in HHSC Rate Analysis for Hospital Acute Care Services. Written comments on the proposal may be submitted to Ms. Jacquet via facsimile, e-mail to alisa.jacquet@hhsc.state.tx.us, or mail to HHSC Rate Analysis, Mail Code H-400, P.O. Box 85200, Austin, TX 78708-5200, within 30 days of publication in the *Texas Register*.

Statutory Authority

The amendment is proposed under the Texas Government Code, §531.033, which authorizes the Executive Commissioner

of HHSC to adopt rules necessary to carry out the Commission's duties, and §531.021(b), which establishes HHSC as the agency responsible for adopting reasonable rules governing the determination of fees, charges, and rates for medical assistance payments under the Human Resources Code, Chapter 32.

The proposed amendment affects Texas Government Code, §531.033 and §531.021(b) and Chapter 32 of the Human Resources Code. No other statutes, articles, or codes are affected by this proposal.

§355.8063. *Reimbursement Methodology for Inpatient Hospital Services.*

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

(o) Reimbursement to in-state children's hospitals [~~and freestanding psychiatric facilities~~]. The HHSC or its designee reimburses in-state children's hospitals [~~and freestanding psychiatric facilities~~] under similar methods and procedures used in the Social Security Act, Title XVIII, as amended, effective October 1, 1982, by Public Law 97-248, Tax Equity and Fiscal Responsibility Act (TEFRA) except for the cost of direct graduate medical education (DGME). For cost reporting periods beginning on or after September 1, 2003, children's hospitals with allowable DGME costs as determined under TEFRA principles will receive a pro rata share of their annual TEFRA DGME cost based on appropriations or allocations from appropriations made specifically for this purpose. The amount and frequency of interim payments will also be subject to the availability of appropriations made specifically for this purpose. Interim payments are subject to settlement at both tentative and final audit of a hospital's cost report. The HHSC or its designee establishes target rates and stipulates payments per discharge, incentives, and percentage of payments. The HHSC or its designee uses each hospital's 1987 final audited cost reporting period (fiscal year ending during calendar year 1987) as its target base period. The target base period for hospitals recognized by Medicare as children's hospitals after the implementation of this subsection is the hospital's first full 12-month cost reporting period occurring after its recognition by Medicare. The HHSC or its designee annually increases each hospital's target amount for the target base period by the cost-of-living index described in subsection (n) of this section. The HHSC or its designee selects a new target base period at least every three years. The HHSC or its designee bases interim payments to each hospital upon the interim rate derived from the hospital's most recent tentative or final Medicaid cost report settlement. If a Title XIX participating hospital is subsequently recognized by Medicare as a children's hospital after the implementation of this subsection, the hospital must submit written notification to the HHSC or its designee and include adequate documentation and claims data. Upon receipt of the written notification from the hospital, the HHSC or its designee reserves the right to take 90 days to convert the hospital's reimbursement to the reimbursement methodology described in this subsection.

(p) - (v) (No change.)

(w) Reimbursement to freestanding psychiatric facilities. Effective November 1, 2006, HHSC or its designee reimburses freestanding psychiatric facilities, under the prospective payment system, a hospital-specific per diem rate. The per diem rate will be determined based upon the facility's most recent tentative or final Medicaid cost report. HHSC or its designee will not cost settle for services provided to recipients admitted as inpatients to freestanding psychiatric facilities reimbursed under the prospective payment system on or after the implementation date of the prospective payment system.

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

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Steve Aragón

Chief Counsel

Texas Health and Human Services Commission

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



1 TAC §355.8065

The Health and Human Services Commission (HHSC) proposes an amendment to §355.8065, concerning the trauma condition of participation included in the Medicaid Disproportionate Share Hospital (DSH) Program.

Background and Purpose

The purpose of this amendment is to require children's hospitals to become designated as part of the state's trauma network in order to receive disproportionate share funds. In the current rule, children's hospitals are exempt from becoming designated as part of the state's trauma network in order to receive DSH funds. The amendment deletes the exception for children's hospitals, which has existed since 1993. Recently, several children's hospitals have requested trauma designation from the state. And in May 2006, the Governor's EMS and Trauma Advisory Council (GETAC) recommended unanimously that children's hospitals be required to have trauma designations in order to receive DSH funds.

Fiscal Note

Thomas M. Suehs, Deputy Executive Commissioner for Financial Services, has determined that during the first five-year period the amended rule is in effect there will be no additional cost to the state for each state fiscal year the rule is implemented. The proposed amendment will not result in any fiscal implications for local health and human services agencies. Local governments will incur no additional costs.

Small Business and Micro-business Impact Analysis

HHSC has determined that there is no adverse economic effect on small businesses or micro-businesses, or on businesses of any size, as a result of enforcing or administering the amendment.

Cost to Persons and Effect on Local Economies

HHSC does not anticipate that there will be any economic cost to persons who are required to comply with this amendment. The amendment will not affect a local economy.

Public Benefit

Carolyn Pratt, Director of Rate Analysis, has determined that, for each of the first five years the amendment is in effect, the public benefit expected is that children's hospitals will be better able to treat trauma patients.

Takings Impact Assessment

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

Regulatory Analysis

HHSC has determined that this proposal is not a "major environmental rule" as defined by §2001.0225 of the Texas Government Code. "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.

Public Comment

Questions about the content of this proposal may be directed to Henry Welles (telephone: (512) 491-1368) in HHSC Rate Analysis for Hospital Acute Care Services. Written comments on the proposal may be submitted to Mr. Welles via facsimile ((512) 491-1998); by e-mail to Henry.Welles@hhsc.state.tx.us or mail to HHSC Rate Analysis, Mail Code H-400, P.O. Box 85200, Austin, Texas 78708-5200, within 30 days of publication in the *Texas Register*.

Statutory Authority

The amendment is proposed under the Texas Government Code, §531.033, which authorizes the Executive Commissioner of HHSC to adopt rules necessary to carry out the commission's duties, and §531.021(b), which establishes HHSC as the agency responsible for adopting reasonable rules governing the determination of fees, charges, and rates for the medical assistance program under the Human Resources Code, Chapter 32.

The proposed amendment affects Texas Government Code, §531.033 and §531.021(b) and Chapter 32 of the Human Resources Code. No other statutes, articles, or codes are affected by this proposal.

§355.8065. *Additional Reimbursement to Disproportionate Share Hospitals.*

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

(c) Conditions of participation. Before the beginning of each state fiscal year, which begins September 1, the single state agency or its designee shall survey Medicaid hospitals to determine which hospitals meet the state's conditions of participation. Hospitals must allow state personnel access to the hospital and its records to ensure compliance with the conditions of participation. Failure to meet all of the conditions of participation shall result in ineligibility for participation in the program. These conditions of participation do not apply to state-owned teaching hospitals as specified in §355.8067 of this title (relating to Disproportionate Share Hospital Reimbursement Methodology for State-Owned Teaching Hospitals). The conditions of participation are as follows.

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

(7) Trauma system. Disproportionate share hospitals must actively participate in the development of a regional trauma system, which includes obtaining trauma facility designation as defined in the state trauma laws (Health and Safety Code, §§773.111 - 773.120) and Department of State Health Services (DSHS) rules. This condition shall apply only if rules and procedures to designate trauma facilities have been adopted. Exceptions: The following hospitals are exempt from the trauma system condition: State mental and state chest hospitals; psychiatric hospitals licensed by DSHS; and certain hospitals licensed as "special" by DSHS (i.e., long term care hospitals, ventilator hospitals, burn institutes, and alcohol-chemical dependency hospitals); rehabilitation hospitals; maternity hospitals; college infirmaries; contagious disease hospitals; and hospitals for the terminally ill. [~~Pediatric~~

and adolescent facilities are exempt from trauma facility designation requirements until the time that state law authorizes the designation of pediatric and/or adolescent trauma facilities.]

(A) (No change.)

(B) Hospitals shall be designated as trauma facilities under four levels that range from "basic" (stabilization and transfer of major and severe trauma patients) to "comprehensive" (care and management of all trauma patients, plus education and research.

(8) - (9) (No change.)

(d) Qualifying formulas for determining disproportionate share status. Each hospital must have a Medicaid inpatient utilization rate, at a minimum, of 1.0%. The single state agency or its designee shall identify the qualifying Medicaid disproportionate share providers from among the hospitals that meet the two-physician requirement and the state's conditions of participation, as specified in subsection (c)(1) - (9) of this section, by using the following formulas. In the case of hospitals that have merged to form a single Medicaid provider, the single state agency or its designee shall aggregate the data points from the individual hospitals that now make up the single provider to determine whether the single Medicaid provider qualifies as a Medicaid disproportionate share hospital. Medicaid disproportionate share hospitals shall receive payments if they merge with other hospitals during the fiscal year, if they continue to meet the two-physician requirement, and if they meet the other conditions of participation. Children's hospitals that do not otherwise qualify as disproportionate share hospitals shall be deemed disproportionate share hospitals. The formulas are as follows:

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

(4) Total [~~total~~] Medicaid inpatient days at least one standard deviation above the mean Medicaid inpatient days for all hospitals participating in the Medicaid program.

(5) (No change.)

(e) (No change.)

(f) Reimbursing Medicaid disproportionate share hospitals. The commission shall reimburse Medicaid disproportionate share hospitals on a monthly basis. Monthly payments will equal one twelfth of annual payments unless it is necessary to adjust the amount because payments will not be made for a full 12-month period, to comply with the annual state disproportionate share hospital allotment, or to comply with other state or federal disproportionate share hospital program requirements. Before the start of the next state fiscal year, the commission determines the size of the available funds to reimburse disproportionate share hospitals for the next state fiscal year, which begins each September 1. The funds available to reimburse the state chest hospitals and state mental hospitals equal the total of their adjusted hospital specific limits. The available fund for the remaining hospitals equals the lesser of the funds remaining in the state's annual disproportionate share allotment or the sum of qualifying hospitals' adjusted hospital specific limits. Payments shall be made in the following manner, unless the commission determines the hospital's proposed reimbursement has exceeded its specific limit.

(1) A state chest hospital meets the requirements for disproportionate share status and provides inpatient hospital services receives annually up to 175 percent of [f] its adjusted hospital specific limit. A state mental hospital that meets the requirements of disproportionate share status and provides inpatient psychiatric services receives 100 percent of its adjusted hospital specific limit.

(2) (No change.)

(g) - (i) (No change.)

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

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Steve Aragón

Chief Counsel

Texas Health and Human Services Commission

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



CHAPTER 363. TEXAS HEALTH STEPS COMPREHENSIVE CARE PROGRAM SUBCHAPTER F. PERSONAL CARE SERVICES

1 TAC §§363.601, 363.603, 363.605, 363.607

The Texas Health and Human Services Commission (HHSC or Commission) proposes to amend Chapter 363, Comprehensive Care Program, by adding new Subchapter F, Personal Care Services §§363.601, 363.603, 363.605 and 363.607. HHSC also seeks to change the title of the same Chapter 363 to "Early and Periodic Screening, Diagnosis and Treatment." Chapter 363 describes specific benefits available to Medicaid clients under the age of 21 through the federal Early and Periodic Screening, Diagnosis, and Treatment program (EPSDT).

Background and Justification

Alberto N. v. Hawkins, was filed in 1999, in the U.S. District Court for the Eastern District of Texas. Plaintiffs were children who alleged they had been denied access to certain medically necessary in-home Medicaid services, including personal care services (PCS). To meet plaintiffs' needs, and the needs of those similarly situated, HHSC is establishing a personal care services benefit designed especially for EPSDT beneficiaries. Currently personal care services for EPSDT-eligible beneficiaries are available through the Primary Home Care program operated by the Department of Aging and Disability Services. The proposed new benefit is expected to be operational by September 1, 2007. The personal care services benefit will be available to any EPSDT-eligible beneficiary who requires assistance with activities of daily living, instrumental activities of daily living, and health-related functions due to a physical, cognitive, or behavioral limitation related to his or her disability or chronic health condition, regardless of diagnosis, type of illness, or condition. The new Subchapter F, Personal Care Services, in Chapter 363, sets out the administrative rules necessary to implement the new personal care services benefit. The Commission may propose additional administrative rules as they become necessary.

Section-by-Section Summary

Section 363.601 states that the purpose of new Subchapter F is to establish rules for the new personal care services (PCS) benefit. The rule also outlines eligibility and medical necessity criteria for PCS.

Section 363.603 establishes PCS provider participation requirements for both individuals and organizations. The requirements

are in accordance with federal and state regulations, including regulations for Consumer Directed Services Agencies that provide services under Title 40, Part 1, Chapter 41 of the Texas Administrative Code. The rule also describes requirements for school districts providing PCS through the School Health and Related Services (SHARS) program.

Section 363.605 describes the benefits available through PCS (e.g., assisting clients with activities of daily living), the authorization process that a provider must complete prior to providing PCS, benefit limitations, and reasons for termination. In addition, the new rule states that PCS may be delivered through the Consumer Directed Services option described in Title 40, Part 1, Chapter 41 of the Texas Administrative Code.

Section 363.607 establishes the settings in which an EPSDT beneficiary may receive the new PCS benefit.

Fiscal Note

Thomas M. Suehs, Deputy Executive Commissioner for Financial Services, has determined that during the first five-year period the proposed rules are in effect there will be a fiscal impact to state government of \$53.6 million for state fiscal year (SFY) 2008, \$55.6 million for SFY 2009, \$57.0 million for SFY 2010, \$58.3 million for SFY 2011, and \$59.7 million for SFY 2012. The proposed rules will not result in any fiscal implications for local health and human services agencies. Local governments will not incur additional costs.

Small and Micro-business Impact Analysis

Mr. Suehs has also determined that there will be no effect on small businesses or micro businesses to comply with the proposal, as they will not be required to alter their business practices as a result of the rule. There are no anticipated economic costs to persons who are required to comply with the proposed rule. There is no anticipated negative impact on local employment.

Public Benefit

Mr. Chris Traylor, Associate Commissioner for Medicaid and CHIP, has determined that for each year of the first five years the proposed rules are in effect, the public will benefit from the adoption of the new rules. The anticipated public benefit, as a result of enforcing the new rules, will be to provide additional personal care services to the Medicaid population under 21 years of age.

Regulatory Analysis

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

Takings Impact Assessment

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

Public Comment

Written comments on the proposal may be submitted to Pablo Bastida, Policy Analyst in the Medicaid/CHIP Division, Texas Health and Human Services Commission, P.O. Box 85200, MC-H390, Austin, Texas 78708-5200; by fax to (512) 491-1984; or by e-mail to Pablo.Bastida@hhsc.state.tx.us within 30 days of publication of this proposal in the *Texas Register*.

Public Hearing

A public hearing is scheduled for May 23, 2007 from 9:00 a.m. to 10 a.m. in the HHSC Lone Star Conference Room at 11209 Metric Boulevard, Austin, Texas 78758. Persons requiring further information, special assistance, or accommodations should contact Meisha Spencer at (512) 491-1453.

Statutory Authority

The new rules are proposed under the Texas Government Code, §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; the Human Resources Code, §32.021, and the Texas Government Code, §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas.

The proposed new rules affect the Human Resources Code, Chapter 32, and the Texas Government Code, Chapter 531. No other statutes, articles, or codes are affected by this proposal.

§363.601. Eligibility and Medical Necessity Criteria.

(a) The purpose of this subchapter is to define personal care services available through the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT)-Comprehensive Care Program.

(b) Personal care services may be provided to individuals who are under 21 years of age and eligible for EPSDT.

(c) Personal care services are medically necessary when a beneficiary requires assistance with activities of daily living (ADLs), instrumental activities of daily living (IADLs), or health related functions because of a physical, cognitive or behavioral limitation that is related to the beneficiary's disability or chronic health condition.

§363.603. Provider Participation Requirements.

(a) Personal care services must be provided by an individual who:

(1) Is 18 years of age or older;

(2) Is an employee of a provider organization or an employee of the beneficiary, or the beneficiary's parent or guardian, if the beneficiary is receiving personal care services through the consumer directed services (CDS) option described in 40 TAC, Chapter 41 (relating to Consumer Directed Services Option);

(3) Has demonstrated competence, when competence cannot be demonstrated through education and experience, to perform the personal assistance tasks assigned by the provider organization supervisor, the beneficiary, or the beneficiary's parent or guardian acting as employer through the CDS option described in 40 TAC, Chapter 41 (relating to Consumer Directed Services Option);

(4) Is not a legal or foster parent of the beneficiary who receives the service; and

(5) Is not the legal spouse of the beneficiary who receives the service.

(b) HHSC may establish rates of reimbursement based on the level of care required by the beneficiary and the qualifications of and tasks performed by the personal care services attendant.

(c) An organization providing personal care services must meet the licensing standards for a home and community support services agency (HCSSA) set out in 40 TAC, Chapter 97 (relating to Licensing Standards for Home and Community Support Services Agencies) for one of the following license categories or special service types:

(1) Licensed Home Health Services, as set out in 40 TAC §97.401 (relating to Standards Specific to Licensed Home Health Services);

(2) Licensed and Certified Home Health Services, as set out in 40 TAC §97.402 (relating to Standards Specific to Licensed and Certified Home Health Services); or

(3) Agencies licensed to provide personal assistance services, as set out in 40 TAC §97.404 (relating to Standards Specific to Agencies Licensed to Provide Personal Assistance Services).

(d) An organization serving as a Consumer Directed Services Agency (CDSA), providing financial management services and other employer support services to a client receiving personal care services through the CDS modality, must meet the CDSA contracting requirements specified in 40 TAC Chapters 41 and 49 (relating to Consumer Directed Services Option and Contracting for Community Care Services).

(e) Provider organizations and CDSA, must successfully enroll as a Texas Medicaid provider prior to seeking authorization or payment for personal care services.

(f) A provider of personal care services delivered by a school district as School Health and Related Services (SHARS) includes employees or contracted staff, e.g., bus monitor/aide when provided on a specially adapted school bus, special education teacher, and special education teacher's aide.

§363.605. Benefits and Limitations.

(a) Personal care services are support services provided to an EPSDT beneficiary who requires assistance with activities of daily living (ADLs), instrumental activities of daily living (IADLs), and health-related functions due to physical, cognitive, or behavioral limitations related to his or her disability or chronic health condition.

(1) ADLs include, but are not limited to, eating, toileting, grooming, dressing, bathing, transferring, maintaining continence, positioning, and mobility.

(2) IADLs include, but are not limited to, personal hygiene, meal preparation, grocery shopping, light housework, laundry, communication, transportation, and money management.

(3) Health-related functions include, but are not limited to, medication administration and management, range of motion, exercise, skin care, use of durable medical equipment, reporting the beneficiary's condition, including changes to the beneficiary's condition or needs, and completing appropriate records.

(b) Personal care services may include:

(1) Nurse-delegated tasks, including health maintenance activities, as permitted by the Texas Nursing Practice Act and its implementing regulations; and

(2) Hands-on assistance, cuing, redirecting, or intervening, to accomplish the task.

(c) Prior to providing personal care services, a provider must successfully obtain authorization from HHSC or its designee. Prior authorization for the service is required for consideration of payment.

(1) School districts seeking authorization of personal care services through SHARS must submit an individualized educational program (IEP).

(2) All providers (excluding SHARS providers) must submit the following when seeking authorization for personal care services:

(A) A completed HHSC-approved comprehensive assessment form;

(B) A completed HHSC-approved service plan;

(C) An HHSC-approved written statement of need from the beneficiary's physician or usual source of care (i.e., a practitioner with ongoing clinical knowledge of the beneficiary); and

(D) Any other documentation required by HHSC to complete the authorization process.

(d) In evaluating the request for personal care services, HHSC or its designee will determine the amount and duration of personal care services by taking into account the following:

(1) Whether the beneficiary has a physical, cognitive, or behavioral limitation related to a disability or chronic health condition that inhibits the beneficiary's ability to accomplish ADLs, IADLs, or related health functions;

(2) The parent/guardian's need to sleep, work, attend school, and meet their own medical needs;

(3) The parent/guardian's legal obligation to care for, support, and meet the medical, educational, and psycho-social needs of their other dependents; and

(4) The parent/guardian's physical ability to perform the personal care services.

(5) Whether or not the need to assist the family in performing personal care services on behalf of the client is related to a medical, cognitive, or behavioral condition that results in a level of functional ability that is significantly below that expected of a typically developing child of the same chronological age.

(e) HHSC will not arbitrarily deny authorization of personal care services or reduce the number of requested hours of services based solely on the client's diagnosis, type of illness, or condition.

(f) A beneficiary may receive personal care services through the Consumer Directed Services (CDS) option defined in 40 TAC, Chapter 41 (relating to Consumer Directed Services Option).

(g) Personal care services limitations include the following:

(1) HHSC will not reimburse for personal care services used for or intended to provide:

(A) Respite care; or

(B) Child care.

(2) Personal care services shall neither replace parents or guardians as the primary care giver, nor provide all the care a beneficiary requires to live at home. Primary care givers remain responsible for a substantial portion of a beneficiary's daily care, and personal care services are intended to support the care of the beneficiary living at home.

(h) Authorization for personal care services will be terminated by HHSC or its designee when:

(1) The beneficiary is no longer eligible for Texas Medicaid;

(2) The beneficiary no longer meets the medical necessity criteria for personal care services;

(3) The place of service(s) can no longer meet the beneficiary's health and safety needs;

(4) The provider requests termination due to the beneficiary's lack of compliance with the service plan;

(5) The provider fails to comply with Medicaid policies and procedures; or

(6) The authorization for personal care services expires.

§363.607. Place of Service.

(a) Personal care services may be provided in an individual or group setting.

(b) Personal care services may be authorized for the following place(s) of service:

(1) The beneficiary's home;

(2) The home of the primary or alternate care giver;

(3) The beneficiary's school;

(4) The beneficiary's day care facility; or

(5) Any setting in which the beneficiary is located, except for hospitals, nursing facilities, intermediate care facilities for the mentally retarded, or institutions for mental disease.

(c) The place of service must be able to support the beneficiary's health and safety needs.

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

Filed with the Office of the Secretary of State on April 16, 2007.

TRD-200701426

Steve Aragón

Chief Counsel

Texas Health and Human Services Commission

Earliest possible date of adoption: May 27, 2007

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

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TITLE 4. AGRICULTURE

PART 1. TEXAS DEPARTMENT OF AGRICULTURE

CHAPTER 7. PESTICIDES

SUBCHAPTER E. REGULATED HERBICIDES

4 TAC §7.52, §7.53

The Texas Department of Agriculture (the department) proposes amendments to §7.52 concerning counties regulated and §7.53 concerning County Special provisions for the use of regulated herbicides. The amendments are proposed to make changes to the regulations necessitated by orders entered by the county commissioner courts of counties subject to the regulations.

Proposed amendment to §7.52 will delete Bexar county from the list of counties regulated.

Proposed amendments to §7.53 will make changes to the county special provisions by changing county special provisions for Hall County and Jackson County.

Jimmy Bush, Assistant Commissioner for Pesticides, has determined that, for the five-year period the amendments are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the sections, as amended.

Mr. Bush also has determined that, for each year of the first five years the amendments are in effect, the public benefit anticipated as a result of enforcing the sections will be increased efficiency and effectiveness in the use of regulated herbicides in regulated counties. There will be no effect on microbusiness or small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Jimmy Bush, Assistant Commissioner for Pesticide Programs, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711. Comments must be received no later than 30 days from the date of publication of the proposed amendments in the *Texas Register*.

The amendments are proposed under the Texas Agriculture Code (the Code), §76.144 which provides the Texas Department of Agriculture with the authority to adopt rules concerning the use of regulated herbicides in a county in which the commissioners court has entered an order in accordance with the Code §76.144(a).

The code that is affected by the proposal is the Texas Agriculture Code, Chapter 76.

§7.52. *Counties Regulated.*

The following counties shall be subject to the provisions of the Act, Subchapter G, unless specifically excepted by provisions of §7.53 of this title (relating to County Special Provisions): Aransas, Austin, Bailey, Baylor, [Bexar,] Brazoria, Brazos, Briscoe, Burleson, Calhoun, Cochran, Collin, Collingsworth, Culberson, Dallas, Dawson, Deaf Smith, Delta, Dickens, Donley, El Paso, Falls, Foard, Fort Bend, Gaines, Galveston, Hall, Harris, Haskell, Hidalgo, Hudspeth, Hunt, Jackson, King, Knox, Lamar, Lamb, Loving, McLennan, Martin, Matagorda, Midland, Milam, Moore, Motley, Parmer, Refugio, Robertson, Rockwall, Runnels, San Patricio, Waller, Ward, Wharton and Wilbarger.

§7.53. *County Special Provisions.*

(a) - (s) (No change.)

(t) Hall. The application of regulated herbicides is prohibited between May 10 [15] and October 15 of each year, with the exception of the [spot] application of dicamba by ground equipment [means of a pressurized hand held spray device], provided the user obtains a permit from the department prior to the use during the regulated period. The application of regulated herbicides is allowed without the requirement of a permit for the period beginning October 16 and ending May 9 of the following year.

(u) - (y) (No change.)

(z) Jackson.

[(1) The aerial application of all formulations of 2,4-D is prohibited between March 10 and September 15 of each year.]

[(2)] No permit is required for the application of regulated herbicides during the months of January and February of each year.

(aa) - (pp) (No change.)

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

Filed with the Office of the Secretary of State on April 10, 2007.

TRD-200701343

Dolores Alvarado Hibbs
General Counsel

Texas Department of Agriculture

Earliest possible date of adoption: May 27, 2007

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

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TITLE 13. CULTURAL RESOURCES

PART 1. TEXAS STATE LIBRARY AND ARCHIVES COMMISSION

CHAPTER 1. LIBRARY DEVELOPMENT

SUBCHAPTER B. STANDARDS FOR ACCREDITATION OF A MAJOR RESOURCE SYSTEM OF LIBRARIES IN THE TEXAS LIBRARY SYSTEM

13 TAC §1.47, §1.67

The Texas State Library and Archives Commission proposes amendments to 13 TAC §1.47 and §1.67, regarding standards for accreditation of a major resource system of libraries in the Texas Library System.

Proposed amendments to §1.47 and §1.67 bring the rules into alignment with the requirements of the program's federal funding source by updating the wording in the rules and moving a part of §1.47 to §1.91 to reflect the Sunset Commission recommendation that system operation grants should fund basic system support services. This language becomes part of proposed amended §1.91, regarding system operation grants. Basic system support services are defined as administration of the grant, continuing education and consulting.

Deborah Littrell, Library Development Division Director, has determined that for the first five years the amendments are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amended sections.

Ms. Littrell also has determined that for each year of the first five years the proposed amendments are in effect the public benefits anticipated as a result of enforcing the amended sections will be to strengthen local libraries. There are no cost implications to either small businesses or persons required to comply with the amended sections.

Written comments on this proposal may be submitted to Deborah Littrell, Director, Library Development Division, Texas State Library and Archives Commission, P.O. Box 12927, Austin, Texas 78711-2927, or fax: (512) 463-8800.

The amendments are proposed under the authority of the Texas Government Code, §441.123 of the Library Systems Act that directs the commission to establish and develop a state library system; §441.136 that authorizes the director and librarian to propose rules necessary for the administration of the program; and

§441.135 that permits the commission to issue system operation grants.

The proposed amendments affect the Texas Government Code, §§441.123, 441.135, and 441.136.

§1.47. Consulting and Continuing Education Services.

A major resource [~~system~~] or regional library system shall provide on-site consulting and continuing education services to libraries and unserved areas in its region to meet commission or federal goals. [~~At least one professional librarian shall be assigned full time to consulting and other system duties and provided with an adequate budget for support staff, travel, and communications to carry out these duties.~~]

§1.67. Federal Priorities.

When [~~For so long as~~] the Texas Library System is funded in whole or in part by federal [~~Library Services and Technology Act~~] funds, major resource or [~~systems and~~] regional library systems shall include in their long-range plan and annual program of services and budget projects which specifically address the federal [~~Library Services and Technology Act~~] priorities, as determined by the [~~Texas State Library and Archives~~] Commission[; ~~upon recommendation of the Library Services and Technology Act Advisory Council~~].

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

Filed with the Office of the Secretary of State on April 16, 2007.

TRD-200701412

Edward Seidenberg

Assistant State Librarian

Texas State Library and Archives Commission

Earliest possible date of adoption: May 27, 2007

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



SUBCHAPTER D. GRANTS: SYSTEM OPERATION, INCENTIVE, ESTABLISHMENT, AND EQUALIZATION

13 TAC §1.91, §1.96

The Texas State Library and Archives Commission proposes new and amended rules, 13 TAC §1.91 and §1.96, regarding standards for accreditation of a system in the Texas Library System and System Operation Grants.

The proposed amendments to §1.91 move a section from 13 TAC §1.47 to §1.91 to reflect the Sunset Commission recommendation that system operation grants should fund basic system support services. This language becomes part of proposed amended rule §1.91 regarding system operation grants. Basic system support services are defined as administration of the grant, continuing education and consulting. A new rule 13 TAC §1.96 is proposed in response to the Sunset Commission recommendation to remove the funding formula from statute and directing the agency to adopt a formula in rule. The new §1.96 establishes a new formula for system operation grants; this new rule was developed using the process recommended by the Sunset Commission.

Deborah Littrell, Library Development Division Director, has determined that for the first five years the sections are in effect there will be no fiscal implications for state or local government

as a result of enforcing or administering the proposed new and amended sections.

Ms. Littrell also has determined that for each of the first five years the proposed amended or new sections are in effect the public benefits anticipated as a result of enforcing the proposed amended or new sections will be to strengthen local libraries. There are no cost implications to either small businesses or persons required to comply with the proposed new sections.

Written comments on this proposal may be submitted to Deborah Littrell, Director, Library Development Division, Texas State Library and Archives Commission, Box 12927, Austin Texas 78711-2927, or fax (512) 463-8800.

These amended or new sections are proposed under the authority of Government Code §441.123 of the Library Systems Act that directs the commission to establish and develop a state library system, §441.136 that authorizes the director and librarian to propose rules necessary for the administration of the program, and §441.135 that permits the commission to issue system operation grants.

The proposed amended or new sections affect the Government Code §§441.123, 441.135, and 441.136.

§1.91. System Operation Grants.

(a) System operation grants are to provide basic system support services to member libraries, to coordinate and cooperate with the commission and libraries in the region, and to meet commission or federal goals, and [strengthen regional library system and major resource system services to member libraries, including grants] to reimburse libraries for providing specialized services [~~to regional and major resource systems: System operation grants are awarded to initiate and continue cooperative district-wide services sponsored by the system. Application for a system operation grant may include reimbursement to the major resource center or other contracting library for all expenses incurred in the performance of the service contract~~]. System operation grants are awarded to major resource [~~systems~~] and regional library systems operating under an approved program of services and budget.

(b) Each major resource or regional library system must, at minimum, apply for funding to provide basic system support services to member libraries. To meet this requirement, each system must apply for the minimum funding necessary for at least one full-time equivalent professional librarian and one full-time equivalent support staff. These staff shall be assigned to administration, continuing education, or consulting duties, to meet commission or federal goals; these staff shall be provided with regional travel, communications, and other operating funds to implement the approved program of services. Major resource or regional library systems may also apply for higher levels of funding, as specified in the grant guidelines issued by the commission.

§1.96. System Operation Grant: Formula.

(a) System operation grant funding shall be allocated to meet commission or federal goals. Allocation formula:

(1) 34% of the total amount specified for system operation grants shall be apportioned equally to the major resource and regional library systems;

(2) 33% of the total shall be apportioned on the number of member libraries in a system as compared to the total number of member libraries; the number of member libraries shall be the number of member libraries on the March 1 preceding the beginning of the state fiscal year; and,

(3) 33% of the total shall be apportioned on a per capita basis by the last decennial census or the most recent population estimate

of the United States Department of Commerce, Bureau of the Census. The population base for distribution of these funds is the total population residing within the library system boundaries.

(b) In state fiscal year 2009 and later, all library system grants shall be at least \$300,000. The grant amounts awarded to library systems by this section may be adjusted by the commission to achieve this minimum grant.

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

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TRD-200701416

Edward Seidenberg

Assistant State Librarian

Texas State Library and Archives Commission

Earliest possible date of adoption: May 27, 2007

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



13 TAC §1.96, §1.97

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

The Texas State Library and Archives Commission proposes the repeal 13 TAC §1.96 and §1.97 regarding System Operation Grants.

The Sunset Commission report on the agency and the accompanying introduced legislation proposes to remove the system funding formula from statute and directs the agency to adopt a funding formula in rule. In anticipation of that legislation, the agency proposes the repeal of the current funding rule that reflects the existing statute and is proposing a new funding rule, 13 TAC §1.96. Section 1.97 is no longer needed. The provisions of this rule are covered in existing state grant standards and by contract.

Deborah Littrell, Library Development Division Director, has determined that for the first five years the sections are repealed there will be no fiscal implications for state or local government as a result of the repealed sections.

Ms. Littrell also has determined that for each of the first five years after the sections are repealed the public benefits anticipated as a result of the repealed sections will be to strengthen local libraries. There are no cost implications to either small businesses or persons required to comply with the proposed repeal.

Written comments on this proposal may be submitted to Deborah Littrell, Director, Library Development Division, Texas State Library and Archives Commission, Box 12927, Austin Texas 78711-2927, or fax (512) 463-8800.

The repealed sections are proposed under the authority of Government Code 441.136 of the Library Systems Act that authorizes the director and librarian to propose rules necessary for the administration of the program, and 441.135 that permits the commission to issue system operation grants.

The proposed repealed sections affect the Government Code §441.135 and §441.136.

§1.96. *System Operation Grant: Formula.*

§1.97. *Exception to Uniform Grants and Contract Management Standards.*

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

Filed with the Office of the Secretary of State on April 16, 2007.

TRD-200701417

Edward Seidenberg

Assistant State Librarian

Texas State Library and Archives Commission

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



CHAPTER 2. GENERAL POLICIES AND PROCEDURES

SUBCHAPTER C. GRANT POLICIES

DIVISION 8. LOAN STAR LIBRARIES GRANT PROGRAM, GUIDELINES FOR PUBLIC LIBRARIES

13 TAC §2.814

The Texas State Library and Archives Commission proposes amendments to 13 TAC §2.814, regarding the funding formula. This rule establishes the funding formula for distribution of grant funds to Texas public libraries through the Loan Star Libraries program, whose general purpose is to assist local governments to improve their library services. Grants will aid local communities to maintain, improve, and enhance local library services, and will provide Texans who are not residents of a particular local community access to and services from the many participating public libraries.

Deborah Littrell, Director of Library Development, has determined that for each year of the first five years the amendment is in effect there are no fiscal implications for state or local government as a result of enforcing or administering the amended section.

Ms. Littrell also has determined that for each year of the first five years the amendment is in effect the public benefits anticipated as a result of enforcing the amended section will be to improve the library services available to the public. There will be no fiscal implications for small businesses or individuals as a result of enforcing or administering the amended section.

Written comments may be submitted to Deborah Littrell, Library Development Director, Texas State Library and Archives Commission, P.O. Box 12927, Austin, Texas 78711-2927 or fax: (512) 463-8800.

The amendment is proposed under the authority of Texas Government Code, §441.0091, concerning the Grant Program for Local Libraries, that provides the commission authority to provide for grants to meet specific information needs of residents and specific needs of local libraries, and to adopt rules for awarding grants.

The proposed amendment affects Texas Government Code, §441.0091.

§2.814. *Funding Formula.*

(a) (No change.)

(b) Loan Star Libraries grants will be awarded according to the following formula:

(1) Base Grant. Thirty percent (30%) [~~One-quarter (25%)~~] of the total funds allocated for Loan Star Libraries Grants constitutes a base award and will be divided equally among those libraries eligible for the program that either:

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

(2) Matching Grant. Seventy percent (70%) [~~Three-quarters (75%)~~] of the total funds allocated for Loan Star Libraries Grants constitutes a matching award and will be awarded to eligible libraries as a percentage match on their total local operating expenditures (as reported in the most recently collected report, as required by §1.85 of this title) minus any indirect costs (as reported in the most recent state collected public library annual report) as follows:

(A) - (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 April 16, 2007.

TRD-200701411

Edward Seidenberg

Assistant State Librarian

Texas State Library and Archives Commission

Earliest possible date of adoption: May 27, 2007

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



TITLE 16. ECONOMIC REGULATION

PART 2. PUBLIC UTILITY COMMISSION OF TEXAS

CHAPTER 26. SUBSTANTIVE RULES APPLICABLE TO TELECOMMUNICATIONS SERVICE PROVIDERS

SUBCHAPTER P. TEXAS UNIVERSAL SERVICE FUND

16 TAC §26.403

The Public Utility Commission of Texas (commission) proposes an amendment to §26.403, relating to the Texas High Cost Universal Service Plan (THCUSP). This amendment is proposed in order to accommodate changes that have occurred in the telecommunications industry of potential impact to the THCUSP.

The section establishes the guidelines for determining financial assistance to eligible telecommunications providers that service the high cost rural areas of the state, other than the study areas of small and rural incumbent local exchange companies so that basic local telecommunications service may be provided at reasonable rates in a competitively neutral manner. Further, the section sets forth the criteria for determining the amount of the support and which eligible lines shall receive support.

The proposed amendment would revise certain provisions of subsections (d) and (e) of this section. Subsections (d) and (e) would be revised to delete the existing rule language as to the specific eligible lines to be supported. Under the amendment, after notice and opportunity for hearing, the commission would determine which eligible lines should receive support under this section. Subsection (e) would be further modified to remove the existing rule language regarding the determination of the benchmark used to calculate the support amounts and to require the commission, after notice and opportunity for hearing, to establish an appropriate benchmark or benchmarks to be used in calculating the support amounts. In addition, two conforming revisions are reflected in subsection (e)(3)(C)(ii).

Considerable change has occurred in the telecommunications industry and in state law and policy regarding the telecommunications industry since the original adoption of this section in January 1998 and the implementation of this section in 2000. This section needs to be modified to allow the commission to determine the appropriate eligible lines to be supported and the benchmark or benchmarks to be used to calculate the support based upon current information and conditions in the telecommunications industry, law, and policy. The actual determination of which eligible lines will be supported and what benchmark(s) will be used to calculate support going forward would be made after notice and opportunity for hearing.

Project Number 34060 is assigned to this proceeding.

Marshall Adair, Director, Communications Industry Oversight Division and Gary Mann, Attorney, Legal Division, have determined that for each year of the first five-year period the proposed amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amended section

Mr. Adair and Mr. Mann have determined that for each year of the first five years the proposed amendment is in effect the public benefit anticipated as a result of enforcing the amended section will be that the commission will be able to determine the appropriate support to be made available in the high cost rural areas of the state affected by this section.

There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing the amended section. There is no anticipated economic cost to persons who are required to comply with the amendment as proposed.

Mr. Adair and Mr. Mann have also determined that for each year of the first five years the proposed 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 Monday, June 4, 2007, at 10:00 a.m. The request for a public hearing must be received within 32 days after publication.

Comments on the proposed 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. Sixteen copies of comments to the proposed amendment are required to be filed pursuant to §22.71(c) of this title. Reply comments may be submitted within

32 days after publication. 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 proposed amendment. The commission will consider the costs and benefits in deciding whether to adopt the amended section. All comments should refer to Project Number 34060.

This amendment is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998, Supplement 2006) (PURA), 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 specifically, PURA §56.021 which requires the commission to adopt and enforce rules to establish a universal service fund to assist local exchange companies in providing basic local telecommunications services at reasonable rates in high cost rural areas of the state.

Cross Reference to Statutes: Public Utility Regulatory Act §14.002 and §56.021.

§26.403. *Texas High Cost Universal Service Plan (THCUSP).*

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

(d) Service to be supported by the THCUSP. The THCUSP shall support basic local telecommunications services provided by an ETP in high cost rural areas of the state ~~[and is limited to those services carried on all flat rate residential lines and the first five flat rate single-line business lines at a business customer's location]~~. Local measured residential service, if chosen by the customer and offered by the ETP, shall also be supported.

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

(e) Criteria for determining amount of support under THCUSP. The TUSF administrator shall disburse monthly support payments to ETPs qualified to receive support pursuant to this section. The amount of support available to each ETP shall be calculated using the base support amount available as provided under paragraph (1) of this subsection and as adjusted by the requirements of paragraph (3) of this subsection.

(1) Determining base support amount available to ETPs. The monthly per-line support amount available to each ETP shall be determined by comparing the forward-looking economic cost, computed pursuant to subparagraph (A) of this paragraph, to the applicable benchmark as determined pursuant to subparagraph (B) of this paragraph. The monthly base support amount is the sum of the monthly per-line support amounts for each eligible line served by the ETP, as required by subparagraph (C) of this paragraph.

(A) (No change.)

(B) Determination of the benchmark. After notice and opportunity for hearing, the commission shall establish an appropriate benchmark or benchmarks ~~[The commission shall establish two benchmarks for the state, one for residential service and one for single-line-business service. The benchmarks for both residential and single-line businesses will be calculated using the statewide average revenue per line as described in clauses (i) and (ii) of this subparagraph for all ETPs participating in the THCUSP].~~

~~[(i) Residential revenues per line are the sum of the residential revenues generated by basic and discretionary local services, as well as a reasonable portion of toll and access services, for the year ending December 31, 1997, divided by the average number of residential lines served for the same period, divided by 12.]~~

~~[(ii) Business revenues per line are the sum of the business revenues generated by basic and discretionary local services for single-line business lines, as well as a reasonable portion of toll and access services for the year ending December 31, 1997, divided by the average number of single-line business lines served for the same period, divided by 12.]~~

(C) Support available under the THCUSP.

(i) After notice and opportunity for hearing, the commission shall determine which eligible lines shall receive support.

~~[(ii) [(C)] Support under the THCUSP is portable with the consumer. [An ETP shall receive support for residential and the first five single-line business lines at the business customer's location that it is serving over eligible lines in such ETP's THCUSP service area.]~~

(2) (No change.)

(3) Calculating amount of THCUSP support payments to individual ETPs. After the monthly base support amount is determined, the TUSF administrator shall make the following adjustments each month in order to determine the actual support payment that each ETP may receive each month.

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

(C) Adjustment for service provided solely or partially through the purchase of unbundled network elements (UNEs). If an ETP provides supported services over an eligible line solely or partially through the purchase of UNEs, the THCUSP support for such eligible line may be allocated between the ETP providing service to the end user and the ETP providing the UNEs according to the methods outlined below.

(i) (No change.)

(ii) Partially through UNEs. For the partial-provision scenario, THCUSP support shall be shared between the ETP and the ILEC based on the percentage of total per-line cost that is self-provisioned by the ETP. Cost-category percentages for each wire center shall be derived by adding a retail cost additive and the [HAI] model costs for five UNEs (loop, line port, end-office usage, signaling, and transport). The ETP's retail cost additive shall be derived by multiplying the ILEC-specific wholesale discount percentage by the appropriate ~~[(residential or business) revenue]~~ benchmark.

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

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

Filed with the Office of the Secretary of State on April 12, 2007.

TRD-200701392

Adriana A. Gonzales

Rules Coordinator

Public Utility Commission of Texas

Earliest possible date of adoption: May 27, 2007

For further information, please call: (512) 936-7223



TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 89. ADAPTATIONS FOR SPECIAL POPULATIONS

SUBCHAPTER FF. COMMISSIONER'S RULES CONCERNING DUAL LANGUAGE IMMERSION PROGRAMS

19 TAC §§89.1601, 89.1603, 89.1605, 89.1607, 89.1609, 89.1611, 89.1613

The Texas Education Agency (TEA) proposes new §§89.1601, 89.1603, 89.1605, 89.1607, 89.1609, 89.1611, and 89.1613, concerning dual language immersion programs. The proposed new sections would provide guidance for school districts and charter schools on dual language immersion programs for students enrolled in elementary grades, in accordance with the Texas Education Code (TEC), §28.0051.

The TEC, §28.0051, added by the 77th Texas Legislature, 2001, provides for dual language immersion programs that would result in students with a demonstrated mastery of the required curriculum in both English and one other language. Dual language instruction has been a program model within bilingual education since its inception. In 2001, Senate Concurrent Resolution 50, encouraged school districts to develop dual language programs to integrate native English speakers and speakers of other languages for academic instruction where the first language is maintained while a second language is acquired.

The TEC, §28.0051, directs the commissioner of education to adopt rules for the implementation of dual language programs in Texas school districts, including the establishment of minimum requirements for such a program, standards for evaluating program success and performance, and standards for recognizing exceptional programs and students who successfully complete these programs. The proposed new 19 TAC Chapter 89, Subchapter FF, would establish the following provisions.

Proposed new §89.1601, Definitions, would define applicable words and terms.

Proposed new §89.1603, Dual Language Immersion Program Goals, would address the primary goals of the program.

Proposed new §89.1605, Minimum Program Requirements, would establish minimum dual language immersion program requirements that must be met, including use of curriculum and instructional materials, percentage of instructional time that must be spent in the language other than English, percentage of participating students who must be speakers of the language other than English, and grade levels for program participation.

Proposed new §89.1607, Staffing and Staff Development, would set forth certification and professional development requirements.

Proposed new §89.1609, Program Implementation, would address selection criteria, parental approval of student participation, and local policy on enrollment and continuation in the program. The proposal would specify that student enrollment in the program is optional.

Proposed new §89.1611, Standards for Evaluation, would describe evaluations that must be conducted by a local school district implementing a program. The proposal would also provide indicators of success of a dual language immersion program.

Proposed new §89.1613, General Standards for Recognition, would outline general standards under which a dual language immersion program would be recognized by its local school district board of trustees. The proposed new rule would also outline general standards for recognition of students.

Susan Barnes, Associate Commissioner for Standards and Programs, has determined that for the first five-year period the new sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the new sections.

Dr. Barnes has determined that for each year of the first five years the new sections are in effect the public benefit anticipated as a result of enforcing the new sections will be helping schools facilitate the development of fluency and literacy in English and another language in all students participating in the program. The proposed rules would also promote bilingualism, biliteracy, cross-cultural awareness, and high academic achievement for students in dual language programs. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed new sections.

The public comment period on the proposal begins April 27, 2007, and ends May 27, 2007. Comments on the proposal may be submitted to Cristina De La Fuente-Valadez, Policy Coordination Division, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, (512) 475-1497. Comments may also be submitted electronically to rules@tea.state.tx.us or faxed to (512) 463-0028. All requests for a public hearing on the proposed new sections submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 15 calendar days after notice of the proposal has been published in the *Texas Register*.

The new sections are proposed under the Texas Education Code, §28.0051, which requires the commissioner of education by rule to adopt minimum requirements for a dual language immersion program implemented by a school district; standards for evaluating the success of a dual language immersion program and the performance of schools that implement a dual language immersion program; and standards for recognizing schools that offer an exceptional dual language immersion program and students who successfully complete a dual language immersion program.

The new sections implement the Texas Education Code, §§28.0051, 29.051, and 29.055.

§89.1601. Definitions.

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

(1) Dual language immersion program--An educational approach in which students learn two languages in an instructional setting that integrates subject content presented in English and another language. Models vary depending on the amount of each language used for instruction at each grade level. The program must be based upon instruction that adds to the student's first language.

(2) Language minority student--A student who comes from a home in which a language other than English is his/her primary language.

(3) School district--For the purposes of this subchapter, the definition of a school district includes an open-enrollment charter school.

§89.1603. Dual Language Immersion Program Goals.

The primary goals of a dual language immersion program are:

(1) the development of fluency and literacy in English and another language for all students, paying special attention to limited English proficient (LEP) students participating in the program;

(2) the integration of English speakers and language minority students for academic instruction, in accordance with the program design and model selected by the school district board of trustees. Whenever possible, 50% of the students in a program should be dominant English speakers and 50% of the students should be native speakers of the other language at the beginning of the program;

(3) the promotion of bilingualism, biliteracy, cross-cultural awareness, and high academic achievement; and

(4) the initial preparation of students to be economically-competent, multi-literate citizens in an international community.

§89.1605. Minimum Program Requirements.

(a) A dual language immersion program must address all curriculum requirements specified in Chapter 74, Subchapter A, of this title (relating to Required Curriculum) to include foundation and enrichment areas.

(b) A dual language immersion program shall be a full-time program of academic instruction in English and another language.

(c) A minimum of 50% of instructional time must be provided in the language other than English.

(d) The minimum enrollment requirement of limited English proficient (LEP) students in a dual language immersion program should be the lesser of 30% of the students in the class, or all LEP students served in that grade at that campus.

(e) Program implementation should:

(1) begin at prekindergarten, kindergarten, or Grade 1, as applicable;

(2) continue without interruption incrementally through the elementary grades; and

(3) consider expansion to middle school and high school whenever possible.

(f) A school district serving LEP students in a dual language immersion program must meet the requirements stipulated in the Texas Education Code, §29.051, and Subchapter BB of this chapter (relating to Commissioner's Rules Concerning State Plan for Educating Limited English Proficient Students).

(g) A dual language immersion program shall be developmentally appropriate and based on current best practices research.

(h) A dual language immersion program shall use state-adopted instructional materials as specified in §89.1210 of this title (relating to Program Content and Design).

§89.1607. Staffing and Staff Development.

(a) A dual language immersion program must be staffed with certified teachers able to deliver high-level academic instruction in English as a second language and the assigned language of instruction.

(b) A school district must offer professional development programs for dual language immersion teachers that incorporate second language acquisition methods that are developmentally, affectively, linguistically, and cognitively appropriate.

§89.1609. Program Implementation.

(a) Student enrollment in a dual language immersion program is optional.

(b) A dual language immersion program must fully disclose candidate selection criteria and ensure that access to the program is not based on race, creed, color, religious affiliation, age, or handicapping condition.

(c) A school district must obtain written parental approval for student participation in the program sequence and model established by the district.

(d) A school district implementing a dual language immersion program must develop a policy on enrollment and continuation for students in the program. The policy must address:

(1) eligibility criteria;

(2) program purpose;

(3) grade levels in which the program will be implemented;

(4) support of program goals as stated in §89.1603 of this title (relating to Dual Language Immersion Program Goals); and

(5) expectations for students and parents.

§89.1611. Standards for Evaluation.

(a) A school district implementing a dual language immersion program must conduct annual formative and summative evaluations collecting a full range of data to determine program impact on student academic success.

(b) The success of a dual language immersion program is evident by students in the program demonstrating high levels of language proficiency in English and the other language and mastery of the Texas Essential Knowledge and Skills for the foundation and enrichment areas. Indicators of success may include scores on statewide student assessments in English, statewide student assessments in Spanish (if appropriate), norm-referenced standardized achievement tests in both languages, and/or language proficiency tests in both languages.

§89.1613. General Standards for Recognition.

(a) School district recognition. An exceptional dual language immersion program may be recognized by the local school district board of trustees using the following criteria.

(1) A school district must exceed the minimum requirements stated in §89.1605 of this title (relating to Minimum Program Requirements).

(2) A school district must be rated at least acceptable in the state accountability system.

(3) A school district must not be identified for any stage of intervention for the district's bilingual and/or English as a second language program under the performance-based monitoring system.

(4) A school district must meet the Adequate Yearly Progress participation and performance criteria for the limited English proficient student group under No Child Left Behind regulations.

(b) Student recognition. A student participating in a dual language immersion program may be recognized by the program and its local school district board of trustees using the following criteria.

(1) The student must meet or exceed statewide student assessment passing standards, as required by the Texas Education Code, §39.024, in all subject areas at the appropriate grade level.

(2) The student must meet or exceed expected levels of language proficiency on a recognized language proficiency test from the list of tests approved by the commissioner of education.

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

Filed with the Office of the Secretary of State on April 12, 2007.
TRD-200701385

Cristina De La Fuente-Valadez
Director, Policy Coordination
Texas Education Agency

Earliest possible date of adoption: May 27, 2007
For further information, please call: (512) 475-1497



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 as published in 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 4. OFFICE OF THE SECRETARY OF STATE

CHAPTER 81. ELECTIONS

SUBCHAPTER I. IMPLEMENTATION OF THE HELP AMERICA VOTE ACT OF 2002

1 TAC §81.174

The Office of the Secretary of State, Elections Division, adopts an amendment to §81.174, concerning provisional voting procedures for punch card and optical scan voting system ballots tabulated at a central counting station. The amendment is adopted without changes to the proposed text as published in the November 3, 2006, issue of the *Texas Register* (31 TexReg 8929).

Because of the Help America Vote Act of 2002 (H.R. 3295), the use of punch cards is now prohibited and, therefore, must be deleted from the rule's section heading. The amendment strikes the term punch card from the heading. The rule text is not changing.

No comments were received concerning the amendment.

The amendment is adopted pursuant to §31.003 of the Texas Election Code, which provides the Office of the Secretary of State with the authority to obtain and maintain uniformity in the application, interpretation, and operation of provisions under the Texas Election Code and other election laws.

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

Filed with the Office of the Secretary of State on April 10, 2007.

TRD-200701361

Ann McGeehan

Director of Elections

Office of the Secretary of State

Effective date: April 30, 2007

Proposal publication date: November 3, 2006

For further information, please call: (512) 463-5650



TITLE 10. COMMUNITY DEVELOPMENT

PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CHAPTER 1. ADMINISTRATION

SUBCHAPTER A. GENERAL POLICIES AND PROCEDURES

10 TAC §1.19

The Texas Department of Housing and Community Affairs (the Department) adopts new §1.19, concerning Deobligated Funds, without changes to the text as published in the *Texas Register* (32 TexReg 1010) dated March 2, 2007. The purpose of this new section is, in accordance with §2306.052(b)(4), Texas Government Code, to establish a procedure for use of funds returned to the Department to make them available to the community.

SUMMARY OF COMMENTS, RESPONSE, AND BOARD ACTION

The Department received one set of written comments from the Texas Association of Community Action Agencies, Inc ("TACAA").

Comment:

TACAA's primary concern is that because the rule is intended to apply to programs under the Community Affairs Division that provisions should be considered that clarify that federal rules will supercede this rule to the extent they conflict, and that the existing deobligation policy with respect to Weatherization, Low Income Home Energy Assistance and Comprehensive Energy Assistance programs should continue as currently applied.

Staff Response:

It is not necessary to state that federal law and policies will take precedence over this rule. To the extent federal law or program rules limit the use of federal funds, such law or rule must be followed by the Department. Moreover, one of the stated purposes of this new rule is to gain flexibility for meeting the goals of the Department including expediting the delivery of funds, meeting state and federal guidelines or statutes, or meeting unexpected needs like disaster relief or the leveraging of additional funds. Therefore the Department believes the suggested changes are not needed.

The new section is adopted pursuant to the authority of the Texas Government Code, Chapter 2306.

The new section affects no other code, article or statute.

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

Filed with the Office of the Secretary of State on April 16, 2007.

TRD-200701415

Michael Gerber
Executive Director
Texas Department of Housing and Community Affairs
Effective date: May 6, 2007
Proposal publication date: March 2, 2007
For further information, please call: (512) 475-4595



10 TAC §1.20

The Texas Department of Housing and Community Affairs hereby adopts new §1.20 concerning Asset Resolution and Enforcement. The new rule is adopted without changes to the proposed text as published in the March 2, 2007, issue of the *Texas Register* (32 TexReg 1012).

New §1.20 defines a process for the disposition of department assets for which early delinquency intervention and work out approaches have not been successful. New §1.20 also sets forth compliance penalties to offset the costs associated with additional staff time and recordkeeping caused by non-compliance with department contracts and land use restriction agreements. The adopted new rule also sets forth procedures for processing debarment recommendations. Though the department has a fee schedule to offset the costs associated with regular, routine inspection and monitoring, properties with delinquent loans or that require additional monitoring because of non-compliance issues place additional stress on the department's resources. Accordingly, the department is instituting additional charges or penalties to cover the additional expenses related to resolving loan and compliance problems.

SUMMARY OF COMMENTS, RESPONSE, AND BOARD ACTION

The Department received one set of written comments from the Hon. Lana Wolff, Council Member, District 5, City of Arlington, Texas.

Comment:

Council Member Wolff expressed general support for proposed new §1.20, concerning asset resolution and enforcement for Housing Tax Credit properties. Specifically, the commenter noted how important it is to have actions available for dealing with certain multifamily properties after the 15-year HTC compliance period. The commenter expressed optimism that any new enforcement actions taken at the state level will not displace or delay concurrent enforcement coming from the local level. The commenter requested that, in implementing its new rule, the department be responsive to the local need for timely action. Finally, the commenter requests that a provision be added that would disallow the sale of properties undergoing enforcement action under the rule. As noted by the commenter, this would help assure that the property is not sold to a sympathetic party by its owner simply to avoid final local action.

Staff Response:

Staff agrees it is important to have actions available for dealing with certain multifamily properties after the 15-year HTC compliance period. Staff, however, disagrees that it is necessary to prohibit, in this rule, the sale of the property during a pending enforcement action. Department rules prohibit the transfer of a property without proper notice to the Department under 10 TAC §60.16. Therefore, the potential buyer would be notified of any property deficiencies and would take the property subject to

the required improvements. Staff does not believe that local enforcement actions to bring property into local compliance would be impacted. The Department will examine ways to provide local authorities notice of compliance issues.

The new section is adopted pursuant to the authority of the Texas Government Code, Chapter 2306.

The new section affects no other code, article or statute.

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

Filed with the Office of the Secretary of State on April 16, 2007.

TRD-200701413
Michael Gerber
Executive Director
Texas Department of Housing and Community Affairs
Effective date: May 6, 2007
Proposal publication date: March 2, 2007
For further information, please call: (512) 475-4595



CHAPTER 53. HOME INVESTMENT PARTNERSHIP PROGRAM

10 TAC §53.62

The Texas Department of Housing and Community Affairs hereby adopts amended §53.62, concerning deobligation of funds, without changes to the proposed text as published in the *Texas Register* (32 TexReg 1016) dated March 2, 2007. The department has recommended a new administrative rule that will provide stricter guidelines on the timely reprogramming and obligation of funds while also ensuring availability of funds for disasters. Further, this existing deobligation policy has been a challenge because it listed eligible uses of deobligated funds in a specific prioritized order. Because the events that prompt a need for specific eligible use of deobligated funds do not necessarily occur in the same neatly prioritized order as the existing list, it has been challenging to ensure adherence to the priorities listed.

No public comment was received concerning this amendment.

The amended section is adopted pursuant to the authority of the Texas Government Code, Chapter 2306.

The adopted amended section affects no other code, article or statute.

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

Filed with the Office of the Secretary of State on April 16, 2007.

TRD-200701414
Michael Gerber
Executive Director
Texas Department of Housing and Community Affairs
Effective date: May 6, 2007
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For further information, please call: (512) 475-4595



TITLE 16. ECONOMIC REGULATION

PART 2. PUBLIC UTILITY COMMISSION OF TEXAS

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS

SUBCHAPTER O. UNBUNDLING AND MARKET POWER

DIVISION 2. INDEPENDENT ORGANIZA- TIONS

16 TAC §25.365

The Public Utility Commission of Texas (commission) adopts an amendment to §25.365, relating to the Independent Market Monitor (IMM). The amendment limits the liability of the IMM in the performance of its duties in monitoring the Wholesale Electricity Market in the Electric Reliability Council of Texas (ERCOT). The amendment is adopted with changes to the proposed text as published in the December 15, 2006, issue of the *Texas Register* (31 TexReg 9925).

The commission initially adopted §25.365 to prescribe the terms of the IMM's service, and this amendment addresses the degree to which the IMM would be subject to a lawsuit in connection with its performance of its duties. The amendment provides a public benefit, as it protects the IMM from possible intimidation by parties that are subject to an IMM investigation.

The amendment is necessary to maintain the independence and integrity of the IMM, to ensure that it carries out its market monitoring duties without undue influence from the market participants, and to limit the costs that are incurred in providing market monitoring services. This amendment is adopted under Project Number 33495.

The commission invited public comments on the proposed amendment, and in particular, on the following question:

Is it more appropriate to implement the proposed limitation of liability provisions through a contract provision added to ERCOT's standard form agreements, or through changes to ERCOT's Protocols?

The commission received comments on the proposed amendment from TXU and ERCOT.

Summary of Comments

TXU supported implementing a limitation of liability provision through a change to ERCOT Protocols, and did not think it necessary to include it in the ERCOT standard form agreements because these agreements state that participants shall comply with, and be bound by, all ERCOT Protocols. In addition, TXU expressed the view that a statement in the ERCOT Protocols would appropriately address the IMM's liability concern and should be used in lieu of a rule change.

ERCOT believed that neither revising the standard form agreements nor changing the Protocols was necessary. ERCOT noted that the contract executed by the IMM provides that the PUCT staff would initiate a rulemaking to address the IMM's limitation of liability to third parties. Subsection (n) of the proposed rule stating the limitation of liability of the IMM satisfies the contract

language and subsection (o) requiring a modification of the ERCOT agreements is not necessary and could not add to the effectiveness of the rule. If, however, the commission wants a limitation of liability provision outside the PUC rule, then ERCOT recommended placing it in the Protocols and not in the form agreements. Making a change to the Protocols would cause negligible ERCOT administrative impact, whereas re-execution of every agreement to comply with subsection (o) would be administratively daunting and of limited usefulness. ERCOT added that April 1 would be an overly ambitious deadline for effecting changes to the Protocols, and would be even less attainable for modifying the agreements.

The commission's view is that the inclusion of a limitation of liability provision in the contracts between ERCOT and companies that operate in the ERCOT market provides the strongest protection from liability for the IMM and the best notice to companies that operate in the market. The commission recognizes, however, that amending existing contracts requires a significant amount of time and effort on ERCOT's part. Accordingly, the rule will direct ERCOT to include a limitation of liability provision relating to the IMM in all new contracts and all existing contracts being renegotiated, as of July 1, 2007. The rule will further direct ERCOT to amend all other existing contracts within a period of 15 months from the adoption date of the rule as amended. Until the contracts can be amended, the inclusion of the limitation of liability in the commission rule will provide protection to the IMM and notice to market participants.

TXU suggested a language change in the proposed rule. In the proposed rule, the IMM's release of liability is limited to "acts or omissions that arise from or are related to matters within the scope of the IMM's authority." TXU stated that this language is too broad and proposed to limit it to "acts or omissions consistent with the IMM's performance of its duties as defined by PURA §39.1515 and PUC Substantive Rule §25.365, relating to the IMM."

The commission concludes that the proposed amendment to the phrasing that TXU suggested in its comment is not appropriate. The purpose of the limitation of liability provision is to prevent the market monitor from being intimidated in its review of market events by the threat or reality of a lawsuit from a company that operates in the market. For this reason, a limitation of liability that is as broad in scope as the market monitor's responsibilities is important. The IMM's responsibilities are defined, in part, by the statute and rule that TXU refers to, but its responsibilities are also defined by contractual documents and communications from the commission concerning matters to be investigated. These additional documents may authorize and direct the IMM to evaluate and report on market events. Accordingly, the commission concludes that the scope of the limitation of liability set out in the proposed rule is appropriate, and it declines to make the change suggested by TXU.

All comments, including any not specifically referenced herein, were fully considered by the commission. In adopting this section, the commission makes other minor modifications for the purpose of clarifying its intent.

The amendment is adopted under Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998, Supplement 2006) (PURA), 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 specifically, PURA §39.1515, which requires that the commission select an entity to act as the commission's wholesale electric mar-

ket monitor to detect and prevent market manipulation strategies and recommend measures to enhance the efficiency of the wholesale market; PURA §35.004, which requires that the commission ensure that ancillary services necessary to facilitate the transmission of electric energy are available at reasonable prices with terms and conditions that are not unreasonably preferential, prejudicial, predatory, or anticompetitive; PURA §39.001, which establishes the Legislative policy to protect the public interest during the transition to and in the establishment of a fully competitive electric power industry; PURA §39.101, which establishes that customers are entitled to protection from unfair, misleading, or deceptive practices and directs the commission to adopt and enforce rules to carry out this provision and to ensure that retail customer protections are established that afford customers safe, reliable, and reasonably priced electricity; PURA §39.151, which requires the commission to oversee and review the procedures established by an independent organization, directs market participants to comply with such procedures, and authorizes the commission to enforce such procedures; and PURA §39.157, which directs the commission to monitor market power associated with the generation, transmission, distribution, and sale of electricity and provides enforcement power to the commission to address any market power abuses.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.002, 39.1515, 35.004, 39.001, 39.101, 39.151, and 39.157.

§25.365. *Independent Market Monitor.*

(a) Purpose. The purpose of this section is to define the responsibilities and authority of the independent market monitor (IMM) for the ERCOT wholesale markets, establish the standards for funding the IMM, specify the staffing requirements and qualifications for the IMM, and establish ethics standards for the IMM. This section also specifies the relationship of the IMM to the commission, to ERCOT, and to market participants. The IMM shall operate under the commission's supervision and oversight, but the IMM shall offer independent analysis to the commission to assist in making judgments in the public interest.

(b) Definitions. The following words and terms when used in this section shall have the following meaning, unless the context indicates otherwise:

(1) Independent Market Monitor (IMM)--Depending on the context, the office of the IMM or the director of the IMM and its staff.

(2) Market--The course of commercial activity by which the exchange of goods or services is effected. As used in this section, the term may refer to an entire market or a portion of a market.

(3) Market participant--Any person or entity participating in the power region's wholesale markets, or engaging in any activity that is in whole or in part the subject of the ERCOT protocols, regardless of whether the person or entity has executed an agreement with ERCOT. This definition includes, but is not limited to, a load-serving entity (including a municipally-owned utility and an electric cooperative), a retail electric provider, a qualified scheduling entity, a power marketer, a transmission and distribution utility, a power generation company, a qualifying facility, an exempt wholesale generator, a load acting as a resource, and any entity conducting planning, scheduling, or operating activities on behalf of such market participants.

(c) Objectives of market monitoring. The IMM shall monitor wholesale market activities so as to:

(1) Detect and prevent market manipulation strategies and market power abuses; and

(2) Evaluate the operations of the wholesale market and the current market rules and proposed changes to the market rules, and recommend measures to enhance market efficiency.

(d) Responsibilities of the IMM. The IMM shall gather and analyze information and data as needed for its market monitoring activities. The duties and responsibilities of the IMM may include:

(1) Monitoring all markets in the power region for energy, capacity services, and congestion revenue rights, and the ERCOT protocols and related procedures and practices that affect supply, demand, and the efficient functioning of such markets;

(2) Developing and regularly monitoring market screens and indices to identify abnormal events in the power region's wholesale markets;

(3) Analyzing events that fail the screens and other abnormal activities and market events, using computer simulation and advanced quantitative tools as necessary;

(4) Developing and regularly monitoring performance measures to evaluate market participants' and ERCOT's compliance with the ERCOT protocols and operating guides;

(5) Assessing the effectiveness of ERCOT's management of the energy, ancillary capacity services, and congestion rights markets operated by ERCOT, and evaluating the effectiveness of congestion management by ERCOT;

(6) Conducting market power tests and other analyses related to market power determination;

(7) Analyzing the ERCOT protocols and other market rules and proposed changes to those rules to identify opportunities for strategic manipulation and other economic inefficiencies, as well as potential areas of improvement;

(8) Conducting investigations of specific market events;

(9) Providing expert testimony services relating to the IMM's independent analysis, findings, and expertise, as part of the commission staff's case in enforcement proceedings initiated by the executive director in accordance with §22.246 of this title (relating to Administrative Penalties) or other commission proceedings;

(10) Maintaining a market oversight website to share market information with the public;

(11) Preparing market monitoring reports as required under subsection (k) of this section;

(12) Recommending to the commission measures to enhance the efficiency of the wholesale market and methods to correct market design flaws it has identified; and

(13) Performing any additional duties required by the commission within the scope of the Public Utility Regulatory Act §39.1515.

(e) Authority of the IMM.

(1) The IMM has the authority to conduct monitoring, analysis, reporting, and related activities but has no enforcement authority.

(2) The IMM has the authority to question a market participant about activities that may violate commission rules or ERCOT protocols or may be potential market manipulations. The IMM may inform a market participant that its activities may be in violation of commission rules or ERCOT protocols or operating guides, subject to the restrictions established by subsection (j)(2) of this section.

(3) The IMM has the authority to require submission of any information and data it considers necessary to fulfill its monitoring and investigative responsibilities by ERCOT and by market participants. Market participants and ERCOT shall provide complete, accurate, and timely responses to all IMM requests for documents, data, information, and other materials.

(4) The IMM may require that each market participant designate one or more points of contact that can answer questions the IMM may have regarding a market participant's operations or market activities.

(f) Selection of the IMM. ERCOT and the commission shall contract with an entity selected by the commission to act as the commission's wholesale market monitor. The IMM shall be established as an office independent from ERCOT, and is not subject to the supervision of ERCOT with respect to its monitoring and investigative activities.

(g) Funding of the IMM. The budget and expenditures of the IMM are subject to commission supervision and oversight. Financial controls and reporting procedures shall be implemented by the IMM and ERCOT to ensure that expenditures are consistent with the budget that was approved by the commission, and with this section.

(1) ERCOT shall fund the operations of the IMM using money from the rate authorized by PURA §39.151.

(2) The funding of the IMM shall be sufficient to ensure that the IMM has the resources and expertise necessary to monitor the wholesale electric market effectively, as determined by the commission.

(3) ERCOT shall maintain separate accounts of expenditures in support of the IMM.

(4) ERCOT shall directly assign costs arising from the IMM function to the IMM whenever possible. To the extent overhead and shared expenses cannot be directly assigned, ERCOT shall allocate such expenses to the IMM based on appropriate cost causation factors. ERCOT shall maintain all records and work papers necessary to substantiate all direct charges and allocations to the IMM.

(h) Staffing requirements and qualification of IMM director and staff.

(1) The director of the IMM shall have the qualifications necessary to oversee performance of the duties and responsibilities in subsection (c) of this section. The staff of the IMM shall have the qualifications needed to perform the market monitoring functions in subsection (c) of this section. The IMM director and staff shall be subject to background security checks as determined by the commission.

(2) The staff of the IMM shall collectively possess a set of technical skills necessary to perform market monitoring functions, which typically includes economics, with a focus on market analysis and market competitiveness; power engineering; statistics and programming; and modeling, with a focus on optimization modeling.

(i) Ethics standards governing the IMM director and staff.

(1) During the period of a person's service with the IMM, the IMM director and an IMM employee shall not:

(A) have a professional or financial interest in a market participant or an affiliate of a market participant; or own shares in a company that provides consulting services to a market participant;

(B) serve as an officer, director, partner, owner, employee, attorney, or consultant for ERCOT or a market participant or an affiliate of a market participant;

(C) directly or indirectly own or control securities in a market participant, an affiliate of a market participant, or direct competitor of a market participant or affiliate, except that it is not a violation of this rule if the IMM director or an IMM employee indirectly owns an interest in a retirement system, institution or fund that in the normal course of business invests in diverse securities independently of the control of the IMM director or employee; or

(D) accept a gift, gratuity, or entertainment from ERCOT, a market participant, affiliate of a market participant, or an employee or agent of a market participant or affiliate of a market participant.

(2) The IMM director or an IMM employee shall not directly or indirectly solicit, request from, suggest, or recommend to a market participant or affiliate of a market participant, or an employee or agent of a market participant or affiliate of a market participant, the employment of a person by a market participant or affiliate.

(3) The commission may impose post employment restrictions for the IMM and its employees.

(j) Confidentiality standards governing the IMM director and staff.

(1) The IMM shall protect confidential information and data in accordance with the confidentiality standards established in PURA, the ERCOT protocols, commission rules, and other applicable laws. The requirements related to the level of protection to be afforded information protected by these laws and rules are incorporated in this section.

(2) Unless otherwise notified by the commission legal staff, the IMM may not communicate with a market participant or with an ERCOT board member, officer, or employee, or with any other entity concerning a particular subject matter once the commission legal staff notifies the IMM that the subject matter is the subject of an investigation or enforcement proceeding.

(k) Reporting requirement. All reports prepared by the IMM shall reflect the IMM's independent analysis, findings, and expertise. The IMM shall provide periodic updates to market participants regarding the operation of the ERCOT wholesale market. In addition, the IMM shall prepare and submit to the commission the following reports:

(1) Daily, monthly, and quarterly reports on prices and congestion;

(2) An annual report on the state of the market, which will include an assessment of the competitiveness of the market; an assessment of the efficiency of ERCOT's management of the balancing energy, ancillary services, and congestion rights markets; an evaluation of the effectiveness of congestion management by ERCOT; an evaluation of whether there are inappropriate incentives, flaws, inefficiencies, and opportunities for manipulation in the market design; and any recommendations for improving the market design; and

(3) Periodic or special reports on market conditions or specific events as directed by the commission.

(l) Communication between the IMM and the commission.

(1) The personnel of the IMM may communicate with commission staff on any matter without restriction.

(2) The IMM shall:

(A) Immediately report directly to the commission any potential market manipulations, including market power abuse, and any discovered or potential violations of commission rules or ERCOT protocols or operating guides;

(B) Periodically report abnormal bids, offers, operational activities, and market behavior that have not been reported in accordance with paragraph (1) of this subsection or subsection (k) of this section.

(C) Regularly communicate with the commission and commission staff, and keep the commission updated regarding its activities, findings, and observations;

(D) Coordinate with the commission to identify priorities; and

(E) Coordinate with the commission to assess the resources and methods for monitoring the wholesale market effectively, including consulting needs.

(m) ERCOT's responsibilities and support role. ERCOT and the IMM shall jointly develop procedures and interfaces to ensure that the IMM director and staff have full access to ERCOT's operations centers, staff, and records relating to operations, settlement, and reliability. ERCOT shall designate liaisons to facilitate communications with the IMM on ERCOT's operations and information technology.

(1) ERCOT shall develop and operate an information system to collect and to store data required by the ERCOT protocols, and shall provide adequate communication equipment and necessary software packages to enable the IMM to establish electronic access to the information system and to facilitate the development and application of quantitative tools necessary for the market monitoring function. Data from ERCOT's source systems must be capable of being replicated in near real time and available for query by the IMM until data are archived and archived data are accessible for high-speed information searches. When an IT system failure prohibits "near real time" replication of data, ERCOT shall replicate the data as expeditiously as possible. Data archives must be designed to accommodate remote access by the IMM and the commission staff at any time.

(2) On an ongoing basis, ERCOT shall implement necessary procedures for the accurate collection and storage of data in the data archives and accurate communication of those data for use by the commission staff and the IMM.

(3) The IMM may review the catalogs describing information and data, and may review data collection verification criteria developed by ERCOT. The IMM may propose changes, additions, or deletions to the catalogs and criteria to facilitate the market monitoring function. In so doing, the IMM may require database items or evaluation criteria for inclusion in the pertinent catalogs.

(4) ERCOT shall establish procedures to ensure that the IMM may access all data maintained by ERCOT relating to operations, settlements, and reliability.

(5) ERCOT may provide administrative support and goods and services to the IMM, such as office space, payroll, and related services, and information technology support.

(n) Liability of the IMM. The IMM, and its directors, officers, employees and agents, shall not be liable to any person or entity for any act or omission, other than an act or omission constituting gross negligence or intentional misconduct, arising under or relating to this section, including but not limited to liability for any financial loss, loss of economic advantage, opportunity cost, or actual, direct, indirect or consequential damages of any kind resulting from or attributable to any such act or omission of the IMM as long as such act or omission arose from or related to matters within the scope of the IMM's authority.

(o) Contractual Provisions.

(1) Effective July 1, 2007, ERCOT shall include the following provision in any new or re-negotiated agreement it has with an entity that engages in any activity that is in whole or in part the subject of the ERCOT Protocols: The IMM, and its directors, officers, employees, and agents, shall not be liable to any person or entity for any act or omission, other than an act or omission constituting gross negligence or intentional misconduct, including but not limited to liability for any financial loss, loss of economic advantage, opportunity cost, or actual, direct, indirect, or consequential damages of any kind resulting from or attributable to any such act or omission of the IMM, as long as such act or omission arose from or is related to matters within the scope of the IMM's authority arising under or relating to PURA §39.1515 and Public Utility Commission Substantive Rule §25.365, relating to Independent Market Monitor.

(2) Not later than 15 months after this subsection takes effect, ERCOT shall include the provision set out in paragraph (1) of this subsection in every agreement it has with an entity that engages in any activity that is in whole or in part the subject of the ERCOT Protocols.

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

Filed with the Office of the Secretary of State on April 9, 2007.

TRD-200701331

Adriana A. Gonzales

Rules Coordinator

Public Utility Commission of Texas

Effective date: April 29, 2007

Proposal publication date: December 15, 2006

For further information, please call: (512) 936-7223



CHAPTER 26. SUBSTANTIVE RULES APPLICABLE TO TELECOMMUNICATIONS SERVICE PROVIDERS SUBCHAPTER D. RECORDS, REPORTS, AND OTHER REQUIRED INFORMATION

The Public Utility Commission of Texas (commission) adopts amendments to §26.73, relating to Financial and Operating Reports, and repeals §26.77, relating to Payments, Compensation, and Other Expenditures, §26.84, relating to Annual Reporting of Affiliate Transactions of DCTUs, and §26.98, relating to Cost Allocation Manual with no changes to the proposed text as published in the December 29, 2006, issue of the *Texas Register* (31 TexReg 10484). The 79th Legislature, Senate Bill 408 (SB 408), §13, required the commission to perform a comprehensive review of reporting requirements, whether required by statute or commission rules, relating to telecommunications providers. The commission's evaluation, performed in Project Number 32460, pursuant to SB 408, concluded that numerous reporting requirements contained in the sections proposed for repeal and the section proposed for amendment were duplicative, no longer necessary, or required additional review. The repeal of §26.77, §26.84, §26.98, and the amendments of §26.73 are adopted under Project Number 33401.

The commission received written comments on its proposals for repeals and amendments from Southwestern Bell Telephone, L.P., doing business as AT&T Texas (AT&T Texas), on January 26, 2007.

On February 12, 2007, the commission received written replies from Verizon Southwest (Verizon).

AT&T Texas agreed with the commission's proposal to repeal §§26.77, 26.84 and 26.98. AT&T Texas also supported the commission's amendments to §26.73 and noted that the elimination of duplicative reporting was welcome. However, AT&T Texas did offer specific recommendations regarding the continued filing of the annual earnings reports in §26.73.

Section 26.73

AT&T Texas reiterated its comments filed in Project Number 32460, *Legislative Report Pursuant to SB 408, §13, Evaluation of Telecommunications Carriers' Reports to the Public Utility Commission of Texas*, regarding the burden of the earnings report's preparation (estimated at over 200 hours) and stated its position that the report is unnecessary in a competitive market. AT&T conceded that many dominant certificated telecommunications utilities (DCTUs) are still subject to rate of return regulation but requested that the commission scrutinize ways to update the commission-prescribed form for the annual earnings report. Specifically, AT&T Texas recommended the commission streamline the earnings report requirements for companies that are not subject to rate of return regulation. To this end, AT&T Texas offered the suggestions of eliminating the need to file separately its regulated and non-regulated earnings or its earnings by interstate and intrastate jurisdiction, and its imputed yellow page revenues. AT&T Texas argued that comparisons of the financial information provided by rate of return companies with those revenues of companies that have elected incentive regulation is not valid and that yellow page revenues distort financial results. AT&T Texas did not offer specific language for the section to accomplish these ends.

Commission response

The commission believes that AT&T Texas' recommendation to streamline the requirements of the earnings report for companies that are no longer subject to rate of return regulation may be addressed in a workshop proceeding conducted by the commission's Financial Review section. Such a proceeding will be undertaken. As a result, the commission will not further amend §26.73 at this time.

Verizon's reply comments reiterated the position taken by the company in its comments for Project Number 32460; that the annual earnings report should be eliminated or limited to the data filed in the Federal Communications Commission's (FCC's) Automated Reporting Management Information System (ARMIS) Report. Verizon recommended this data be obtained from the FCC's website, www.fcc.gov. Verizon supported AT&T Texas' position that companies under PURA Chapter 58 and 59 regulations should not be required to provide the same information as companies under rate of return regulation. Verizon concurred in AT&T Texas' recommendation that the commission eliminate or re-design and simplify the annual earnings report.

Commission response

As noted, the commission will undertake a proceeding to re-evaluate the requirements for the annual earnings report with the purpose of streamlining the processes where appropriate. As a result, the commission will not further amend §26.73 at this time.

16 TAC §26.73

This amendment is adopted under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998, Sup-

plement 2006) (PURA), 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 specifically, pursuant to the general requirements of SB 408 regarding the commission's ability to act upon those conclusions that do not require statutory review.

Cross Reference to Statutes: Public Utility Regulatory Act §14.002 and SB 408 §13.

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

Filed with the Office of the Secretary of State on April 13, 2007.

TRD-200701404

Adriana A. Gonzales

Rules Coordinator

Public Utility Commission of Texas

Effective date: May 3, 2007

Proposal publication date: December 29, 2006

For further information, please call: (512) 936-7223



16 TAC §§26.77, 26.84, 26.98

These repeals are adopted under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998, Supplement 2006) (PURA), 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 specifically, pursuant to the general requirements of SB 408 regarding the commission's ability to act upon those conclusions that do not require statutory review.

Cross Reference to Statutes: Public Utility Regulatory Act §14.002 and SB 408 §13.

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

Filed with the Office of the Secretary of State on April 13, 2007.

TRD-200701403

Adriana A. Gonzales

Rules Coordinator

Public Utility Commission of Texas

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Proposal publication date: December 29, 2006

For further information, please call: (512) 936-7223



PART 4. TEXAS DEPARTMENT OF LICENSING AND REGULATION

CHAPTER 70. INDUSTRIALIZED HOUSING AND BUILDINGS

16 TAC §70.60

The Texas Commission of Licensing and Regulation ("Commission" or Department) adopts amendments to an existing rule at Title 16, Texas Administrative Code, Chapter 70, §70.60 regarding the industrialized housing and buildings program to facilitate

the use of third parties in the performance of certification inspections as published in the December 29, 2006, issue of the *Texas Register* (31 TexReg 10485), with changes from the rule as proposed, and is republished.

To ensure that manufacturers construct industrialized housing and buildings in accordance with code requirements, the Department conducts certification inspections of each new manufacturing facility. The adopted rule amendments clarify the Department's authority to make greater use of third parties in these certification inspections. Under the current rule and Department procedures, a Department team conducts the certification inspection. The team may include third party inspectors, but a Department employee typically leads the team. Due to the volume of manufacturers applying to market industrialized housing and buildings in Texas and the Department's limited resources, the Department, the industry, and the public would benefit from having some certification inspections performed entirely by qualified third parties. This would assist the Department in completing certification inspections in a timely manner, while maintaining protection of public safety.

The Department drafted and distributed the proposed rule to persons internal and external to the agency. The public comment period closed on January 29, 2007. One public comment was received in response to the proposal. Below is a summary of the comment and the Department's response.

Amtext Corporation, an industrialized housing and building manufacturer, did not support the proposed rule changes as drafted. The commenter believed that public employees should oversee the certification inspections teams to ensure the quality of the inspections. The Department disagrees with the comment to the extent that the commenter does not support the amended rule. The Department believes that the quality of certification inspections can be maintained under the amended rule. It is important to note that the rule contemplates oversight of certification teams by the Department, even though Department employees may not be actual members of the certification team. The Department will select the individual members of the team, including the team leader, and will make the determination as to whether the manufacturer meets the requirements for certification.

The Industrialized Building Code Council ("Council") met on March 19, 2007 and recommended adoption of this rule with a change from the proposed language. As proposed, subsection (a) stated that the certification team may not include personnel of the third party inspection agency responsible for the regular in-plant inspections of the manufacturer. The change is to specify that the team leader may not be personnel of the third party inspection agency responsible for regular in-plant inspections of the manufacturer or the design review agency responsible for review of the manufacturer's design package.

This provision is intended to prohibit conflicts of interest for the team leader. Under the proposed language, the prohibition would have applied to any member of the team, including third party inspectors. In the Department's judgment, the pool of qualified certification team members is not large enough to have such a broad prohibition on membership. The new language focuses the conflict of interest prohibition on the team leader, who is more critical to the direction and oversight of the inspection. The language concerning design review agencies was added because the team leader may be associated with a design review agency rather than with a third party inspection agency, and there would be a similar conflict of interest issue in either case.

The amendments are adopted under Texas Occupations Code, Chapter 51, which authorizes the Department to adopt rules as necessary to implement that chapter and any other law establishing a program regulated by the Department, and Texas Occupations Code, Chapter 1202. In particular, §1202.101(a) directs the Commission to adopt rules as necessary to ensure compliance with the purposes of Chapter 1202 and provide for uniform enforcement of Chapter 1202.

The statutory provisions affected by the amendments are those set forth in Texas Occupations Code, Chapters 51 and 1202. No other statutes, articles, or codes are affected by the adoption.

§70.60. Responsibilities of the Department--Plant Certification.

(a) Prior to being issued decals or insignia, each manufacturing facility will undergo a certification inspection. The plant certification inspection will be conducted by a certification team designated by the department. The team leader may not be personnel of the third party inspection agency responsible for regular in-plant inspections of the manufacturer or the design review agency responsible for review of the manufacturer's design package. The team shall consist of:

(1) a team leader, who is either a department employee, an engineer, or other qualified person as determined by procedures established by the Texas Industrialized Building Code Council; and

(2) one or more department inspectors or third party inspectors.

(b) The inspection shall be conducted in accordance with the procedures established by the Texas Industrialized Building Code Council. A certification inspection has two primary purposes:

(1) to verify that the manufacturer is capable of producing modules or modular components that comply with the law and the rules, mandatory building codes, and approved design package; and

(2) to verify that the manufacturer's approved compliance control program will ensure compliance now and in the future.

(c) The team will become familiar with all aspects of the manufacturer's approved design package. Structures on the production line will be checked to assure that failures to conform located by the certification team are being located by the plant compliance control program and are being corrected by the plant personnel. The certification team will work closely with the plant compliance control personnel to assure that the approved design package and compliance control manuals for the facility are clearly understood and followed. If deemed necessary by the certification team, a representative of the design review agency must be present during the inspection. At least one module or modular component containing all systems, or a combination of modules or modular components containing all systems, shall be observed during all phases of construction. The team must inspect all modules or modular components in the production line for Texas during the certification. The plant certification inspection will terminate when the certification team has fully evaluated all aspects of the manufacturing facility.

(d) The certification team will issue a plant certification, or facility evaluation, report to the manufacturer when the department has determined that the manufacturer has met the requirements for certification. A copy of the plant certification report will also be forwarded to the third party inspection agency responsible for in-plant inspections. The manufacturer and third party inspection agency will be responsible for ensuring that all conditions of certification as outlined in the certification report are met. The manufacturer must keep a copy of this report in their permanent records. The report will contain, at a minimum, the following information:

(1) the name and address of the manufacturer;

(2) the names and titles of personnel performing the certification inspection;

(3) the serial or identification numbers of the modules or modular components inspected;

(4) a list of nonconformances observed on the modules or modular components inspected (with appropriate design package references) and corrective action taken in each case;

(5) a list of deviations from the approved compliance control procedures (with section or manual references) observed during the certification inspection with the corrective action taken in each case;

(6) a list of conditions of certification with which the manufacturer must comply to maintain the certification;

(7) the date of certification;

(8) the following statement: "This report concludes that (name of agency), after evaluating the facility, certifies that (name of factory) of (city) is capable of producing (industrialized housing and buildings or modular components) in accordance with the approved building system and compliance control manuals on file in the manufacturing facility and in compliance with the requirements of the Texas Industrialized Building Code Council"; and

(9) the signature of the certification team leader.

(e) If the department determines that the manufacturer is not capable of meeting the certification requirements or that the manufacturer is unable to complete the certification inspection requirements, then the certification team will issue a non-compliance report. The non-compliance report will detail the specific areas in which the manufacturer was found to be deficient and may make recommendations for improvement.

(f) If any personnel of a design review agency or third party inspection agency participate as members of a certification team, the agency is considered a participant in the certification team and is responsible for compliance with Texas Occupations Code, Chapter 1202, rules adopted by the commission, and decisions, actions, and interpretations of the council in performing the certification inspection and related activities.

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

Filed with the Office of the Secretary of State on April 11, 2007.

TRD-200701380

William H. Kuntz, Jr.

Executive Director

Texas Department of Licensing and Regulation

Effective date: May 1, 2007

Proposal publication date: December 29, 2006

For further information, please call: (512) 463-7348



TITLE 22. EXAMINING BOARDS

PART 11. BOARD OF NURSE EXAMINERS

CHAPTER 214. VOCATIONAL NURSING EDUCATION

22 TAC §214.10

The Board of Nurse Examiners (Board) adopts amendments without changes to Title 22, Texas Administrative Code (TAC), §214.10, pertaining to Vocational Nursing Education. Section 214.10 specifically addresses Management of Clinical Learning Experiences and Resources. The adopted amendment is pertinent to Faculty-to-Student Ratio in Clinical Settings in Education Programs. Concurrent with this adoption, the Board is adopting an amendment to 22 TAC §215.10 which addresses faculty-to-student ratios in clinical settings in professional nursing education programs. The adopted amendment was originally proposed and published in the March 9, 2007 issue of the *Texas Register* (32 TexReg 1187).

The Board is currently under "Sunset" review. In a recent Sunset Committee hearing, a committee member expressed concern that the clinical ratio of faculty-to-student of 1:10 was too burdensome to teaching programs as required by Board rule. It became evident to Staff and members of the Board that misunderstanding exists in the options available to nursing education programs in the utilization of preceptors in the clinical setting. By using preceptors, nursing education programs can increase the faculty-to-student ratio to a maximum of 1:24. In professional nursing programs, a teaching assistant with a faculty member in the clinical setting can increase the ratio to 1:15.

One comment to the proposed amendments was received from an individual in support of the rule.

The adopted amendments are pursuant to the authority of Texas Occupations Code, §301.157 and §301.151, which authorize the Board of Nurse Examiners to adopt, enforce, and repeal rules consistent with its legislative authority under the Nursing Practice Act.

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

Filed with the Office of the Secretary of State on April 12, 2007.

TRD-200701390

Katherine A. Thomas

Executive Director

Board of Nurse Examiners

Effective date: May 2, 2007

Proposal publication date: March 9, 2007

For further information, please call: (512) 305-6824



CHAPTER 215. PROFESSIONAL NURSING EDUCATION

22 TAC §215.10

The Board of Nurse Examiners (Board) adopts amendments without changes to Title 22, Texas Administrative Code (TAC), §215.10, pertaining to Professional Nursing Education. Section 215.10 specifically addresses Management of Clinical Learning Experiences and Resources. The adopted amendment is pertinent to faculty-to-student ratios in clinical settings in professional nursing education programs. Concurrent with this proposal, the Board is adopting an amendment to 22 TAC §214.10 which addresses faculty-to-student ratios in clinical settings in vocational nursing education programs. The amendment was originally

proposed and published in the March 9, 2007 issue of the *Texas Register* (32 TexReg 1188).

The Board is currently under "Sunset" review. In a recent Sunset Committee hearing, a committee member expressed concern that the clinical ratio of faculty-to-student of 1:10 was too burdensome to teaching programs as required by Board rule. It became evident to Staff and members of the Board that misunderstanding exists in the options available to nursing education programs in the utilization of preceptors in the clinical setting. By using preceptors, nursing education programs can increase the faculty-to-student ratio to a maximum of 1:24. In professional nursing programs, a teaching assistant with a faculty member in the clinical setting can increase the ratio to 1:15.

One comment to the proposed amendments was received from an individual in support of the rule.

The adopted amendments are pursuant to the authority of Texas Occupations Code, §301.157 and §301.151, which authorize the Board of Nurse Examiners to adopt, enforce, and repeal rules consistent with its legislative authority under the Nursing Practice Act.

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

Filed with the Office of the Secretary of State on April 12, 2007.

TRD-200701391

Katherine A. Thomas

Executive Director

Board of Nurse Examiners

Effective date: May 2, 2007

Proposal publication date: March 9, 2007

For further information, please call: (512) 305-6824



TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 289. RADIATION CONTROL

SUBCHAPTER D. GENERAL

25 TAC §289.204

The Executive Commissioner of the Health and Human Services Commission (commission), on behalf of the Department of State Health Services (department), adopts an amendment to §289.204 concerning radiation control fees, specifically mammography certification and accreditation fees, without changes to the proposed text as published in the December 29, 2006, issue of the *Texas Register* (31 TexReg 10515) and, therefore, the section will not be republished.

BACKGROUND AND PURPOSE

The amendment is necessary because the department is applying to the United States Food and Drug Administration (FDA) to become a certifying body for mammography facilities. Currently, the department has a contract with the FDA to perform inspections and the FDA bills individual facilities for the cost of those inspections. When the department becomes a certifying body, the contract with the FDA will not be extended and fees

for performing inspections as well as fees for the certification process will be incorporated into one certification fee paid to the agency by each facility. In addition, the department has fees for mammography accreditation. Increases to the mammography accreditation fees reflect increases to costs charged to the department for services provided by the American College of Radiology (ACR). The department contracts with the ACR to provide quality assurance reviews of mammography films for accreditation. Additional costs of administration and enforcement of the program, due to a recent legislative increase in pay, longevity pay, and travel reimbursement, were also included in the evaluation to determine the direct and indirect costs of each program.

SECTION-BY-SECTION SUMMARY

In §289.204(b)(1)(C), the amendment changes references to §289.230 (relating to Certification of Mammography Systems and Mammography Machines Used for Interventional Breast Radiography) to state the correct title of the rule being cited. Section §289.234 (relating to Mammography Accreditation) is added to reflect a new rule section. Amendments to §289.204(g) clarify the subsection title and add language stating that no application will be accepted for filing or processed prior to payment of the full amount specified. Section 289.204(g)(1) reflects changes in the fees charged to a facility for certification. Currently a facility pays a \$422 certification fee to the department and a \$1,749 inspection fee to the FDA for a total of \$2,171. When the department becomes a certifying body, fees for performing inspections as well as fees for the certification process will be incorporated into one certification fee of \$1,745 paid to the department by each facility. Certifications with more than one machine (system) on the same certification will be charged an additional \$204 for each additional machine. Section 289.204(g)(2) changes the annual fee to \$1,745 with an additional charge of \$204 for each additional machine on the certification.

Language is added to §289.204(g)(3)(A) to clarify that the fee for mammography machines used for interventional breast radiography is \$422. Certifications with more than one interventional breast radiography machine on the same certification will be charged an additional \$204 for each additional machine. In §289.204(g)(3)(B), the annual fee for mammography machines used for interventional breast radiography is \$422 with an additional \$204 charged for each additional machine on the certification.

In §289.204(h)(2)(A)-(B), the cost of quality assurance reviews of mammography films by the ACR is increasing. The accreditation fee will increase from \$880 to \$980 for the first machine. The fee for each additional machine will increase from \$490 to \$585. Other fees charged by the ACR are also increasing. In §289.204(h)(2)(C), the fee for re-evaluation of clinical images is changing from \$270 to \$305. In §289.204(h)(2)(D), the fee for phantom image review is increasing from \$210 to \$340. The fee for reinstatement of mammography machines in §289.204(h)(2)(F) is changing from \$610 to \$585. Section 289.204(h)(2)(G) reflects a \$5 increase in the amount for processing thermoluminescent dosimeters.

COMMENTS

The department, on behalf of the commission, has reviewed and prepared a response to a comment received regarding the proposed rule during the comment period, which the commission has reviewed and accepts. The commenter was a representative from the FDA. The commenter was in favor of the rule; how-

ever, the commenter suggested recommendations for change as discussed in the summary of comments.

Comment: Concerning the lack of a fee for follow-up inspections in §289.204(g), the commenter asked if the State of Texas was planning to absorb the cost of conducting follow-up inspections from the other certification fees collected or should a fee for this activity be included.

Response: The commission disagrees with the comment because the program has not been requested by the FDA to conduct follow-up inspections; however, should this become an issue in the future, it will be reviewed. No change was made to the rule as a result of this comment.

LEGAL CERTIFICATION

The Department of State Health Services, General Counsel, Cathy Campbell, certifies that the rule, as adopted, has been reviewed by legal counsel and found to be a valid exercise of the agencies' legal authority.

STATUTORY AUTHORITY

The amendment is adopted under the Health and Safety Code, §12.0111, which requires the department to charge fees for issuing or renewing a license; Health and Safety Code, §401.301, which allows the department to collect fees for radiation control registrations that it issues; §401.051, which provides the Executive Commissioner of the Health and Human Services Commission with authority to adopt rules and guidelines relating to the control of radiation; and 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.

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

Filed with the Office of the Secretary of State on April 10, 2007.

TRD-200701339

Cathy Campbell

General Counsel

Department of State Health Services

Effective date: April 30, 2007

Proposal publication date: December 29, 2006

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



CHAPTER 339. TOXICOLOGY

SUBCHAPTER A. VETERANS AGENT ORANGE ASSISTANCE PROGRAM

25 TAC §§339.1 - 339.6

The Executive Commissioner of the Health and Human Services Commission (commission), on behalf of the Department of State Health Services (department), adopts the repeal of §§339.1 - 339.6, concerning the Veterans Agent Orange Assistance Program without changes to the proposed text as published in the November 10, 2006, issue of the *Texas Register* (31 TexReg 9205) and, therefore, the sections will not be republished.

BACKGROUND AND PURPOSE

House Bill 2129, 67th Legislature, Regular Session, 1981, created the Texas Veterans Agent Orange Assistance Program. It was amended by Senate Bill 370, 68th Legislature, Regular Session, 1983. This legislation is codified as Health and Safety Code, Chapter 83. The purpose of the program was to assist Texas veterans of the Vietnam conflict who may have been exposed to Agent Orange, an herbicide used as a defoliant in Vietnam from 1965-1971 by U.S. military forces, and suspected of creating long-term health problems to those exposed. Legacy agency, Texas Department of Health, Bureau of Epidemiology, administered the Agent Orange program and investigated the cause and effect relationships between the exposure of Vietnam veterans to herbicides, chemical defoliants, or other causative agents and the emergence of health problems.

The repeal of the rules is based on Health and Safety Code, §83.010, Termination of Program and Duties. The Texas Legislature did not continue funding for the Agent Orange program; therefore, the program was phased out as of August 31, 1985. The original legislation provided that programs required by Health and Safety Code, Chapter 83, could be discontinued if "an agency of the federal government is performing the referral and screening functions required" under this law. The Veteran's Administration has long provided these services, so this program is no longer required by law.

Government Code, §2001.039, requires that each state agency review and consider for readoption each rule adopted by that agency pursuant to Government Code, Chapter 2001 (Administrative Procedure Act). Sections 339.1 - 339.6 have been reviewed and the department has determined that reasons for adopting the sections no longer exist.

SECTION-BY-SECTION SUMMARY

The repeal of §§339.1 - 339.6 is allowed because the Veteran's Administration now offers Agent Orange services.

COMMENTS

The department, on behalf of the commission, did not receive any comments regarding the proposed rules during the comment period, and no changes were made to the proposal.

LEGAL CERTIFICATION

The Department of State Health Services, General Counsel, Cathy Campbell, 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 repeals are authorized under Health and Safety Code, §83.010, Termination of Program and Duties; and 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 review of the sections implements Government Code, §2001.039.

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

Filed with the Office of the Secretary of State on April 10, 2007.

TRD-200701340

Cathy Campbell
General Counsel
Department of State Health Services
Effective date: April 30, 2007
Proposal publication date: November 10, 2006
For further information, please call: (512) 458-7111 x6972



TITLE 28. INSURANCE

PART 1. TEXAS DEPARTMENT OF INSURANCE

CHAPTER 21. TRADE PRACTICES

SUBCHAPTER GG. HEALTH CARE QUALITY ASSURANCE PRESUMED COMPLIANCE

28 TAC §§21.4101 - 21.4106

The Commissioner of Insurance adopts new Subchapter GG, §§21.4101 - 21.4106, concerning health care quality assurance presumed compliance for certain entities that offer health benefit plans. New §§21.4101 - 21.4106 are adopted with changes to the proposed text as published in the December 29, 2006, issue of the *Texas Register* (31 TexReg 10517).

These new sections are necessary to implement §1 of Senate Bill 155, enacted by the 79th Legislature, Regular Session, which added Chapter 847, the Health Care Quality Assurance Act (Act), to the Insurance Code effective June 17, 2005. Chapter 847 applies to entities that: issue a health benefit plan, as defined in the Insurance Code §847.003(2); hold a license or certificate of authority issued by the Commissioner; and provide benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, including those entities specified in the Insurance Code §847.004. The purpose of the rule and the Act is to provide standards for the appropriate recognition of accreditation by national accreditation organizations that accredit health benefit plan issuers. These standards will facilitate increased affordability of health benefit plan coverage for consumers and eliminate duplication of effort by both health benefit plan issuers and state agencies.

The Department posted an informal draft of the new sections on its internet website from November 20 through December 6, 2006, and invited public input. Subsequently, the Department published the proposed new sections in the *Texas Register* on December 29, 2006.

The Department received one comment on the proposal, and has made a few nonsubstantive changes for clarification to the text of the rule as adopted, as a result of this comment. Additionally, the Department is adopting these new sections with other nonsubstantive changes to the proposal for purposes of clarification and consistency, and where necessary, the Department has corrected punctuation errors, out-of-date cross-references, and grammatical errors. For example, references to "Internet," have been changed to lower case for consistency with current usage. None of these changes, however, materially alter issues raised in the proposed rules, introduce new subject matter, or affect persons other than those previously on notice. The adopted sections should be read in conjunction with the Insurance Code Chapter 847, and other statutes and rules as applicable. The changes to the proposed text are:

Section 21.4101: For clarification, in the first sentence of §21.4101(a), the Department has added the words "codified as" between the phrase "Health Care Quality Assurance Act (Act)," and the phrase "the Insurance Code Chapter 847." In §21.4101(b)(3), the Department, for consistency with the statutory language in the Insurance Code §847.004, has added the word "incurred" between the words "surgical expenses" and the words "as a result of" to read: ". . . medical or surgical expenses incurred as a result of a health condition, accident, or sickness,"

Section 21.4102: The Department has substituted the term "accreditation" for the term "accrediting" in the definition of national accreditation organization in §21.4102(6) for consistency with references to national accreditation organization throughout the sections as adopted and Chapter 847. In §21.4102(8), which defines the term utilization review agent, the Department has changed the reference to the obsolete citation to Article 21.58A §2(21) to the current correct citation §4201.002(14), effective April 1, 2007, as a result of the enactment of the nonsubstantive revision of the Insurance Code by the 79th Legislature, Regular Session, House Bill 2017.

Section 21.4103: The Department has added the term "nonconditional" before the term "accreditation" in two places in §21.4103(e): in the catchline and in the second sentence for consistency with other references to the defined term nonconditional accreditation in this section and throughout the rule as adopted and Chapter 847. Also, in §21.4103(e), the Department, for purposes of clarification, has changed the proposed language to read: ". . . the health benefit plan issuer shall report this change in accreditation status to the department not later than the 30th day following the date [in lieu "of notification by"] the national accreditation organization notifies the health benefit plan issuer of the loss of nonconditional accreditation status."

Section 21.4104: The Department has substituted slight variations of the phrase "health benefit plan issuer(s) with nonconditional accreditation" for the phrase "accredited health benefit plan issuer(s)" in the catchline and the first sentence of §21.4104(a) for clarification that health benefit plans must have nonconditional accreditation. This change is also necessary for consistency with the terminology in the statute and with the definition of the term nonconditional accreditation in §21.4102(6). In §21.4104(a) and (b), the Department has substituted the phrase "state statutory and regulatory requirements" for the phrase "department requirements" for consistency with Chapter 847. In §21.4104(a)(1), the Department has added the word "national" before "accreditation organization" for consistency with other references to "national accreditation organization" throughout the sections as adopted and Chapter 847. The Department has substituted the phrase "health benefit plan issuer(s) without nonconditional accreditation" for the phrase "nonaccredited health benefit plan issuers" in two instances in §21.4104(b) as adopted, for clarification and for consistency with the terminology in the statute and with the definition and use of the term nonconditional accreditation in other parts of the rule as proposed; the term "nonaccredited" is not used in Chapter 847 of the Insurance Code and is not defined in the rule as proposed.

Section 21.4105: In §21.4105(a), the Department has substituted the phrase "statutory and regulatory requirements of the department" for the term "requirements" and has added the phrase "department statutory and regulatory" before the term "requirements" for clarification and consistency with the

Insurance Code §847.005(e). In §21.4105(c), for clarification, the Department has changed the proposed language to read: "[t]he presumed compliance table listing the summary of the comparison of national accreditation standards and department statutory and regulatory requirements may be obtained [in lieu of "is available"] from:"

Section 21.4106: The Department has determined that subsection (c), relating to the confidentiality and release of an examination report that contains confidential information from an accreditation report, is unnecessary and, for purposes of clarification, has deleted the proposed subsection. The confidentiality provisions are addressed in Insurance Code §§843.006(b), 847.006(b), and 847.007(a)(2). Section 843.006(b) provides that examination reports are confidential, but may be released if the Commissioner is of the opinion that such release is in the public interest. Insurance Code §847.006(b) provides that accreditation reports submitted under §847.006(a) are proprietary and confidential information under Government Code Chapter 552, and are not subject to subpoena. Insurance Code §847.007(a)(2) authorizes the Commissioner, in conducting an examination of a health benefit plan issuer, to adopt relevant findings from a health benefit plan issuer's accreditation report into the examination report, if the accreditation report complies with applicable state and federal requirements regarding the nondisclosure of proprietary and confidential information and personal health information. Therefore, subsection (c) related to the confidentiality of examination reports, is unnecessary because relevant provisions within Government Code 552 and Insurance Code Chapters 843 and 847 already prohibit the release of such information.

Section 21.4101 states the purpose and the scope of the subchapter. Section 21.4102 defines relevant terms, including accreditation report, nonconditional accreditation, and summary results. Section 21.4103(a) sets forth the requirements by which a health benefit plan issuer that has nonconditional accreditation shall be presumed in compliance with state statutory and regulatory requirements. Section 21.4103(b) requires that in conducting an examination of a health benefit plan issuer, the Commissioner shall accept the accreditation report submitted by the health benefit plan issuer as evidence of compliance with the processes and standards for which the health benefit plan issuer has received nonconditional accreditation. Section 21.4103(c) sets forth exceptions to the presumed compliance section. Section 21.4103(d) requires health benefit plan issuers seeking presumed compliance to provide to the Department a complete copy of their accreditation report. Section 21.4103(e) provides that if a health benefit plan issuer loses nonconditional accreditation status, it must report this change in status to the Department not later than the 30th day following the date the national accreditation organization notifies the health benefit plan issuer. Section 21.4104 addresses presumed compliance of functions that are delegated by health benefit plan issuers. Section 21.4105 addresses Department monitoring and analysis of national accreditation organization standards. Section 21.4106(a) sets forth the confidentiality requirements for accreditation reports, and subsection (b) sets forth the confidentiality requirements for summary results.

SUMMARY OF COMMENTS AND AGENCY'S RESPONSE.

General: A commenter supports the proposed rule as published and states the belief that it supports the intent of Senate Bill 155. According to the commenter, it awards nonconditional accreditation status only and if a plan cannot meet its requirements and

obtain a status of Excellent, Commendable, Accredited, or Provisional, the plan is not considered accredited and is given a Denied status. The commenter recommends that the Department provide interpretative guidance specific to defining the level of accreditation that is required to meet the intent of nonconditional accreditation. The commenter recommends this additional guidance be included in the table of standards that the Department will post on its internet website.

Agency Response: The Department disagrees with the commenter that the requested additional guidance concerning the specific level of accreditation required to meet nonconditional accreditation, as defined in §21.4102(6), can be included in the Department's table of standards to be provided on its internet website. Instead, as authorized by the Insurance Code §847.005(e), the table summarizes the Department's comparison of national accreditation organization standards with the Department's statutory and regulatory requirements. While the Department is not making any changes to the proposed text of the rule in response to the concern raised by the commenter, the Department, in considering the comment, has identified sections of the rule as proposed concerning nonconditional accreditation that require clarification.

In the §21.4103(e) catchline and in the second sentence of §21.4103(e), the Department has inserted the term "nonconditional" to modify the term "accreditation" so that subsection (e) contains the more accurate and defined term nonconditional accreditation for consistency with the first sentence in subsection (e) as proposed and to clarify when a health benefit plan issuer will be subject to immediate examination by the Department upon loss of its nonconditional accreditation status. As proposed, §21.4104(b) referred to "nonaccredited health benefit plans" without defining or explaining the term "nonaccredited." Therefore, the reference to "nonaccredited health plan issuers" in §21.4104(b), as adopted, is changed to "health benefit plan issuers without nonconditional accreditation." This change is made for consistency in terminology with the statute and with the definition and use of the term nonconditional accreditation in other parts of the rule as proposed. The reason for the distinction in the requirements relating to delegations by health benefit plan issuers in subsections (a) and (b) of §21.4104 is that, pursuant to Insurance Code §847.005(a), the Department only has the statutory authority to presume a health benefit plan issuer to be in compliance with state statutory and regulatory requirements if the health benefit issuer has received nonconditional accreditation by a national accreditation organization and the national accreditation organization's accreditation requirements are the same, substantially similar to, or more stringent than the Department's statutory and regulatory requirements. Therefore, in §21.4104(b) delegations by health benefit plan issuers without nonconditional accreditation must be to delegated entities, delegated third parties, and utilization review agents that have received nonconditional accreditation or certification by a national accreditation if those delegated functions are to be presumed in compliance with state statutory and regulatory requirements. The revised language will help clarify which subsection of §21.4104 applies: Subsection (a) of §21.4104 applies to delegations by health benefit plan issuers with nonconditional accreditation and subsection (b) applies to delegations by health benefit plan issuers without nonconditional accreditation.

The various national accreditation organizations that accredit health benefit plan issuers have distinct terminology and descriptions for determining and awarding a particular accreditation status or level of accreditation. Consequently, levels

of accreditation issued by national accreditation organizations differ. As a result, it is necessary for the Department to review individual health benefit plan issuers' accreditation status on a case-by-case basis to determine if a particular health benefit plan issuer has achieved a level of accreditation that meets the Department's definition of nonconditional accreditation in §21.4102(6). This definition defines nonconditional accreditation to mean: "[f]inal accreditation survey results that a national accreditation organization issues stating an outcome that meets or exceeds the requirements of the national accreditation organization in a particular category and that is not conditional or contingent upon the health benefit plan issuer correcting any deficiencies." A health benefit plan issuer who has achieved provisional accreditation from a national accreditation organization may meet some, but not all of the requirements for being nonconditionally accredited. Therefore, the Department would not consider such a level of provisional accreditation of a national accreditation organization to meet the definition of nonconditional accreditation in §21.4102(6). If a national accreditation organization offers various levels of accreditation, then the Department will consider the various levels of accreditation awarded by the national accreditation organization in its evaluation of national accreditation organization standards with the Department standards and in its evaluation of health benefit plan issuers for presumed compliance with state statutory and regulatory requirements as required by the Insurance Code Chapter 847.

NAMES OF THOSE COMMENTING FOR AND AGAINST THE PROPOSAL.

For: the National Committee for Quality Assurance (NCQA).

Against: None.

The sections are adopted pursuant to the Insurance Code §§847.005(a), (d), and (e); 847.006(a) and (b); 847.007(a), (b), and (c); 1272.001(a)(1) and (a)(3); 4201.002(14); and 36.001. Section 847.005(a) states that a health benefit plan issuer is presumed to be in compliance with state and statutory regulatory requirements if the health benefit plan issuer has received nonconditional accreditation by a national accreditation organization and the national accreditation organization's accreditation requirements are the same, substantially similar to, or more stringent than the Department's statutory or regulatory requirements. Section 847.005(d) provides that the Commissioner may take appropriate action, including the imposition of sanctions under Chapter 82, against a health benefit plan issuer who is presumed under subsections (a), (b), or (c) of §847.005 to be in compliance with state statutory and regulatory requirements but does not maintain compliance with the same, substantially similar, or more stringent requirements applicable to the health benefit plan issuer under subsections (a), (b), or (c). Section 847.005(e) provides that the Department shall monitor and analyze periodically as prescribed by rule by the Commissioner updates and amendments made to national accreditation organization standards as necessary to ensure that those standards remain the same, substantially similar to, or more stringent than the Department's statutory or regulatory requirements. Section 847.006(a) provides that the Commissioner may require a health benefit plan issuer to submit to the Commissioner the accreditation report issued by the national accreditation organization. Section 847.006(b) states that an accreditation report submitted under subsection (a) is proprietary and confidential information under Chapter 552, Government

Code, and is not subject to subpoena. Section 847.007(a) states that in conducting an examination of a health benefit plan issuer, the Commissioner shall accept the accreditation report submitted by the health benefit plan issuer as a prima facie demonstration of the health benefit plan issuer's compliance with the processes and standards for which the issuer has received nonconditional accreditation and may adopt relevant findings in a health benefit plan issuer's accreditation report in the Department examination report if the accreditation report complies with applicable state and federal requirements regarding the nondisclosure of proprietary and confidential information and personal health information. Section 847.007(b) provides that subsection (a) does not apply to any process or standard of a health benefit plan issuer that is not covered as part of the health benefit plan issuer's accreditation and that this section does not set minimum quality standards but only operates as a replacement of duplicate requirements. Section 847.007(c) provides that the Commissioner may by rule determine the application of compliance with national accreditation organization requirements by a delegated entity, delegated third party, or utilization review agent to compliance by the health benefit plan issuer that contracts with the delegated entity, delegated third party, or utilization review agent. Section 1272.001(a)(1) defines delegated entity. Section 1272.001(a)(3) defines delegated third party. Section 4201.002(14) defines utilization review agent. Section 36.001 provides that the Commissioner may adopt any rules necessary and appropriate to implement the powers and duties of the Department under the Insurance Code and other laws of this state.

§21.4101. Purpose and Scope.

(a) General purpose. This subchapter implements provisions of the Health Care Quality Assurance Act (Act), codified as the Insurance Code Chapter 847. The general purpose of the Act and this subchapter is to provide standards for the appropriate recognition of accreditation of health benefit plan issuers by nationally recognized accreditation organizations. These standards will facilitate increased affordability of health benefit plan coverage for consumers and eliminate the duplication of effort by both health benefit plan issuers and state agencies.

(b) Applicability. This subchapter applies to an entity that:

(1) issues a health benefit plan as defined in the Insurance Code §847.003(2);

(2) holds a license or certificate of authority issued by the commissioner; and

(3) provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, including those entities listed in the Insurance Code §847.004.

§21.4102. Definitions.

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

(1) Accreditation report--The final report a national accreditation organization issues that contains a detailed analysis of the accreditation survey results including the scores of the health benefit plan issuer and the extent to which the health benefit plan issuer meets or exceeds, or fails to meet, the required accreditation standards.

(2) Delegated entity--Has the meaning assigned by the Insurance Code §1272.001(a)(1).

(3) Delegated third party--Has the meaning assigned by the Insurance Code §1272.001(a)(3).

(4) Health benefit plan--Has the meaning assigned by the Insurance Code §847.003(2).

(5) National accreditation organization--Has the meaning assigned by the Insurance Code §847.003(3).

(6) Nonconditional accreditation--Final accreditation survey results that a national accreditation organization issues stating an outcome that meets or exceeds the requirements of the national accreditation organization in a particular category and that is not conditional or contingent upon the health benefit plan issuer correcting any deficiencies.

(7) Summary results--A synopsis of the final accreditation survey results, excluding numeric scores and percentages that a national accreditation organization issues that provides the accreditation outcome results of the health benefit plan issuer, such as in report card format, but that is not a complete and detailed report of the accreditation survey results.

(8) Utilization review agent--Has the meaning assigned by the Insurance Code §4201.002(14).

§21.4103. Presumed Compliance.

(a) Health benefit plan issuer presumed compliance. Pursuant to the Insurance Code §847.005(a), a health benefit plan issuer shall be presumed to be in compliance with state statutory and regulatory requirements if:

(1) a national accreditation organization has issued the health benefit plan issuer nonconditional accreditation applicable to its operations within the state of Texas; and

(2) the national accreditation organization's accreditation requirements are the same, substantially similar to, or more stringent than the department's statutory and regulatory requirements.

(b) Examination. Pursuant to the Insurance Code §847.007(a), in conducting an examination of a health benefit plan issuer, the commissioner:

(1) shall accept the accreditation report submitted by the health benefit plan issuer as evidence of the health benefit plan issuer's compliance with the processes and standards for which the issuer has received nonconditional accreditation; and

(2) may adopt relevant findings from a health benefit plan issuer's accreditation report in the examination report if the accreditation report complies with applicable state and federal requirements regarding the nondisclosure of proprietary and confidential information and personal health information.

(c) Exceptions. Pursuant to the Insurance Code §847.007(b), this section does not:

(1) apply to any process or standard of a health benefit plan issuer that is not covered as part of the health benefit plan issuer's accreditation; or

(2) set minimum quality standards.

(d) Submission of report. Pursuant to the Insurance Code §847.006(a), at the department's request, the health benefit plan issuer seeking presumed compliance pursuant to subsection (b) of this section must provide to the department a complete copy of the accreditation report issued by the national accreditation organization.

(e) Loss of nonconditional accreditation. If a health benefit plan issuer loses nonconditional accreditation, the health benefit plan

issuer shall report this change in accreditation status to the department not later than the 30th day following the date the national accreditation organization notifies the health benefit plan issuer of the loss of nonconditional accreditation status. A health benefit plan issuer will be subject to immediate examination by the department if it loses its nonconditional accreditation status.

§21.4104. Health Benefit Plan Issuers Contracting with Delegated Entities, Delegated Third Parties, and Utilization Review Agents.

(a) Delegations by health benefit plan issuers with nonconditional accreditation. If a health benefit plan issuer with nonconditional accreditation has delegated one or more functions to a delegated entity, delegated third party, or utilization review agent, those delegated functions shall be presumed in compliance with state statutory and regulatory requirements if:

(1) the delegation was in place at the time of the national accreditation organization's review of the health benefit plan issuer; or

(2) the delegated entity, delegated third party, or utilization review agent has received nonconditional accreditation or certification by a national accreditation organization.

(b) Delegations by health benefit plan issuers without nonconditional accreditation. If a health benefit plan issuer without nonconditional accreditation has delegated one or more functions to a delegated entity, delegated third party, or utilization review agent, those delegated functions shall be presumed in compliance with state statutory and regulatory requirements if the delegated entity, delegated third party, or utilization review agent has received nonconditional accreditation or certification by a national accreditation organization that the department recognizes, as set forth in §21.4103 of this subchapter (relating to Presumed Compliance).

§21.4105. Department Monitoring and Analysis of National Accreditation Organization Standards.

(a) Analysis of standards. The department will compare statutory and regulatory requirements of the department for health benefit plan issuers with the standards of national accreditation organizations. The standards of national accreditation organizations that are the same, substantially similar to, or more stringent than the department statutory and regulatory requirements will be identified and used to determine the presumption of compliance of health benefit plan issuers.

(b) Monitoring schedule. The department shall, at least annually, monitor and analyze updates and amendments made to accreditation standards by national accreditation organizations to ensure that those standards remain the same, substantially similar to, or more stringent than the statutory and regulatory requirements of the department.

(c) Posting of standards. The department will post a table on its internet website that contains a summary of its comparison of national accreditation organization standards with the statutory and regulatory requirements of the department and indicates which portions of the examination process the department will presume compliance for accredited entities. The presumed compliance table listing the summary of the comparison of national accreditation standards and department statutory and regulatory requirements may be obtained from:

(1) the Department's internet website at: www.tdi.state.tx.us; or

(2) the Health and WC Network Certification and QA Division, Mail Code 103-6A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104.

(d) Updates to standards. The department will update the table of standards posted on its internet website on at least an annual basis,

as necessary, to reflect changes made to national accreditation organization standards.

§21.4106. *Confidentiality.*

(a) Accreditation reports. Pursuant to the Insurance Code §847.006(b), accreditation reports submitted to the department are proprietary and confidential under the Government Code Chapter 552 and are not subject to subpoena.

(b) Summary results. Pursuant to the Insurance Code §847.006(c) the summary results of a national accreditation organization are not proprietary information and are subject to public disclosure under the Government Code Chapter 552.

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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Gene C. Jarmon

General Counsel and Chief Clerk

Texas Department of Insurance

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



TITLE 34. PUBLIC FINANCE

PART 3. TEACHER RETIREMENT SYSTEM OF TEXAS

CHAPTER 29. BENEFITS

The Board of Trustees (Board) of the Teacher Retirement System of Texas (TRS or system) adopts repealed §29.17, amended §29.34 and §29.40, and new §29.56 without changes to the proposed text as published in the December 15, 2006, issue of the *Texas Register* (31 TexReg 10084).

Currently, TRS has three different rules containing minimum distribution requirements: §§29.17, 29.34, and 29.40. Adopted new §29.56 would incorporate related material from those three existing rules and expand the content to address other minimum distribution requirements, in accordance with federal tax code requirements for a qualified plan. To bring related provisions from those other rules into new §29.56, TRS adopts the repeal of §29.17, concerning the latest date for commencement of benefits as well as the amendment of §29.34, concerning limitations and §29.40, concerning election of recalculation of benefit.

The key focus of adopted new §29.56 is to add plan provisions that would allow members and beneficiaries to select certain payment plan options only when their selections are consistent with the limitations of the federal regulations. To the extent that a payment plan or payment option would provide a form of payment not consistent with the federal limitations, including a limitation on the allowable length of a guaranteed period payment or on the percentage of a retiree's benefit payable to a non-spouse beneficiary, the payment plan or option would be unavailable to the member or beneficiary, who would be required to select a different payment plan or option.

Adopted new §29.56 also reflects the basic minimum distribution requirement that a participant in the retirement plan take distri-

bution, or begin to take distribution, of the participant's entire interest in the plan by the required beginning date. The section describes the required beginning date as April 1 of the calendar year following the later of the calendar year in which the participant attains age 70 1/2, or the calendar year in which the participant terminates employment with a TRS-covered employer.

In addition, adopted new §29.56 reflects federal minimum distribution and rollover regulations providing that the portion of a distribution otherwise eligible for rollover that is a required minimum distribution cannot be rolled over to another eligible retirement plan, such as an Individual Retirement Arrangement (IRA). The section explains how TRS will determine the required distribution amount of a refund, a partial lump sum option (PLSO), or deferred retirement option payment plan (DROP) when the recipient is affected by the section.

Further, adopted new §29.56 conforms TRS rule provisions with federal regulations that set forth requirements for beneficiaries to take distributions from the retirement plan within specified time limits, either when a member dies before retirement or when a participant dies after retirement.

Adopted new §29.56, in compliance with federal tax code requirements, provides that the section modifies the TRS plan to the extent required to be a qualified plan under federal tax law and prevails over any inconsistent provision of the plan.

Finally, adopted new §29.56 provides that the changes to the availability of a payment option or payment plan are applicable to retirements with an effective date after December 31, 2007, or to a benefit payable as a result of the death of a participant after December 31, 2007. The adopted section reflects TRS's good faith interpretation of the requirements of federal tax law to implement the minimum distribution requirements applicable to the TRS pension plan.

Amended §29.34 concerns limitations related to the determination, manner, and timing of the payment of benefits following the death of a TRS member or retiree. The adopted amendments to this rule would delete the provision under subsection (f) of this section concerning deadlines for distributions of benefits to beneficiaries. The substance of deleted subsection (f) of this section would be transferred to adopted new §29.56. In addition, TRS adopts amendments to this rule to change the name of the section to "Events Affecting Payment" to distinguish it from the limitations relating to federal tax code requirements described primarily in Subchapter D of this chapter. TRS also adopts amendments to this rule to clarify how the 60-day period for selection of a death benefit payment plan will be determined and to provide greater flexibility in changing a selection.

Amended §29.40 concerns prompt payment of benefits to beneficiaries and the constructive election of greater benefits for eligible retirees or beneficiaries under certain law. The adopted amendments to this rule would transfer to adopted new §29.56 the provision concerning prompt distribution of benefits to a beneficiary.

Repealed §29.17 concerns the latest date a member's benefits must be distributed, or commence to be distributed, to a TRS member. Section 29.17 is adopted for repeal to avoid duplicating similar provisions in adopted new §29.56.

No comments on the proposals were received.

SUBCHAPTER A. RETIREMENT

34 TAC §29.17

Statutory Authority: The repeal of §29.17 is adopted under the following statutes: §825.102, Government Code, which authorizes the Board to adopt rules for the administration of the funds of the retirement system and for the transaction of the business of the Board and §825.506, Government Code, which authorizes the Board to adopt rules that modify the plan to the extent necessary for the retirement system's benefit plan to be a qualified plan and which authorizes the Board to administer the minimum distribution requirements of §401(a)(9) of the Internal Revenue Code of 1986 (26 U.S.C. §401(a)(9)).

Cross-reference to Statute: No other code, article, or statute is affected by this adopted repeal.

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

Filed with the Office of the Secretary of State on April 13, 2007.

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Ronnie G. Jung

Executive Director

Teacher Retirement System of Texas

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



SUBCHAPTER B. DEATH BEFORE RETIREMENT

34 TAC §29.34

Statutory Authority: The amendments to §29.34 are adopted under the following statutes: §824.402, Government Code, which authorizes the Board to prescribe by rule the manner of payment of death benefits under §824.402; §825.102, Government Code, which authorizes the Board to adopt rules for eligibility of membership, the administration of the funds of the retirement system, and for the transaction of the business of the Board; and §825.506, Government Code, which authorizes the Board to adopt rules that modify the plan to the extent necessary for the retirement system to be a qualified plan and which authorizes the Board to administer the minimum distribution requirements of §401(a)(9) of the Internal Revenue Code of 1986 (26 U.S.C. §401(a)(9)).

Cross-reference to Statute: The adopted amendments affect Chapter 824, Government Code.

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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Teacher Retirement System of Texas

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SUBCHAPTER C. POSTRETIREMENT INCREASES

34 TAC §29.40

Statutory Authority: The amendments to §29.40 are adopted under the following statutes: §825.102, Government Code, which authorizes the Board to adopt rules for the administration of the funds of the retirement system and for the transaction of the business of the Board; and §825.506, Government Code, which authorizes the Board to adopt rules that modify the plan to the extent necessary for the retirement system to be a qualified plan and which authorizes the Board to administer the minimum distribution requirements of §401(a)(9) of the Internal Revenue Code of 1986 (26 U.S.C. §401(a)(9)).

Cross-reference to Statute: The adopted amendments affect Chapter 824, Government Code.

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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Ronnie G. Jung

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Teacher Retirement System of Texas

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SUBCHAPTER D. PLAN LIMITATIONS

34 TAC §29.56

Statutory Authority: New §29.56 is adopted under §825.506, Government Code, which: (i) requires that the provisions of the TRS retirement plan be construed and administered in a manner that the plan will be considered a qualified plan under §401(a) of the Internal Revenue Code of 1986 (26 U.S.C. §401); (ii) authorizes the Board to adopt rules that modify the plan to the extent necessary for the retirement system to be a qualified plan, with rules adopted by the Board to be considered part of the plan; (iii) requires that the system administer the plan in a manner that satisfies the required minimum distribution provisions of §401(a)(9), Internal Revenue Code of 1986; and (iv) authorizes the Board to adopt rules to administer the distribution requirements. The new section also is adopted under §825.102, Government Code, which authorizes the Board to adopt rules for the administration of the funds of the retirement system and the transaction of the business of the Board.

Cross-reference to Statute: New §29.56 implements §825.506, Government Code, and affects the following Government Code sections: §822.005, providing for withdrawal of contributions; §824.002, relating to the effective date of retirement; Chapter 824, Subchapter B, relating to beneficiaries; Subchapter C, relating to service retirement benefits; Subchapter D, relating to disability retirement benefits; Subchapter E, relating to member death benefits; Subchapter F, relating to retiree death benefits; Subchapter I, relating to the deferred retirement option plan; and §825.509, relating to direct rollovers.

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

Filed with the Office of the Secretary of State on April 13, 2007.

TRD-200701402

Ronnie G. Jung

Executive Director

Teacher Retirement System of Texas

Effective date: May 3, 2007

Proposal publication date: December 15, 2006

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



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 1. TEXAS DEPARTMENT OF PUBLIC SAFETY

CHAPTER 4. COMMERCIAL VEHICLE REGULATIONS AND ENFORCEMENT PROCEDURES

SUBCHAPTER A. REGULATIONS GOVERNING HAZARDOUS MATERIALS

37 TAC §4.1

The Texas Department of Public Safety adopts amendments to Chapter 4, Subchapter A, §4.1, concerning Regulations Governing Hazardous Materials, without changes to the proposed text as published in the March 2, 2007, issue of the *Texas Register* (32 TexReg 1046).

Adoption of the amendments to §4.1 are necessary in order to ensure that the Federal Hazardous Material Regulations, incorporated by reference in the section, reflect all amendments and interpretations issued through March 1, 2007. Additional amendments to the section are necessary in order to remove and update an outdated reference to the term "regional highway administrator."

On March 14, 2007, the department held a public hearing to receive comments from all interested persons regarding adoption of the amendments. No comments were received regarding adoption of the amendments.

The amendments are adopted pursuant to Texas Government Code, §411.018, which authorizes the director to adopt all or part of the federal hazardous materials rules by reference; and Texas Transportation Code, §644.051, which authorizes the director to adopt all or part of the federal safety regulations by reference.

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

Filed with the Office of the Secretary of State on April 10, 2007.

TRD-200701359

Thomas A. Davis, Jr.

Director

Texas Department of Public Safety

Effective date: April 30, 2007

Proposal publication date: March 2, 2007

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



SUBCHAPTER B. REGULATIONS GOVERNING TRANSPORTATION SAFETY

37 TAC §§4.11, 4.16, 4.21

The Texas Department of Public Safety adopts amendments to Chapter 4, Subchapter B, §§4.11, 4.16, and 4.21, concerning Regulations Governing Transportation Safety, without changes to the proposed text as published in the March 2, 2007, issue of the *Texas Register* (32 TexReg 1046).

Adoption of the amendments to §4.11 are necessary in order to ensure that the Federal Motor Carrier Safety Regulations, incorporated by reference in the section, reflect all amendments and interpretations issued through that particular date for the subchapter.

Adoption of the amendments to §4.16 are necessary in order to establish a minimum amount of administrative penalty in order to ensure that the penalty imposed has the appropriate effect of deterring future violations.

Adoption of the amendments to §4.21 are necessary because responsibility for maintaining the Valid Positive Result database, and correspondence relating to the database, has been changed from the Motor Carrier Compliance Audit (MCCA) section to the Motor Carrier Safety (MCS) Section.

On March 14, 2007, the department held a public hearing to receive comments from all interested persons regarding adoption of the amendments. No comments were received regarding adoption of the amendments.

The amendments are adopted pursuant to Texas Transportation Code, §644.051, which authorizes the director to adopt rules regulating the safe transportation of hazardous materials and the safe operation of commercial motor vehicles; and authorizes the director to adopt all or part of the federal safety regulations, by reference.

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

Filed with the Office of the Secretary of State on April 10, 2007.

TRD-200701360

Thomas A. Davis, Jr.

Director

Texas Department of Public Safety

Effective date: April 30, 2007

Proposal publication date: March 2, 2007

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



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

SUBCHAPTER A. DEFINITIONS AND GENERAL CODIS PROVISIONS

37 TAC §§28.2, 28.4, 28.5, 28.7

The Texas Department of Public Safety adopts amendments to Subchapter A, §§28.2, 28.4, 28.5, and 28.7, concerning Definitions and General CODIS Provisions, without changes to the proposed text as published in the February 23, 2007, issue of the *Texas Register* (32 TexReg 731).

Due to legislation from the 79th Regular Legislative Session in HB 1068, the statutes regarding regulation of DNA laboratories were revised, including the repeal of Texas Government Code, §411.0206 and revisions to Texas Government Code, §411.144. Based on the changes to the law, adoption of the amendments to §§28.2, 28.4, 28.5, and 28.7 is necessary in order for general clarification of terminology and minimum applicable standards for forensic laboratories and other entities.

No comments were received regarding adoption of the amendments.

The amendments are adopted pursuant to Texas Government Code, §§411.0205, 411.144, 411.147, 411.152, and 411.1471, which states the director by rule shall establish an accreditation process for crime laboratories and other entities conducting forensic analyses of physical evidence for use in criminal proceedings.

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

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TRD-200701345

Thomas A. Davis, Jr.

Director

Texas Department of Public Safety

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



SUBCHAPTER B. CODIS RESPONSIBILITIES OF THE DIRECTOR

37 TAC §§28.21 - 28.23, 28.26 - 28.31

The Texas Department of Public Safety adopts amendments to Subchapter B, §§28.21 - 28.23, 28.26, 28.27, and new §§28.28 - 28.31, concerning CODIS Responsibilities of the Director, without changes to the proposed text as published in the February 23, 2007, issue of the *Texas Register* (32 TexReg 732).

Due to legislation from the 79th Regular Legislative Session in HB 1068, the statutes regarding regulation of DNA laboratories were revised, including the repeal of Texas Government Code, §411.0206 and revisions to Texas Government Code, §411.144. Based on the changes to the law, adoption of the amendments and new sections is necessary in order for general clarification of terminology and minimum applicable standards for forensic laboratories and other entities.

No comments were received regarding adoption of the amendments and new sections.

The amendments and new sections are adopted pursuant to Texas Government Code, §§411.0205, 411.144, 411.147, 411.152, and 411.1471, which states the director by rule shall establish an accreditation process for crime laboratories and other entities conducting forensic analyses of physical evidence for use in criminal proceedings.

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

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TRD-200701346

Thomas A. Davis, Jr.

Director

Texas Department of Public Safety

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Proposal publication date: February 23, 2007

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



37 TAC §28.28

The Texas Department of Public Safety adopts the repeal of Subchapter B, §28.28, concerning Court Order, without changes to the proposed text as published in the February 23, 2007, issue of the *Texas Register* (32 TexReg 734).

Adoption of the repeal is necessary in order to simultaneously propose a renumbering of the section due to the simultaneous adoption of other new sections to Subchapter B concerning CODIS responsibilities.

No comments were received regarding adoption of the repeal.

The repeal is adopted pursuant to Texas Government Code, §§411.0205, 411.144, 411.147, 411.152, and 411.1471, which states the director by rule shall establish an accreditation process for crime laboratories and other entities conducting forensic analyses of physical evidence for use in criminal proceedings.

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

Filed with the Office of the Secretary of State on April 10, 2007.

TRD-200701347

Thomas A. Davis, Jr.

Director

Texas Department of Public Safety

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



SUBCHAPTER C. CODIS RESPONSIBILITIES OF THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE

37 TAC §§28.41 - 28.47

The Texas Department of Public Safety adopts amendments to Subchapter C, §§28.41 - 28.45, and new §28.46 and §28.47,

concerning CODIS Responsibilities of the Texas Department of Criminal Justice, without changes to the proposed text as published in the February 23, 2007, issue of the *Texas Register* (32 TexReg 734).

Due to legislation from the 79th Regular Legislative Session in HB 1068, the statutes regarding regulation of DNA laboratories were revised, including the repeal of Texas Government Code, §411.0206 and revisions to Texas Government Code, §411.144. Based on the changes to the law, adoption of the amendments and new sections is necessary in order for general clarification of procedures, terminology and minimum applicable standards for forensic laboratories and other entities.

No comments were received regarding adoption of the amendments and new sections.

The amendments and new sections are adopted pursuant to Texas Government Code, §§411.0205, 411.144, 411.147, 411.152, and 411.1471, which states the director by rule shall establish an accreditation process for crime laboratories and other entities conducting forensic analyses of physical evidence for use in criminal proceedings.

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

Filed with the Office of the Secretary of State on April 10, 2007.

TRD-200701348

Thomas A. Davis, Jr.

Director

Texas Department of Public Safety

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Proposal publication date: February 23, 2007

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



SUBCHAPTER C. RESPONSIBILITIES OF THE INSTITUTIONAL DIVISION

37 TAC §§28.46 - 28.48

The Texas Department of Public Safety adopts the repeal of Subchapter C, §§28.46 - 28.48, concerning CODIS Responsibilities of the Texas Department of Criminal Justice, without changes to the proposed text as published in the February 23, 2007, issue of the *Texas Register* (32 TexReg 735).

Adoption of the repeals is necessary due to the simultaneous filing of new sections which have been renumbered.

No comments were received regarding adoption of the repeals.

The repeals are adopted pursuant to Texas Government Code, §§411.0205, 411.144, 411.147, 411.152, and 411.1471, which states the director by rule shall establish an accreditation process for crime laboratories and other entities conducting forensic analyses of physical evidence for use in criminal proceedings.

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

Filed with the Office of the Secretary of State on April 10, 2007.

TRD-200701349

Thomas A. Davis, Jr.

Director

Texas Department of Public Safety

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



SUBCHAPTER D. CODIS RESPONSIBILITIES OF THE TEXAS YOUTH COMMISSION

37 TAC §§28.61 - 28.67

The Texas Department of Public Safety adopts amendments to Subchapter D, §§28.61 - 28.64 and new §§28.65 - 28.67, concerning CODIS Responsibilities of the Texas Youth Commission, without changes to the proposed text as published in the February 23, 2007, issue of the *Texas Register* (32 TexReg 736).

Due to legislation from the 79th Regular Legislative Session in HB 1068, the statutes regarding regulation of DNA laboratories were revised, including the repeal of Texas Government Code, §411.0206 and revisions to Texas Government Code, §411.144. Based on the changes to the law, adoption of the amendments and new sections is necessary in order for general clarification of terminology and minimum applicable standards for forensic laboratories and other entities.

No comments were received regarding adoption of the amendments and new sections.

The amendments and new sections are adopted pursuant to Texas Government Code, §§411.0205, 411.144, 411.147, 411.152, and 411.1471, which states the director by rule shall establish an accreditation process for crime laboratories and other entities conducting forensic analyses of physical evidence for use in criminal proceedings.

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

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TRD-200701350

Thomas A. Davis, Jr.

Director

Texas Department of Public Safety

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Proposal publication date: February 23, 2007

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



37 TAC §28.65, §28.66

The Texas Department of Public Safety adopts the repeal of Subchapter D, §28.65 and §28.66, concerning CODIS Responsibilities of the Texas Youth Commission, without changes to the proposed text as published in the February 23, 2007, issue of the *Texas Register* (32 TexReg 737).

Adoption of the repeals is necessary due to the simultaneous filing of new sections which have been renumbered.

No comments were received regarding adoption of the repeals.

The repeals are adopted pursuant to Texas Government Code, §§411.0205, 411.144, 411.147, 411.152, and 411.1471, which states the director by rule shall establish an accreditation process for crime laboratories and other entities conducting forensic analyses of physical evidence for use in criminal proceedings.

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

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TRD-200701351

Thomas A. Davis, Jr.

Director

Texas Department of Public Safety

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



SUBCHAPTER E. FORENSIC DNA LABORATORIES

37 TAC §28.81, §28.82

The Texas Department of Public Safety adopts amendments to Subchapter E, §28.81 and §28.82, concerning Forensic DNA Laboratories, without changes to the proposed text as published in the February 23, 2007, issue of the *Texas Register* (32 TexReg 737).

Due to legislation from the 79th Regular Legislative Session in HB 1068, the statutes regarding regulation of DNA laboratories were revised, including the repeal of Texas Government Code, §411.0206 and revisions to Texas Government Code, §411.144. Based on the changes to the law, adoption of the amendments is necessary in order for general clarification of terminology and minimum applicable standards for forensic laboratories and other entities.

No comments were received regarding adoption of the amendments.

The amendments are adopted pursuant to Texas Government Code, §§411.0205, 411.144, 411.147, 411.152, and 411.1471, which states the director by rule shall establish an accreditation process for crime laboratories and other entities conducting forensic analyses of physical evidence for use in criminal proceedings.

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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Thomas A. Davis, Jr.

Director

Texas Department of Public Safety

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



SUBCHAPTER F. CODIS USER LABORATORIES

37 TAC §§28.91 - 28.98

The Texas Department of Public Safety adopts amendments to Subchapter F, §§28.91 - 28.93, and new §§28.94 - 28.98, concerning CODIS User Laboratories, without changes to the proposed text as published in the February 23, 2007, issue of the *Texas Register* (32 TexReg 738).

Due to legislation from the 79th Regular Legislative Session in HB 1068, the statutes regarding regulation of DNA laboratories were revised, including the repeal of Texas Government Code, §411.0206 and revisions to Texas Government Code, §411.144. Based on the changes to the law, adoption of the amendments and new sections is necessary in order for general clarification of terminology and minimum applicable standards for forensic laboratories and other entities.

No comments were received regarding adoption of the amendments and new sections.

The amendments and new sections are adopted pursuant to Texas Government Code, §§411.0205, 411.144, 411.147, 411.152, and 411.1471, which states the director by rule shall establish an accreditation process for crime laboratories and other entities conducting forensic analyses of physical evidence for use in criminal proceedings.

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

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TRD-200701354

Thomas A. Davis, Jr.

Director

Texas Department of Public Safety

Effective date: April 30, 2007

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



37 TAC §§28.94 - 28.98

The Texas Department of Public Safety adopts the repeal of Subchapter F, §§28.94 - 28.98, concerning CODIS User Laboratories, without changes to the proposed text as published in the February 23, 2007, issue of the *Texas Register* (32 TexReg 739).

Adoption of the repeals is necessary due to the simultaneous filing of new sections which have been renumbered.

No comments were received regarding adoption of the repeals.

The repeals are adopted pursuant to Texas Government Code, §§411.0205, 411.144, 411.147, 411.152, and 411.1471, which states the director by rule shall establish an accreditation process for crime laboratories and other entities conducting forensic analyses of physical evidence for use in criminal proceedings.

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

Filed with the Office of the Secretary of State on April 10, 2007.

TRD-200701353
Thomas A. Davis, Jr.
Director
Texas Department of Public Safety
Effective date: April 30, 2007
Proposal publication date: February 23, 2007
For further information, please call: (512) 424-2135



SUBCHAPTER G. DATABASE RECORDS

37 TAC §§28.111 - 28.120

The Texas Department of Public Safety adopts amendments to Subchapter G, §§28.111 - 28.120, concerning DNA Database Records, without changes to the proposed text as published in the February 23, 2007, issue of the *Texas Register* (32 TexReg 740).

Due to legislation from the 79th Regular Legislative Session in HB 1068, the statutes regarding regulation of DNA laboratories were revised, including the repeal of Texas Government Code, §411.0206 and revisions to Texas Government Code, §411.144. Based on the changes to the law, adoption of the amendments is necessary for general clarification of terminology and minimum applicable standards for forensic laboratories and other entities.

No comments were received regarding adoption of the amendments.

The amendments are adopted pursuant to Texas Government Code, §§411.0205, 411.144, 411.147, 411.152, and 411.1471, which states the director by rule shall establish an accreditation process for crime laboratories and other entities conducting forensic analyses of physical evidence for use in criminal proceedings.

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

Filed with the Office of the Secretary of State on April 10, 2007.

TRD-200701355
Thomas A. Davis, Jr.
Director
Texas Department of Public Safety
Effective date: April 30, 2007
Proposal publication date: February 23, 2007
For further information, please call: (512) 424-2135



SUBCHAPTER H. ACCREDITATION

37 TAC §§28.131, 28.132, 28.135 - 28.140

The Texas Department of Public Safety adopts amendments to Subchapter H, §§28.131, 28.132, and 28.135 - 28.140, without changes to the proposed text as published in the February 23, 2007, issue of the *Texas Register* (32 TexReg 743).

Due to legislation from the 79th Regular Legislative Session in HB 1068, the statutes regarding regulation of DNA laboratories were revised, including the repeal of Texas Government Code, §411.0206 and revisions to Texas Government Code, §411.144. Based on the changes to the law, adoption of the amendments

is necessary in order for general clarification of terminology and minimum applicable standards for forensic laboratories and other entities.

No comments were received regarding adoption of the amendments.

The amendments are adopted pursuant to Texas Government Code, §§411.0205, 411.144, 411.147, 411.152, and 411.1471, which states the director by rule shall establish an accreditation process for crime laboratories and other entities conducting forensic analyses of physical evidence for use in criminal proceedings.

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

Filed with the Office of the Secretary of State on April 10, 2007.

TRD-200701356
Thomas A. Davis, Jr.
Director
Texas Department of Public Safety
Effective date: April 30, 2007
Proposal publication date: February 23, 2007
For further information, please call: (512) 424-2135



SUBCHAPTER I. COMPLAINTS, SPECIAL REVIEW, AND ADMINISTRATIVE ACTION

37 TAC §§28.151 - 28.155

The Texas Department of Public Safety adopts amendments to Subchapter I, §§28.151 - 28.154 and new §28.155, concerning Complaints, Special Review, and Administrative Action, without changes to the proposed text as published in the February 23, 2007, issue of the *Texas Register* (32 TexReg 746).

Due to legislation from the 79th Regular Legislative Session in HB 1068, the statutes regarding regulation of DNA laboratories were revised, including the repeal of Texas Government Code, §411.0206 and revisions to Texas Government Code, §411.144. Based on the changes to the law, adoption of the amendments and new section is necessary in order for general clarification of terminology and minimum applicable standards for forensic laboratories and other entities.

No comments were received regarding adoption of the amendments and new section.

The amendments and new section are adopted pursuant to Texas Government Code, §§411.0205, 411.144, 411.147, 411.152, and 411.1471, which states the director by rule shall establish an accreditation process for crime laboratories and other entities conducting forensic analyses of physical evidence for use in criminal proceedings.

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

Filed with the Office of the Secretary of State on April 10, 2007.

TRD-200701357

Thomas A. Davis, Jr.
Director
Texas Department of Public Safety
Effective date: April 30, 2007
Proposal publication date: February 23, 2007
For further information, please call: (512) 424-2135



SUBCHAPTER I. COMPLAINTS, SPECIAL REVIEW, AND DISCIPLINARY ACTION

37 TAC §§28.155 - 28.157

The Texas Department of Public Safety adopts the repeal of Subchapter I, §§28.155 - 28.157, concerning Complaints, Special Review, and Disciplinary Action, without changes to the proposal as published in the February 23, 2007, issue of the *Texas Register* (32 TexReg 747).

Adoption of the repeals is necessary due to the simultaneous filing of new sections which have been renumbered.

No comments were received regarding adoption of the repeals.

The repeals are adopted pursuant to Texas Government Code, §§411.0205, 411.144, 411.147, 411.152, and 411.1471, which states the director by rule shall establish an accreditation process for crime laboratories and other entities conducting forensic analyses of physical evidence for use in criminal proceedings.

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

Filed with the Office of the Secretary of State on April 10, 2007.

TRD-200701358
Thomas A. Davis, Jr.
Director
Texas Department of Public Safety
Effective date: April 30, 2007
Proposal publication date: February 23, 2007
For further information, please call: (512) 424-2135



CHAPTER 35. PRIVATE SECURITY

SUBCHAPTER C. STANDARDS

37 TAC §35.36

The Texas Department of Public Safety adopts amendments to §35.36, concerning Consumer Information and Vehicle Signage, without changes to the proposed text as published in the February 9, 2007, issue of the *Texas Register* (32 TexReg 505).

Adoption of the amendments to §35.36 is necessary in order to clarify the rule by limiting the scope of the license number signage requirement to those vehicles on which the company name is displayed.

No comments were received regarding adoption of the amendments.

The amendments are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the de-

partment's work; and Texas Occupations Code, §1702.061(b), which authorizes the department to adopt rules to administer this chapter.

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

Filed with the Office of the Secretary of State on April 12, 2007.

TRD-200701386
Thomas A. Davis, Jr.
Director
Texas Department of Public Safety
Effective date: May 2, 2007
Proposal publication date: February 9, 2007
For further information, please call: (512) 424-2135



SUBCHAPTER M. COMPANY RECORDS

37 TAC §35.204

The Texas Department of Public Safety adopts amendments to §35.204, concerning Pre-Employment Check, without changes to the proposed text as published in the February 9, 2007, issue of the *Texas Register* (32 TexReg 505).

Adoption of the amendments to §35.204 reformats the section in order to add new subsections (b) and (c). The new subsections are necessary in order to clarify the scope of the rule's requirement that an employer perform a pre-employment check on all applicants for non-commissioned security guard positions, and to require that employers keep records of this check.

No comments were received regarding adoption of the amendments.

The amendments are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Occupations Code, §1702.061(b), which authorizes the department to adopt rules to administer this chapter.

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

Filed with the Office of the Secretary of State on April 12, 2007.

TRD-200701387
Thomas A. Davis, Jr.
Director
Texas Department of Public Safety
Effective date: May 2, 2007
Proposal publication date: February 9, 2007
For further information, please call: (512) 424-2135



SUBCHAPTER S. CONTINUING EDUCATION

37 TAC §35.291

The Texas Department of Public Safety adopts amendments to §35.291, concerning Mandatory Continuing Education Courses,

without changes to the proposed text as published in the February 9, 2007, issue of the *Texas Register* (32 TexReg 506).

Adoption of the amendments to §35.291 are necessary in order to enhance the current continuing education requirements for the private security industry.

No comments were received regarding adoption of the amendments.

The amendments are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Occupations Code, §1702.061(b), which authorizes the department to adopt rules to administer this chapter.

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

Filed with the Office of the Secretary of State on April 12, 2007.

TRD-200701388

Thomas A. Davis, Jr.

Director

Texas Department of Public Safety

Effective date: May 2, 2007

Proposal publication date: February 9, 2007

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



37 TAC §35.292

The Texas Department of Public Safety adopts new §35.292, concerning Requirements for Continuing Education Courses,

without changes to the proposed text as published in the February 9, 2007, issue of the *Texas Register* (32 TexReg 508).

The adoption of new §35.292 is necessary in order to specify the curriculum, instructor qualifications, and record keeping requirements for continuing education courses.

No comments were received regarding adoption of the new section.

The new section is adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Occupations Code, §1702.061(b), which authorizes the department to adopt rules to administer this chapter; and Texas Occupations Code, §1702.062, which authorizes the department to establish reasonable and necessary fees to administer this chapter.

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

Filed with the Office of the Secretary of State on April 12, 2007.

TRD-200701389

Thomas A. Davis, Jr.

Director

Texas Department of Public Safety

Effective date: May 2, 2007

Proposal publication date: February 9, 2007

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



REVIEW OF AGENCY RULES

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

Automobile Theft Prevention Authority

Title 43, Part 3

The Automobile Theft Prevention Authority (ATPA) proposes to review Title 43 of the Texas Administrative Code, Chapter 57, Automobile Theft Prevention Authority, in accordance with Texas Government Code, §2001.039.

Review of the rules under this chapter will determine whether the reason for adoption of the rules continues to exist. During the review process, ATPA may also determine that a specific rule may need to be amended to further refine ATPA's legal and policy considerations, whether the rules reflect current ATPA procedures, that no changes to a rule as currently in effect are necessary, or that a rule is no longer valid or applicable. Rules may also be combined or reduced for simplification and clarity when feasible. Readopted rules will be noted in the *Texas Register's* Rules Review section without publication of the text. Any proposed amendments or repeal of a rule or chapter as a result of the review will be published in the Proposed Rules section of the *Texas Register* and will be open for an additional 30-day public comment period prior to final adoption or repeal.

The Automobile Theft Prevention Authority invites comments during the review process for 30 days following the publication of this notice in the *Texas Register*. Any questions or comments pertaining to this notice of intention to review should be directed to Susan Sampson, Director, Automobile Theft Prevention Authority, 4000 Jackson Avenue, Austin, Texas 78731 within 30 days of publication.

TRD-200701398

Susan Sampson

Director

Automobile Theft Prevention Authority

Filed: April 13, 2007



Texas State Library and Archives Commission

Title 13, Part 1

The Texas State Library and Archives Commission proposes to review its rules in Title 13, Part 1, Chapter 2, concerning the general policies and procedures of the Commission pursuant to the requirements of the Government Code, §2001.039.

The rules in Chapter 2 were adopted pursuant to Government Code, §441.006(a)(1) and (2) that provides the Texas State Library and Archives Commission shall govern the Texas State Library and adopt rules to aid and encourage the development of and cooperation

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>).

among all types of libraries; Government Code, §§441.0092(b)(3), 441.0092(b)(1), and 441.136 that require the commission to adopt rules concerning various grants to libraries; Government Code, §656.048 that requires state agencies to adopt rules concerning the training and education of agency employees; Government Code, §2161.003 that requires state agencies to adopt rules concerning historically underutilized businesses; Government Code, §2171.1045 that requires agencies to adopt rules concerning vehicle fleet management; and Government Code, §2255.001 that requires state agencies to adopt rules concerning the relationship between an agency and any friends groups or similar organizations established to support the agency.

Written comments on the review of Chapter 2 may be directed to Karen Drabek, Director, Administrative Services, Box 12927, Austin, Texas 78711-2927 or by fax (512) 463-3560.

TRD-200701427

Edward Seidenberg

Assistant State Librarian

Texas State Library and Archives Commission

Filed: April 16, 2007



The Texas State Library and Archives Commission proposes to review its rules in Title 13, Part 1, Chapter 7, concerning the operation of regional historical resource depositories and the retention, microfilming, and electronic storage of local government records pursuant to the requirements of the Government Code, §2001.039.

The rules were adopted pursuant to the Government Code, §441.006(a)(9) that requires the Texas State Library and Archives Commission to adopt policies to aid and encourage effective records management and preservation programs in local governments of the state; Government Code, §441.153(b) that requires the commission to adopt rules for Regional Historical Resource Depositories; Government Code, §441.158(a) that requires the commission to adopt local government records retention schedules by rule; Local Government Code, §204.004 that requires the commission to adopt rules establishing standards and procedures for microfilming local government records; and Local Government Code, §205.003 that requires the commission to adopt rules establishing standards and procedures for electronic storage of local government record data. The rules are necessary to carry out the statutory obligations of the Texas State Library and Archives Commission in the management of local government records.

Written comments on the review of Chapter 7 may be directed to Michael Heskett, Director, State and Local Records Management Division, Box 12927, Austin, Texas 78711-2927 or by fax (512) 421-7201.

TRD-200701428
Edward Seidenberg
Assistant State Librarian
Texas State Library and Archives Commission
Filed: April 16, 2007



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 State Affordable Housing Corporation

Notice of Public Hearing Regarding the Issuance of Bonds

Notice is hereby given of a public hearing to be held by the Texas State Affordable Housing Corporation (the "Issuer") at 12:00 p.m. on May 7, 2007 at 1005 Congress Avenue, Suite 500 (Conference Room), Austin, Texas 78701, on the proposed issuance by the Issuer of one or more series of revenue bonds (the "Bonds") to provide financing and refinancing for the acquisition of single family mortgages in the State of Texas, pursuant to its professional educators home loan program (the "Professional Educators Project"). The maximum aggregate face amount of the Bonds to be issued with respect to the Professional Educators Project is \$39,563,000. All interested persons are invited to attend the public hearing to express orally, or in writing, their views on the Professional Educators Project and the issuance of the Bonds. The Bonds shall not constitute or create an indebtedness, general or specific, or liability of the State of Texas, or any political subdivision thereof. The Bonds shall never constitute or create a charge against the credit or taxing power of the State of Texas, or any political subdivision thereof. Neither the State of Texas, nor any political subdivision thereof shall in any manner be liable for the payment of the principal of or interest on the Bonds or for the performance of any agreement or pledge of any kind which may be undertaken by the Issuer and no breach by the Issuer of any agreements will create any obligation upon the State of Texas, or any political subdivision thereof. Further information with respect to the proposed Bonds will be available at the hearing or upon written request prior thereto addressed to David Long at the Texas State Affordable Housing Corporation, 1005 Congress Avenue, Suite 500, Austin, Texas 78701; 1-888-638-3555 extension 402.

Individuals who require auxiliary aids in order to attend this meeting should contact Laura Ross, ADA Responsible Employee, at 1-888-638-3555, extension 400 through Relay Texas at 1-800-735-2989 at least two days before the meeting so that appropriate arrangements can be made.

Individuals may transmit written testimony or comments regarding the subject matter of this public hearing to David Long at dlong@tsahc.org.

TRD-200701433

David Long

President

Texas State Affordable Housing Corporation

Filed: April 17, 2007

Office of the Attorney General

Child Support Guidelines - 2007 Tax Charts

The Child Support Guidelines - 2007 Tax Charts were published in the *Texas Register* on February 16, 2007 (32 TexReg 642). An error was discovered in a footnote of the 2007 self-employed tax chart. The corrected footnote of the 2007 self-employed tax chart attached below replaces the one published earlier.

Pursuant to §154.061(b) of the Texas Family Code, the Office of the Attorney General of Texas, as the Title IV-D agency, has promulgated the following tax charts to assist courts in establishing the amount of a child support order. These tax charts are applicable to employed and self-employed persons in computing net monthly income.

INSTRUCTIONS FOR USE

To use these tables, first compute the obligor's annual gross income. Then recompute to determine the obligor's average monthly gross income. These tables provide a method for calculating "monthly net income" for child support purposes, subtracting from monthly gross income the social security taxes and the federal income tax withholding for a single person claiming one personal exemption and the standard deduction.

Thereafter, in many cases the guidelines call for a number of additional steps to complete the necessary calculations. For example, §§154.061 - 154.070 provide for appropriate additions to "income" as that term is defined for federal income tax purposes, and for certain subtractions from monthly net income, in order to arrive at the net resources of the obligor available for child support purposes. If necessary, one may compute an obligee's net resources using similar steps.

This agency hereby certifies that the tax charts have been reviewed by legal counsel and found to be within the agency's authority to publish.

For information regarding this publication, you may contact Lauri Saathoff, Agency Liaison at (512) 463-2096.

**EMPLOYED PERSONS
2007 TAX CHART**

Monthly Gross Wages	Social Security Taxes		Federal Income Taxes**	Net Monthly Income
	Old-Age, Survivors and Disability Insurance Taxes (6.2%)*	Hospital (Medicare) Insurance Taxes (1.45%)*		
\$100.00	\$6.20	\$1.45	\$0.00	\$92.35
\$200.00	\$12.40	\$2.90	\$0.00	\$184.70
\$300.00	\$18.60	\$4.35	\$0.00	\$277.05
\$400.00	\$24.80	\$5.80	\$0.00	\$369.40
\$500.00	\$31.00	\$7.25	\$0.00	\$461.75
\$600.00	\$37.20	\$8.70	\$0.00	\$554.10
\$700.00	\$43.40	\$10.15	\$0.00	\$646.45
\$800.00	\$49.60	\$11.60	\$7.08	\$731.72
\$892.67***	\$55.35	\$12.94	\$16.35	\$808.03
\$900.00	\$55.80	\$13.05	\$17.08	\$814.07
\$1,000.00	\$62.00	\$14.50	\$27.08	\$896.42
\$1,100.00	\$68.20	\$15.95	\$37.08	\$978.77
\$1,200.00	\$74.40	\$17.40	\$47.08	\$1,061.12
\$1,300.00	\$80.60	\$18.85	\$57.08	\$1,143.47
\$1,400.00	\$86.80	\$20.30	\$68.02	\$1,224.88
\$1,500.00	\$93.00	\$21.75	\$83.02	\$1,302.23
\$1,600.00	\$99.20	\$23.20	\$98.02	\$1,379.58
\$1,700.00	\$105.40	\$24.65	\$113.02	\$1,456.93
\$1,800.00	\$111.60	\$26.10	\$128.02	\$1,534.28
\$1,900.00	\$117.80	\$27.55	\$143.02	\$1,611.63
\$2,000.00	\$124.00	\$29.00	\$158.02	\$1,688.98
\$2,100.00	\$130.20	\$30.45	\$173.02	\$1,766.33
\$2,200.00	\$136.40	\$31.90	\$188.02	\$1,843.68
\$2,300.00	\$142.60	\$33.35	\$203.02	\$1,921.03
\$2,400.00	\$148.80	\$34.80	\$218.02	\$1,998.38
\$2,500.00	\$155.00	\$36.25	\$233.02	\$2,075.73
\$2,600.00	\$161.20	\$37.70	\$248.02	\$2,153.08
\$2,700.00	\$167.40	\$39.15	\$263.02	\$2,230.43
\$2,800.00	\$173.60	\$40.60	\$278.02	\$2,307.78
\$2,900.00	\$179.80	\$42.05	\$293.02	\$2,385.13
\$3,000.00	\$186.00	\$43.50	\$308.02	\$2,462.48
\$3,100.00	\$192.20	\$44.95	\$323.02	\$2,539.83
\$3,200.00	\$198.40	\$46.40	\$338.02	\$2,617.18
\$3,300.00	\$204.60	\$47.85	\$353.02	\$2,694.53
\$3,400.00	\$210.80	\$49.30	\$369.02	\$2,770.21
\$3,500.00	\$217.00	\$50.75	\$394.02	\$2,837.56
\$3,600.00	\$223.20	\$52.20	\$419.02	\$2,904.91
\$3,700.00	\$229.40	\$53.65	\$444.02	\$2,972.26
\$3,800.00	\$235.60	\$55.10	\$469.02	\$3,039.61
\$3,900.00	\$241.80	\$56.55	\$494.02	\$3,106.96
\$4,000.00	\$248.00	\$58.00	\$519.02	\$3,174.31
\$4,250.00	\$263.50	\$61.63	\$582.19	\$3,342.68
\$4,500.00	\$279.00	\$65.25	\$644.69	\$3,511.06
\$4,750.00	\$294.50	\$68.88	\$707.19	\$3,679.43
\$5,000.00	\$310.00	\$72.50	\$769.69	\$3,847.81
\$5,250.00	\$325.50	\$76.13	\$832.19	\$4,016.18
\$5,500.00	\$341.00	\$79.75	\$894.69	\$4,184.56
\$5,750.00	\$356.50	\$83.38	\$957.19	\$4,352.93
\$6,000.00	\$372.00	\$87.00	\$1,019.69	\$4,521.31
\$6,250.00	\$387.50	\$90.63	\$1,082.19	\$4,689.68
\$6,500.00	\$403.00	\$94.25	\$1,144.69	\$4,858.06
\$6,750.00	\$418.50	\$97.88	\$1,207.19	\$5,026.43
\$7,000.00	\$434.00	\$101.50	\$1,269.69	\$5,194.81
\$7,500.00	\$465.00	\$108.75	\$1,405.06	\$5,521.19
\$8,000.00	\$496.00	\$116.00	\$1,545.06	\$5,842.94
\$8,233.61*****	\$503.75****	\$119.39	\$1,610.47	\$6,000.00
\$8,500.00	\$503.75	\$123.25	\$1,685.06	\$6,187.94
\$9,000.00	\$503.75	\$130.50	\$1,825.06	\$6,540.69
\$9,500.00	\$503.75	\$137.75	\$1,965.06	\$6,893.44
\$10,000.00	\$503.75	\$145.00	\$2,105.06	\$7,246.19
\$10,500.00	\$503.75	\$152.25	\$2,245.06	\$7,598.94
\$11,000.00	\$503.75	\$159.50	\$2,385.06	\$7,951.69
\$11,500.00	\$503.75	\$166.75	\$2,525.06	\$8,304.44
\$12,000.00	\$503.75	\$174.00	\$2,665.06	\$8,657.19
\$12,500.00	\$503.75	\$181.25	\$2,805.06	\$9,009.94
\$13,000.00	\$503.75	\$188.50	\$2,945.06	\$9,362.69
\$13,500.00	\$503.75	\$195.75	\$3,088.24	\$9,712.26
\$14,000.00	\$503.75	\$203.00	\$3,230.35	\$10,062.90
\$14,500.00	\$503.75	\$210.25	\$3,393.37	\$10,392.63
\$15,000.00	\$503.75	\$217.50	\$3,560.86	\$10,717.89

Footnotes to Employed Persons 2007 Tax Chart:

* An employed person not subject to the Old-Age, Survivors and Disability Insurance/Hospital (Medicare) Insurance taxes will be allowed the reductions reflected in these columns, unless it is shown that such person has no similar contributory plan such as teacher retirement, federal railroad retirement, federal civil service retirement, etc.

** These amounts represent one-twelfth (1/12) of the annual Federal income tax calculated for a single taxpayer claiming one personal exemption (\$3,400.00, subject to reduction in certain cases, as described in the next paragraph of this footnote) and taking the standard deduction (\$5,350.00).

For a single taxpayer with an adjusted gross income in excess of \$156,400.00, the deduction for the personal exemption is reduced by two-thirds (2/3) of two percent (2%) for each \$2,500.00 or fraction thereof by which adjusted gross income exceeds \$156,400.00. The deduction for the personal exemption is no longer reduced for adjusted gross income in excess of \$278,900.00. For example, monthly gross wages of \$15,000.00 times 12 months equals \$180,000.00. The excess over \$156,400 is \$23,600.00. \$23,600.00 divided by \$2,500.00 equals 9.44. The 9.44 amount is rounded up to 10. The reduction percentage is 13.33% (2/3 x 2% x 10 = 13.33%). The \$3,400.00 deduction for one personal exemption is reduced by \$453.33 (\$3,400.00 x 13.33% = \$453.33) to \$2,946.67 (\$3,400.00 - \$453.33 = \$2,946.67). For adjusted gross income in excess of \$278,900.00 the deduction for the personal exemption is \$1,133.00.

*** The amount represents one-twelfth (1/12) of the gross income of an individual earning the federal minimum wage (\$5.15 per hour as of the date these charts were promulgated, please be aware that federal legislation is pending that may change the federal minimum wage) for a 40 hour week for a full year. \$5.15 per hour x 40 hours per week x 52 weeks per year equals \$10,712.00 per year. One-twelfth (1/12) of \$10,712.00 equals \$892.67.

**** For annual gross wages above \$97,500.00, this amount represents a monthly average of the Old-Age, Survivors and Disability Insurance tax based on the 2007 maximum Old-Age, Survivors and Disability Insurance tax of \$6,045.00 per person (6.2% of the first \$97,500.00 of annual gross wages equals \$6,045.00). One-twelfth (1/12) of \$6,045.00 equals \$503.75.

***** This amount represents the point where the monthly gross wages of an employed individual would result in \$6,000.00 of net resources.

* * * * *

References Relating to Employed Persons 2007 Tax Chart:

1. Old-Age, Survivors and Disability Insurance Tax
 - (a) Contribution Base
 - (1) Social Security Administration's notice dated October 19, 2006, and appearing in 71 Fed. Reg. 62,636 (October 26, 2006)
 - (2) Section 3121(a) of the Internal Revenue Code of 1986, as amended (26 U.S.C. §3121(a))
 - (3) Section 230 of the Social Security Act, as amended (42 U.S.C. §430)

(b) Tax Rate

- (1) Section 3101(a) of the Internal Revenue Code of 1986, as amended (26 U.S.C. §3101(a))

2. Hospital (Medicare) Insurance Tax

(a) Contribution Base

- (1) Section 3121(a) of the Internal Revenue Code of 1986, as amended (26 U.S.C. §3121(a))
- (2) Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, §13207, 107 Stat. 312, 467-69 (1993)

(b) Tax Rate

- (1) Section 3101(b) of the Internal Revenue Code of 1986, as amended (26 U.S.C. §3101(b))

3. Federal Income Tax

(a) Tax Rate Schedule for 2007 for Single Taxpayers

- (1) Revenue Procedure 2006-53, Section 3.01, Table 3 which appears in Internal Revenue Bulletin 2006-48, dated November 27, 2006
- (2) Section 1(c), (f) and (i) of the Internal Revenue Code of 1986, as (26 U.S.C. §1(c), 1(f), 1(i))

(b) Standard Deduction

- (1) Revenue Procedure 2006-53, Section 3.11(1), which appears in Internal Revenue Bulletin 2006-48, dated November 27, 2006
- (2) Section 63(c) of the Internal Revenue Code of 1986, as amended (26 U.S.C. §63(c))

(c) Personal Exemption

- (1) Revenue Procedure 2006-53, Section 3.18, which appears in Internal Revenue Bulletin 2006-48, dated November 27, 2006
- (2) Section 151(d) of the Internal Revenue Code of 1986, as amended (26 U.S.C. §151(d))

**SELF-EMPLOYED PERSONS
2007 TAX CHART**

Monthly Net Earnings From Self-Employment *	Social Security Taxes		Federal Income Taxes***	Net Monthly Income
	Old-Age, Survivors and Disability Insurance Taxes (12.4%)**	Hospital (Medicare) Insurance Taxes (2.9%)**		
\$100.00	\$11.45	\$2.68	\$0.00	\$85.87
\$200.00	\$22.90	\$5.36	\$0.00	\$171.74
\$300.00	\$34.35	\$8.03	\$0.00	\$257.62
\$400.00	\$45.81	\$10.71	\$0.00	\$343.48
\$500.00	\$57.26	\$13.39	\$0.00	\$429.35
\$600.00	\$68.71	\$16.07	\$0.00	\$515.22
\$700.00	\$80.16	\$18.75	\$0.00	\$601.09
\$800.00	\$91.61	\$21.43	\$1.43	\$685.53
\$900.00	\$103.06	\$24.10	\$10.73	\$762.11
\$1,000.00	\$114.51	\$26.78	\$20.02	\$838.69
\$1,100.00	\$125.97	\$29.46	\$29.31	\$915.26
\$1,200.00	\$137.42	\$32.14	\$38.61	\$991.83
\$1,300.00	\$148.87	\$34.82	\$47.90	\$1,068.41
\$1,400.00	\$160.32	\$37.49	\$57.19	\$1,145.00
\$1,500.00	\$171.77	\$40.17	\$67.13	\$1,220.93
\$1,600.00	\$183.22	\$42.85	\$81.07	\$1,292.86
\$1,700.00	\$194.67	\$45.53	\$95.01	\$1,364.79
\$1,800.00	\$206.13	\$48.21	\$108.95	\$1,436.71
\$1,900.00	\$217.58	\$50.88	\$122.89	\$1,508.65
\$2,000.00	\$229.03	\$53.56	\$136.83	\$1,580.58
\$2,100.00	\$240.48	\$56.24	\$150.77	\$1,652.51
\$2,200.00	\$251.93	\$58.92	\$164.71	\$1,724.44
\$2,300.00	\$263.38	\$61.60	\$178.65	\$1,796.37
\$2,400.00	\$274.83	\$64.28	\$192.59	\$1,868.30
\$2,500.00	\$286.29	\$66.95	\$206.53	\$1,940.23
\$2,600.00	\$297.74	\$69.63	\$220.47	\$2,012.16
\$2,700.00	\$309.19	\$72.31	\$234.41	\$2,084.09
\$2,800.00	\$320.64	\$74.99	\$248.35	\$2,156.02
\$2,900.00	\$332.09	\$77.67	\$262.29	\$2,227.95
\$3,000.00	\$343.54	\$80.34	\$276.23	\$2,299.89
\$3,100.00	\$354.99	\$83.02	\$290.17	\$2,371.82
\$3,200.00	\$366.44	\$85.70	\$304.11	\$2,443.75
\$3,300.00	\$377.90	\$88.38	\$318.05	\$2,515.67
\$3,400.00	\$389.35	\$91.06	\$331.99	\$2,587.60
\$3,500.00	\$400.80	\$93.74	\$345.93	\$2,659.53
\$3,600.00	\$412.25	\$96.41	\$359.87	\$2,731.47
\$3,700.00	\$423.70	\$99.09	\$373.81	\$2,803.40
\$3,800.00	\$435.15	\$101.77	\$402.57	\$2,860.51
\$3,900.00	\$446.60	\$104.45	\$425.81	\$2,923.14
\$4,000.00	\$458.06	\$107.13	\$449.04	\$2,985.77
\$4,250.00	\$486.68	\$113.82	\$507.13	\$3,142.37
\$4,500.00	\$515.31	\$120.52	\$565.21	\$3,298.96
\$4,750.00	\$543.94	\$127.21	\$623.29	\$3,455.56
\$5,000.00	\$572.57	\$133.91	\$681.38	\$3,612.14
\$5,250.00	\$601.20	\$140.60	\$739.46	\$3,768.74
\$5,500.00	\$629.83	\$147.30	\$797.55	\$3,925.32
\$5,750.00	\$658.46	\$153.99	\$855.63	\$4,081.92
\$6,000.00	\$687.08	\$160.69	\$913.72	\$4,238.51
\$6,250.00	\$715.71	\$167.38	\$971.80	\$4,395.11
\$6,500.00	\$744.34	\$174.08	\$1,029.89	\$4,551.69
\$6,750.00	\$772.97	\$180.78	\$1,087.97	\$4,708.28
\$7,000.00	\$801.60	\$187.47	\$1,146.05	\$4,864.88
\$7,500.00	\$858.86	\$200.86	\$1,262.22	\$5,178.06
\$8,000.00	\$916.11	\$214.25	\$1,386.81	\$5,482.83
\$8,500.00	\$973.37	\$227.64	\$1,516.92	\$5,782.07
\$8,854.81*****	\$1,007.50*****	\$237.15	\$1,610.16	\$6,000.00
\$9,000.00	\$1,007.50	\$241.03	\$1,650.27	\$6,101.20
\$9,500.00	\$1,007.50	\$254.42	\$1,788.39	\$6,449.69
\$10,000.00	\$1,007.50	\$267.82	\$1,926.52	\$6,798.16
\$10,500.00	\$1,007.50	\$281.21	\$2,064.64	\$7,146.65
\$11,000.00	\$1,007.50	\$294.60	\$2,202.77	\$7,495.13
\$11,500.00	\$1,007.50	\$307.99	\$2,340.89	\$7,843.62
\$12,000.00	\$1,007.50	\$321.38	\$2,479.02	\$8,192.10
\$12,500.00	\$1,007.50	\$334.77	\$2,617.14	\$8,540.59
\$13,000.00	\$1,007.50	\$348.16	\$2,755.27	\$8,889.07
\$13,500.00	\$1,007.50	\$361.55	\$2,893.40	\$9,237.55
\$14,000.00	\$1,007.50	\$374.94	\$3,033.64	\$9,583.92
\$14,500.00	\$1,007.50	\$388.33	\$3,173.88	\$9,930.29
\$15,000.00	\$1,007.50	\$401.72	\$3,324.60	\$10,266.18

Footnotes to Self-Employed Persons 2007 Tax Chart:

* Determined without regard to Section 1402(a)(12) of the Internal Revenue Code of 1986, as amended (26 U.S.C.) (the "Code").

** In calculating each of the Old-Age, Survivors and Disability Insurance tax and the Hospital (Medicare) Insurance tax, net earnings from self-employment are reduced by the deduction under Section 1402(a)(12) of the Code. The deduction under Section 1402(a)(12) of the Code is equal to net earnings from self-employment (determined without regard to Section 1402(a)(12) of the Code) multiplied by one-half (1/2) of the sum of the Old-Age, Survivors and Disability Insurance tax rate (12.4%) and the Hospital (Medicare) Insurance tax rate (2.9%). The sum of these rates is 15.3% (12.4% + 2.9% = 15.3%). One-half (1/2) of the combined rate is 7.65% (15.3% x 1/2 = 7.65%). The deduction can be computed by multiplying the net earnings from self-employment (determined without regard to Section 1402(a)(12) of the Code) by 92.35%. This gives the same deduction as multiplying the net earnings from self-employment (determined without regard to Section 1402(a)(12) of the Code) by 7.65% and then subtracting the result.

For example, the Social Security taxes imposed on monthly net earnings from self-employment (determined without regard to Section 1402(a)(12) of the Code) of \$2,500.00 are calculated as follows:

(i) Old-Age, Survivors and Disability Insurance Taxes:

$$\$2,500.00 \times 92.35\% \times 12.4\% = \$286.29$$

(ii) Hospital (Medicare) Insurance Taxes:

$$\$2,500.00 \times 92.35\% \times 2.9\% = \$66.95$$

*** These amounts represent one-twelfth (1/12) of the annual Federal income tax calculated for a single taxpayer claiming one personal exemption (\$3,400.00, subject to reduction in certain cases, as described below in this footnote) and taking the standard deduction (\$5,350.00).

In calculating the annual Federal income tax, gross income is reduced by the deduction under Section 164(f) of the Code. The deduction under Section 164(f) of the Code is equal to one-half (1/2) of the self-employment taxes imposed by Section 1401 of the Code for the taxable year. For example, monthly net earnings from self-employment of \$15,000.00 times 12 months equals \$180,000.00. The Old-Age, Survivors and Disability Insurance taxes imposed by Section 1401 of the Code for the taxable year equal \$12,090.00 (\$97,500.00 x 12.4% = \$12,090.00). The Hospital (Medicare) Insurance taxes imposed by Section 1401 of the Code for the taxable year equal \$4,820.67 (\$180,000.00 x .9235 x 2.9% = \$4,820.67). The sum of the taxes imposed by Section 1401 of the Code for the taxable year equals \$16,910.67 (\$12,090.00 + \$4,820.67 = \$16,910.67). The deduction under Section 164(f) of the Code is equal to one-half (1/2) of \$16,910.67 or \$8,455.34.

For a single taxpayer with an adjusted gross income in excess of \$156,400.00, the deduction for the personal exemption is reduced by two-thirds (2/3) of two percent (2%) for each \$2,500.00 or fraction thereof by which adjusted gross income exceeds \$156,400.00. The deduction for the personal exemption is no longer reduced for adjusted

gross income in excess of \$278,900. For example, monthly net earnings from self-employment of \$15,000.00 times 12 months equals \$180,000.00. The \$180,000.00 amount is reduced by \$8,455.34 (i.e., the deduction under Section 164(f) of the Code -- see the immediately preceding paragraph of this footnote for the computation) to arrive at adjusted gross income of \$171,544.67. The excess over \$156,400.00 is \$15,144.67. \$15,144.67 divided by \$2,500.00 equals 6.06. The 6.06 amount is rounded up to 7. The reduction percentage is 9.33% ($2/3 \times 2\% \times 7 = 12\%$). The \$3,400.00 deduction for one personal exemption is reduced by \$317.33 ($\$3,400.00 \times 9.33\% = \317.33) to \$3,082.67 ($\$3,400.00 - \$317.33 = \$3,082.67$). For adjusted gross income in excess of \$278,900.00 the deduction for the personal exemption is \$1,133.00.

**** For annual net earnings from self-employment (determined with regard to Section 1402(a)(12) of the Code) above \$97,500.00, this amount represents a monthly average of the Old-Age, Survivors and Disability Insurance tax based on the 2007 maximum Old-Age, Survivors and Disability Insurance tax of \$12,090.00 per person (12.4% of the first \$97,500.00 of net earnings from self-employment (determined with regard to Section 1402(a)(12) of the Code) equals \$12,090.00). One-twelfth (1/12) of \$12,090.00 equals \$1,007.50.

***** This amount represents the point where the monthly net earnings from self-employment of a self-employed individual would result in \$6,000.00 of net resources.

* * * * *

References Relating to Self-Employed Persons 2007 Tax Chart:

1. Old-Age, Survivors and Disability Insurance Tax

(a) Contribution Base

- (1) Social Security Administration's notice dated October 19, 2006, and appearing in 71 Fed. Reg. 62,636 (October 26, 2006)
- (2) Section 1402(b) of the Internal Revenue Code of 1986, as amended (26 U.S.C. §1402(b))
- (3) Section 230 of the Social Security Act, as amended (42 U.S.C. §430)

(b) Tax Rate

- (1) Section 1401(a) of the Internal Revenue Code of 1986, as amended (26 U.S.C. §1401(a))

(c) Deduction Under Section 1402(a)(12)

- (1) Section 1402(a)(12) of the Internal Revenue Code of 1986, as amended (26 U.S.C. §1402(a)(12))

2. Hospital (Medicare) Insurance Tax
 - (a) Contribution Base
 - (1) Section 1402(b) of the Internal Revenue Code of 1986, as amended (26 U.S.C. §1402(b))
 - (2) Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, §13207, 107 Stat. 312, 467-69 (1993)
 - (b) Tax Rate
 - (1) Section 1401(b) of the Internal Revenue Code of 1986, as amended (26 U.S.C. §1401(b))
 - (c) Deduction Under Section 1402(a)(12)
 - (1) Section 1402(a)(12) of the Internal Revenue Code of 1986, as amended (26 U.S.C. §1402(a)(12))
3. Federal Income Tax
 - (a) Tax Rate Schedule for 2007 for Single Taxpayers
 - (1) Revenue Procedure 2006-53, Section 3.01, Table 3 which appears in Internal Revenue Bulletin 2006-48, dated November 27, 2006
 - (2) Section 1(c), (f) and (i) of the Internal Revenue Code of 1986, as (26 U.S.C. §1(c), 1(f), 1(i))
 - (b) Standard Deduction
 - (1) Revenue Procedure 2006-53, Section 3.11(1), which appears in Internal Revenue Bulletin 2006-48, dated November 27, 2006
 - (2) Section 63(c) of the Internal Revenue Code of 1986, as amended (26 U.S.C. §63(c))
 - (c) Personal Exemption
 - (1) Revenue Procedure 2006-53, Section 3.18, which appears in Internal Revenue Bulletin 2006-48, dated November 27, 2006
 - (2) Section 151(d) of the Internal Revenue Code of 1986, as amended (26 U.S.C. §151(d))
 - (d) Deduction Under Section 164(f)
 - (1) Section 164(f) of the Internal Revenue Code of 1986, as amended (26 U.S.C. §164(f))

TRD-200701409
Stacey Napier
Deputy Attorney General
Office of the Attorney General
Filed: April 16, 2007



Notice of Settlement of a Clean Air Act Enforcement Action

Notice is hereby given by the State of Texas of the following proposed resolution of an environmental enforcement lawsuit under the Clean Air Act. Before the State may settle a judicial enforcement action, pursuant to the Texas Water Code, the State shall permit the public to comment in writing on the proposed judgment. The Attorney General will consider any written comments and may withdraw or withhold consent to the proposed agreed judgment if the comments disclose facts or considerations that indicate that the consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Acts.

Case Title and Court: Settlement Agreement in Harris County, Texas and the Texas Commission on Environmental Quality v. Rohm & Haas Texas, Inc; Cause No. 2006-65186, 280th Judicial District, Harris County, Texas.

Background: This suit alleges violations of the Texas Clean Air Act resulting from the unpermitted emission of 81.4 pounds of hydrogen cyanide at a Rohm & Haas plant in Deer Park, Texas. The Defendant is Rohm & Haas Texas, Inc. The suit seeks injunctive relief, civil penalties, attorney's fees and court costs. The Clean Air Act violations are for air pollution.

Nature of Settlement: The settlement awards \$4,687.50 in civil penalties and \$1,000.00 in attorney's fees to the State and \$4,687.50 in civil penalties and \$1,000.00 in attorney's fees to Harris County. The settlement also requires the Defendant to use its best efforts to operate its Deer Park plant in such a manner as to avoid releasing hydrogen cyanide into the air in violation of its permit.

For a complete description of the proposed settlement, the complete proposed Agreed Final Judgment should be reviewed. Requests for copies of the judgment, and written comments on the proposed settlement should be directed to Vanessa Puig-Williams, Assistant Attorney General, Office of the Texas Attorney General, P.O. Box 12548, Austin, Texas 78711-2548, (512) 463-2012, facsimile (512) 320-0052. Written comments must be received within 30 days of publication of this notice to be considered.

For information regarding this publication, contact Lauri Saathoff, Agency Liaison, at (512) 463-2096.

TRD-200701431
Stacey Napier
Deputy Attorney General
Office of the Attorney General
Filed: April 16, 2007



Texas Clean Air Act Settlement Notice

Notice is hereby given by the State of Texas of the following proposed resolution of an environmental enforcement lawsuit under the Texas Clean Air Act. Before the State may settle a judicial enforcement action under the Health and Safety Code (Code), the State shall permit the public to comment in writing on the proposed judgment. The Office of the Attorney General will consider any written comments and may withdraw or withhold consent to the proposed agreed judgment if the comments disclose facts or considerations that indicate that the

consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Code.

Case Title and Court: Harris County, Texas and The State of Texas v. Channel Shipyard Company, Inc., Cause No. 2005-54405 in the 157th Judicial District Court, Harris County, Texas.

Nature of Defendant's Operations: Defendant operates a barge loading and cleaning facility on the Houston Ship Channel in Harris County. Plaintiffs allege that Defendant emitted styrene odors on separate occasions, at such a level to constitute a violation of the Texas Clean Air Act. Complaints concerning the health effects of the emissions included mild headache and respiratory irritation. The Defendant disputes that the emissions were at such a level as to constitute a violation of the Texas Clean Air Act.

Proposed Agreed Judgment: The Agreed Final Judgment permanently requires Defendant to monitor and record wind direction at its facility and cease conducting styrene operations when the wind blows in a direction that will impact the surrounding community, or alternatively to use a control device to reduce or eliminate the emission of styrene. Defendant has agreed to pay Plaintiffs civil penalties in the amount of \$31,250.00 which will be divided equally between Harris County and the State of Texas. Defendant will also pay attorney's fees to the State of Texas in the amount of \$4,000.00, and to Harris County in the amount of \$14,532.00, plus all court costs.

For a complete description of the proposed settlement, the complete proposed Agreed Final Judgment should be reviewed. Requests for copies of the judgment and written comments on the proposed settlement, should be directed to Anthony W. Benedict, Assistant Attorney General, Office of the Texas Attorney General, P.O. Box 12548, Austin, Texas 78711-2548, (512) 463-2012, facsimile (512) 320-0911. Written comments must be received within 30 days of publication of this notice to be considered.

For information regarding this publication, contact Lauri Saathoff, Agency Liaison, at (512) 463-2096.

TRD-200701410
Stacey Napier
Deputy Attorney General
Office of the Attorney General
Filed: April 16, 2007



Coastal Coordination Council

Notice and Opportunity to Comment on Requests for Consistency Agreement/Concurrence Under the Texas Coastal Management Program

On January 10, 1997, the State of Texas received federal approval of the Coastal Management Program (CMP) (62 Federal Register pp. 1439-1440). Under federal law, federal agency activities and actions affecting the Texas coastal zone must be consistent with the CMP goals and policies identified in 31 TAC Chapter 501. Requests for federal consistency review were deemed administratively complete for the following project(s) during the period of April 6, 2007, through April 12, 2007. As required by federal law, the public is given an opportunity to comment on the consistency of proposed activities in the coastal zone undertaken or authorized by federal agencies. Pursuant to 31 TAC §§506.25, 506.32, and 506.41, the public comment period for these activities extends 30 days from the date published on the Coastal Coordination Council web site. The notice was published on the web site on April 11, 2007. The public comment period for these projects will close at 5:00 p.m. on May 11, 2007.

FEDERAL AGENCY ACTIONS:

Applicant: MB Harbor, Ltd.; Location: The project is located at the intersection of the Genco outfall canal and Clear Lake. The project can be located on the U.S.G.S. quadrangle map entitled: League City, Texas. Approximate UTM Coordinates in NAD 27 (meters): Zone 15; Easting: 301075; Northing: 3270147. Project Description: The applicant proposes to discharge fill material into 0.012 acre of adjacent wetlands and 0.27 acre of jurisdictional open water of Clear Lake to construct a marina and residential community. The project will also include 4.43-acre of impacts to jurisdictional open water resulting from dredging/excavation activities. The project involves the construction of 79 single-family homes sites with waterway access, 21 non-marina lots and a commercial/retail area as well as one acre of parklands and open spaces. The proposed project site consists of a 37.7-acre parcel east of the canal, a 9.19-acre parcel north of the canal, a 2.19-acre tract west of Marina Way, and a 14.04-acre open water area comprised of the Glen Cove Marina and existing canal. CCC Project No.: 07-0158-F1; Type of Application: U.S.A.C.E. permit application #SWG-2006-25323 is being evaluated under §10 of the Rivers and Harbors Act of 1899 (33 U.S.C.A. §403) and §404 of the Clean Water Act (33 U.S.C.A. §1344).

Applicant: Neumin Production Company; Location: The project is located in Lavaca Bay, in State Tracts (ST's) 28 and 36, in Calhoun County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: Port Lavaca East, Texas. Approximate UTM Coordinates of the proposed Well #3 in ST 28 are (in NAD 27, meters): Zone 14; Easting: 739616; Northing: 3166499. Approximate UTM Coordinates of the pipeline tie-in to Well #4 in ST 36 are (in NAD 27, meters): Zone 14; Easting: 741401; Northing: 3166981. Project Description: The applicant proposes to install, operate and maintain structures and equipment necessary for oil and gas drilling, production and transportation activities associated with ST 28, Well #3. Such activities include installation of typical marine barges and keyways, production structures with attendant facilities, and a 6,065-foot-long pipeline that extends from ST 28 Well #3 to ST 36 Well #4. The applicant will use a pre-determined access route, and will not dredge an access channel. The applicant proposes to traverse the route to the site with light-loaded equipment, at an appropriate tide level, to maintain 1 foot of clearance between the lowest point on the vessel, while in motion, and the bay bottom. CCC Project No.: 07-0159-F1; Type of Application: U.S.A.C.E. permit application #24432 is being evaluated under §10 of the Rivers and Harbors Act of 1899 (33 U.S.C.A. §403) and §404 of the Clean Water Act (33 U.S.C.A. §1344). Note: The consistency review for this project may be conducted by the Railroad Commission of Texas under §401 of the Clean Water Act (33 U.S.C.A. §1344).

Applicant: Neumin Production Company; Location: The project is located in Lavaca Bay, in State Tracts (ST's) 30 and 33, in Calhoun County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: Port Lavaca East, Texas. Approximate UTM Coordinates of the proposed Well #1 in ST 34 are (in NAD 27, meters): Zone 14; Easting: 740890; Northing: 3162755. Approximate UTM Coordinates of the pipeline tie-in at the shoreline are (in NAD 27, meters): Zone 14; Easting: 739656; Northing: 3162755. Project Description: The applicant proposes to install, operate and maintain structures and equipment necessary for oil and gas drilling, production and transportation activities associated with ST 34, Well #1. Such activities include installation of typical marine barges and keyways, production structures with attendant facilities, and a 4,640-foot-long pipeline that extends from ST 34 Well #1 to a site on land. The applicant will use a pre-determined access route, and will not dredge an access channel. The applicant proposes to traverse the route to the site with light-loaded equipment, at an appropriate tide level, to maintain 1 foot of clear-

ance between the lowest point on the vessel, while in motion, and the bay bottom. CCC Project No.: 07-0160-F1; Type of Application: U.S.A.C.E. permit application #24433 is being evaluated under §10 of the Rivers and Harbors Act of 1899 (33 U.S.C.A. §403) and §404 of the Clean Water Act (33 U.S.C.A. §1344). Note: The consistency review for this project may be conducted by the Railroad Commission of Texas under §401 of the Clean Water Act (33 U.S.C.A. §1344).

Applicant: Neumin Production Company; Location: The project is located in Lavaca Bay, in State Tracts (ST's) 28 and 36, in Calhoun County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: Port Lavaca East, Texas. Approximate UTM Coordinates of the proposed Well #4 in ST 28 are (in NAD 27, meters): Zone 14; Easting: 740894; Northing: 3166465. Approximate UTM Coordinates of the pipeline tie-in to existing Well #4 in ST 36 are (in NAD 27, meters): Zone 14; Easting: 741401; Northing: 3166981. Project Description: The applicant proposes to install, operate and maintain structures and equipment necessary for oil and gas drilling, production and transportation activities associated with ST 28, Well #4. Such activities include installation of typical marine barges and keyways, production structures with attendant facilities, and a 2,375-foot-long pipeline that extends from ST 28 Well #4 to ST 36 Well #4. The applicant will use a pre-determined access route, and will not dredge an access channel. The applicant proposes to traverse the route to the site with light-loaded equipment, at an appropriate tide level, to maintain 1 foot of clearance between the lowest point on the vessel, while in motion, and the bay bottom. CCC Project No.: 07-0163-F1; Type of Application: U.S.A.C.E. permit application #SWG-2007-39 is being evaluated under §10 of the Rivers and Harbors Act of 1899 (33 U.S.C.A. §403) and §404 of the Clean Water Act (33 U.S.C.A. §1344). Note: The consistency review for this project may be conducted by the Railroad Commission of Texas under §401 of the Clean Water Act (33 U.S.C.A. §1344).

Applicant: Tri-C Resources, Inc. ; Location: The project is located in the Gulf of Mexico approximately 16 miles northeast of Freeport, Texas, in State Tracts (ST's) 279-L and 306-L of the Freeport Anchorage Area, Brazoria County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: Freeport, Texas. Approximate UTM Coordinates in NAD 27 (meters): Zone 15; Pipeline Point of Beginning: Zone 15; Easting: 288397; Northing: 3198338. Pipeline Point of Ending: Zone 15; Easting: 285961; Northing: 3195531. Project Description: The applicant proposes to install, operate and maintain a 4-inch pipeline for gathering oil and gas production. The pipeline would run from the Brazos Area ST 279-L Well No. 1 location and terminate at a tie-in with an existing platform in Brazos Area ST 306-L. The pipeline would be approximately 12,185.6 feet in length. The water depth along the route is approximately 55 feet and there are no pipeline crossings. The pipeline would be trenched a minimum of 16.5 feet below the mud line as required in Galveston District Anchorage Areas. Approximately 11,200 cubic yards of material would be displaced during pipeline construction. CCC Project No.: 07-0164-F1; Type of Application: U.S.A.C.E. permit application #SWG-2007-158 is being evaluated under §10 of the Rivers and Harbors Act of 1899 (33 U.S.C.A. §403) and §404 of the Clean Water Act (33 U.S.C.A. §1344). Note: The consistency review for this project may be conducted by the Railroad Commission of Texas under §401 of the Clean Water Act (33 U.S.C.A. §1344).

Pursuant to §306(d)(14) of the Coastal Zone Management Act of 1972 (16 U.S.C.A. §§1451-1464), as amended, interested parties are invited to submit comments on whether a proposed action is or is not consistent with the Texas Coastal Management Program goals and policies and whether the action should be referred to the Coastal Coordination Council for review.

Further information on the applications listed above may be obtained from Ms. Tammy Brooks, Consistency Review Coordinator, Coastal Coordination Council, P.O. Box 12873, Austin, Texas 78711-2873, or tammy.brooks@glo.state.tx.us. Comments should be sent to Ms. Brooks at the above address or by fax at (512) 475-0680.

TRD-200701463

Larry L. Laine

Chief Clerk/Deputy Land Commissioner, General Land Office

Coastal Coordination Council

Filed: April 18, 2007

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Comptroller of Public Accounts

Notice of Request for Proposals

Pursuant to Sections 403.011, 2155.001, and 2156.121, Texas Government Code, and Chapter 54, Subchapters F and G, Texas Education Code, the Comptroller of Public Accounts (Comptroller) on behalf of the Texas Prepaid Higher Education Tuition Board (Board) announces its Request for Proposals (RFP) for the purpose of selecting a financial institution or financial institutions to act as plan manager or plan managers in connection with the administration of the state's higher education savings plan (Plan). The Plan manager(s) will manage the investment of funds in the Plan and savings trust agreements from which distributions will be made for qualified higher education expenses at eligible educational institutions as provided in Section 529, Internal Revenue Code of 1986, as amended, and will assist by marketing the higher education savings plan as directed by the Board. The Comptroller and the Board reserve the right to award more than one contract under the RFP. If approved by the Board, the successful respondent(s) will be expected to begin performance of the contract on or about June 30, 2007, with transition complete and all services beginning on or about October 31, 2007.

Contact: Parties interested in submitting a proposal should contact William Clay Harris, Assistant General Counsel, Contracts, Comptroller of Public Accounts, 111 E. 17th St., Room G-24, 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 Monday, April 30, 2007, 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 Monday, April 30, 2007, after 10:00 a.m. CZT.

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 no later than 2:00 p.m. (CZT) on Friday, May 11, 2007. Respondents are encouraged to fax non-mandatory Letters of Intent and Questions to (512) 475-0973 to ensure timely receipt. All Letters of Intent must be addressed to attention of William Clay Harris, Assistant General Counsel, Contracts, and must contain the information as directed in the RFP, and be signed by an official of that entity. On or before Friday, May 18, 2007, the Comptroller expects to post responses to questions as a revision to the notice of issuance of the RFP. Late Non-mandatory Letters of Intent and Questions received after the deadline will not be considered; all respondents are solely responsible for ensuring timely receipt of Questions and Letters of Intent in the Issuing Office.

Closing Date: Proposals must be received in the Issuing Office at the location specified above (ROOM G-24) no later than 2:00 p.m. (CZT), on Tuesday, June 5, 2007. Late proposals received after this time and

date will not be considered; all respondents are solely responsible for ensuring timely receipt of proposals in the Issuing Office.

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

The anticipated schedule of events pertaining to this solicitation is as follows: Issuance of RFP - April 30, 2007, after 10:00 a.m. CZT; Non-Mandatory Letter of Intent to propose and Questions Due - May 11, 2007, 2:00 p.m. CZT; Official Responses to Questions posted - May 18, 2007; Proposals Due - June 5, 2007, 2:00 p.m. CZT; Contract Execution - June 30, 2007, or as soon thereafter as practical; Commencement of Project Activities - June 30, 2007, or as soon thereafter as practical.

TRD-200701444

Pamela Smith

Deputy General Counsel for Contracts

Comptroller of Public Accounts

Filed: April 17, 2007

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Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in §§303.003, 303.009, and 304.003, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 04/23/07 - 04/29/07 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 04/23/07 - 04/29/07 is 18% for Commercial over \$250,000.

The judgment ceiling as prescribed by §304.003 for the period of 05/01/07 - 05/31/07 is 8.25% for Consumer/Agricultural/Commercial/credit through \$250,000.

The judgment ceiling as prescribed by §304.003 for the period of 05/01/07 - 05/31/07 is 8.25% for Commercial over \$250,000.

¹ Credit for personal, family or household use.

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

TRD-200701443

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: April 17, 2007

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Credit Union Department

Application for a Merger or Consolidation

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

An application was received from G H & H Employees Credit Union (Dickinson) seeking approval to merge with SPCO Federal Credit

Union (Houston). SPCO Federal Credit Union will be the surviving credit union.

Comments or a request for a meeting by any interested party relating to an application must be submitted in writing within 30 days from the date of this publication. Any written comments must provide all information that the interested party wishes the Department to consider in evaluating the application. All information received will be weighed during consideration of the merits of an application. Comments or a request for a meeting should be addressed to the Texas Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

TRD-200701452
Harold E. Feeney
Commissioner
Credit Union Department
Filed: April 18, 2007



Application to Amend Articles of Incorporation

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

An application for a name change was received from Beaumont Municipal Employees Credit Union, Beaumont, Texas. The credit union is proposing to change its name to Beaumont Community Credit Union.

Comments or a request for a meeting by any interested party relating to an application must be submitted in writing within 30 days from the date of this publication. Any written comments must provide all information that the interested party wishes the Department to consider in evaluating the application. All information received will be weighed during consideration of the merits of an application. Comments or a request for a meeting should be addressed to the Texas Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

TRD-200701453
Harold E. Feeney
Commissioner
Credit Union Department
Filed: April 18, 2007



Applications to Expand Field of Membership

Notice is given that the following applications have been filed with the Credit Union Department and are under consideration:

An application was received from Fellowship Credit Union, San Antonio, Texas to expand its field of membership. The proposal would permit present members and persons on the rolls of St. Anthony de Padua Catholic Church, San Antonio, Texas, to be eligible for membership in the credit union.

An application was received from Beaumont Municipal Employees Credit Union, Beaumont, Texas (#1) to expand its field of membership. The proposal would permit persons who live, work, worship, volunteer or attend school in and businesses and other legal entities located in Jefferson County, Texas, to be eligible for membership in the credit union.

An application was received from Beaumont Municipal Employees Credit Union, Beaumont, Texas (#2) to expand its field of membership. The proposal would permit persons who live, work, worship, volunteer or attend school in and businesses and other legal entities located in Orange County, Texas, to be eligible for membership in the credit union.

An application was received from Beaumont Municipal Employees Credit Union, Beaumont, Texas (#3) to expand its field of member-

ship. The proposal would permit persons who live, work, worship, volunteer or attend school in and businesses and other legal entities located in Hardin County, Texas, to be eligible for membership in the credit union.

An application was received from Memorial Hermann Credit Union, Houston, Texas to expand its field of membership. The proposal would permit persons who live, work, attend school, or worship, and businesses within 10 miles of the branch office of Memorial Hermann Credit Union located at 23920 Katy Freeway, Katy, Texas 77494, to be eligible for membership in the credit union.

An application was received from Pioneer Muslim Credit Union, Houston, Texas to expand its field of membership. The proposal would permit members and employees of the Shia Imami Ismaili Muslim Church in Austin, Texas, to be eligible for membership in the credit union.

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

TRD-200701455
Harold E. Feeney
Commissioner
Credit Union Department
Filed: April 18, 2007



Notice of Final Action Taken

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

Applications to Expand Field of Membership - Approved

Texas Dow Employees Credit Union, Lake Jackson, Texas (#1) - See *Texas Register* issue dated February 23, 2007.

Texas Dow Employees Credit Union, Lake Jackson, Texas (#2) - See *Texas Register* issue dated February 23, 2007.

Application to Amend Articles of Incorporation - Approved

Kraft America Credit Union, Garland, Texas - See *Texas Register* issue dated February 23, 2007.

TRD-200701454
Harold E. Feeney
Commissioner
Credit Union Department
Filed: April 18, 2007



Texas Education Agency

Request for eGrant Applications Concerning the Summer Work Study Program for Migrant Secondary Students, 2007-2008

Eligible Applicants. The Texas Education Agency (TEA) is requesting eGrant applications under Request for Applications (RFA) #701-07-

109 from colleges and universities in Texas. Eligible applicants must demonstrate a full understanding of the needs of migrant secondary students in Texas and must demonstrate the capacity and ability to implement, operate, and manage the project on a statewide basis.

Description. The purpose of the Summer Work Study Program for Migrant Secondary Students, 2007-2008, is to provide a minimum of 30 eligible migrant students with a six-week college or university work study experience by providing students with dormitory housing and meals on campus, by paying students a minimum wage stipend for meaningful work experience in an office setting, and by providing participating students alternative ways to earn credits toward high school graduation in a college or university classroom setting. Applicants should partner with another entity to provide funds for student stipends. Applicants must demonstrate that the partnering entity has the capacity and the commitment to provide funding to pay students a minimum wage for participating in a meaningful work experience in an office setting.

Dates of Project. The Summer Work Study Program for Migrant Secondary Students, 2007-2008, will be implemented during the 2007-2008 school year. Applicants should plan for a starting date of no earlier than September 1, 2007, and an ending date of no later than August 31, 2008.

Project Amount. Funding will be provided for one statewide project. The project will receive a maximum of \$100,000 for the 2007-2008 school year. This project is funded 100 percent from Migrant Education Program federal funds.

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

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

Obtaining Access to TEA's eGrants. The Summer Work Study Program for Migrant Secondary Students, 2007-2008, grant application is available only through TEA's eGrants and may not be obtained or submitted by any other means. The eGrant application will be available in eGrants on or about May 1, 2007. To apply for access to eGrants, go to <http://burleson.tea.state.tx.us/GrantOpportunities/forms>. Scroll down to the "eGrants Toolbox" and select "Apply for eGrants Logon." Complete the form as instructed, obtain the required signatures, and send it to the TEA contact listed on the form. Allow two weeks to obtain a username and password.

Further Information. For clarifying information about the eGrant RFA, contact Donnell Bilsky, Division of Discretionary Grants, Texas Education Agency, (512) 463-9269.

Deadline for Receipt of eGrant Applications. Applications must be submitted to the Texas Education Agency by 5:00 p.m. (Central Time), Thursday, June 7, 2007, to be considered for funding.

TRD-200701460

Cristina De La Fuente-Valadez
Director, Policy Coordination
Texas Education Agency
Filed: April 18, 2007

Texas Commission on Environmental Quality

Agreed Orders

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (the Code), §7.075. Section 7.075 requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. Section 7.075 requires that notice of the proposed orders and the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **May 28, 2007**. Section 7.075 also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building C, 1st Floor, Austin, Texas 78753, (512) 239-1864 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the enforcement coordinator designated for each AO at the commission's central office at P.O. Box 13087, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on May 28, 2007**. Written comments may also be sent by facsimile machine to the enforcement coordinator at (512) 239-2550. The commission enforcement coordinators are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, §7.075 provides that comments on the AOs shall be submitted to the commission in **writing**.

(1) COMPANY: 685 Cedar Creek, Ltd.; DOCKET NUMBER: 2007-0221-EAQ-E; IDENTIFIER: RN105117642; LOCATION: Bexar County, Texas; TYPE OF FACILITY: 59.65-acre site; RULE VIOLATED: 30 Texas Administrative Code (TAC) §213.4(a)(1), by failing to submit an Edwards Aquifer Protection Plan; PENALTY: \$8,250; ENFORCEMENT COORDINATOR: Ruben Soto, (512) 239-4571; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(2) COMPANY: Aqua Utilities, Inc.; DOCKET NUMBER: 2007-0017-MWD-E; IDENTIFIER: RN101612406; LOCATION: Houston, Harris County, Texas; TYPE OF FACILITY: wastewater system; RULE VIOLATED: 30 TAC §305.125(1), Permit Number WQ0013619001, Effluent Limitations and Monitoring Requirements, and the Code, §26.121(a), by failing to comply with permit effluent limits; PENALTY: \$1,560; ENFORCEMENT COORDINATOR: Harvey Wilson, (512) 239-0321; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(3) COMPANY: Aqua Utilities, Inc. dba Aqua Texas, Inc.; DOCKET NUMBER: 2006-1525-MWD-E; IDENTIFIER: RN102915451; LOCATION: Trinity County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §305.125(1), Texas Pollutant Discharge Elimination System (TPDES) Permit Number 14096001, Fi-

nal Effluent Limitations and Monitoring Requirements Numbers 1 and 3, and the Code, §26.121(a), by failing to comply with permitted effluent limitations; PENALTY: \$4,410; ENFORCEMENT COORDINATOR: Laurie Eaves, (512) 239-4495; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(4) COMPANY: Aqua Utilities, Inc. dba Aqua Texas, Inc.; DOCKET NUMBER: 2007-0070-MWD-E; IDENTIFIER: RN101524767; LOCATION: Orange County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §305.125(1), TPDES Permit Number WQ0012109001, Effluent Limitations and Monitoring Requirements Number 1, and the Code, §26.121(a), by failing to comply with permit effluent limits; PENALTY: \$3,450; ENFORCEMENT COORDINATOR: Heather Brister, (512) 239-1203; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(5) COMPANY: Aqua Utilities, Inc. dba Aqua Texas, Inc.; DOCKET NUMBER: 2006-1924-MWD-E; IDENTIFIER: RN101525061; LOCATION: Harris County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §305.125(1), TPDES Permit Number 11701001, Interim Effluent Limitations and Monitoring Requirements Numbers 1 and 2, and the Code, §26.121(a), by failing to comply with permit effluent limits; PENALTY: \$7,880; ENFORCEMENT COORDINATOR: Catherine Albrecht, (713) 767-3500; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(6) COMPANY: Javier B. Armendariz; DOCKET NUMBER: 2006-1902-PST-E; IDENTIFIER: RN101835726; LOCATION: Odessa, Ector County, Texas; TYPE OF FACILITY: abandoned mechanic shop/carwash; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and the Code, §26.3475(c)(1), by failing to monitor underground storage tanks (USTs); and 30 TAC §334.49(a)(1) and the Code, §26.3475(d), by failing to provide proper corrosion protection for the UST system; PENALTY: \$5,000; ENFORCEMENT COORDINATOR: Patricia Chawla, (512) 239-0739; REGIONAL OFFICE: 3300 North A Street, Building 4, Suite 107, Midland, Texas 797055404, (915) 570-1359.

(7) COMPANY: Baptist St. Anthony's Hospital Corporation dba Baptist St. Anthony's Health System; DOCKET NUMBER: 2007-0460-PST-E; IDENTIFIER: RN102888443; LOCATION: Potter County, Texas; TYPE OF FACILITY: hospital; RULE VIOLATED: 30 TAC §334.8(c)(5)(A)(i), by failing to possess a valid TCEQ delivery certificate prior to receiving fuel; PENALTY: \$875; ENFORCEMENT COORDINATOR: Melissa Keller, (512) 239-1768; REGIONAL OFFICE: 3918 Canyon Drive, Amarillo, Texas 79109-4933, (806) 353-9251.

(8) COMPANY: City of Blossom; DOCKET NUMBER: 2005-0256-MWD-E; IDENTIFIER: RN101611580; LOCATION: Blossom, Lamar County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §305.125(1), TPDES Permit Number 10715002, Effluent Limitations and Monitoring Requirements Numbers 1, 3, and 6, and the Code, §26.121(a), by failing to comply with permitted effluent limitations; PENALTY: \$10,400; Supplemental Environmental Project (SEP) offset amount of \$8,320 applied to providing assistance to repair or replace failing or inadequately designed private sewer lines, access units, and clean-outs for low income residents; ENFORCEMENT COORDINATOR: Laurie Eaves, (512) 239-4495; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3756, (903) 535-5100.

(9) COMPANY: Bohica Investment, Ltd. dba Amigos 10; DOCKET NUMBER: 2007-0461-PST-E; IDENTIFIER: RN101793594; LOCATION: Sutton County, Texas; TYPE OF FACILITY: convenience

store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.8(c)(5)(A)(i), by failing to possess a valid TCEQ delivery certificate prior to receiving fuel; PENALTY: \$875; ENFORCEMENT COORDINATOR: Melissa Keller, (512) 239-1768; REGIONAL OFFICE: 622 South Oakes, Suite K, San Angelo, Texas 76903-7013, (915) 655-9479.

(10) COMPANY: Country Place\Northwest Home Owners' Association, Inc.; DOCKET NUMBER: 2007-0006-PWS-E; IDENTIFIER: RN101198976; LOCATION: Brenham, Washington County, Texas; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.46(f)(2), by failing to maintain water system records and make them available for review; 30 TAC §290.46(m), by failing to maintain the general appearance of the system's facilities and equipment, including maintaining the exterior coating on the pressure tank; 30 TAC §290.42(l), by failing to compile and maintain an up-to-date plant operations manual; 30 TAC §290.41(c)(3)(O) and §290.43(e), by failing to provide an intruder-resistant fence for the well and pressure tank; and 30 TAC §290.45(b)(1)(C)(ii) and (iii) and Texas Health and Safety Code (THSC), §341.0315(c), by failing to provide a minimum total storage capacity of 200 gallons per connection and by failing to provide two or more service pumps with a total rated capacity of two gallons per minute per connection; PENALTY: \$1,900; ENFORCEMENT COORDINATOR: Rebecca Clausewitz, (210) 490-3096; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(11) COMPANY: Drennan Day Custom Homes Inc.; DOCKET NUMBER: 2006-1871-MLM-E; IDENTIFIER: RN105085211; LOCATION: Liberty Hill, Williamson County, Texas; TYPE OF FACILITY: construction site; RULE VIOLATED: 30 TAC §281.25(a)(4) and 40 Code of Federal Regulations (CFR) §122.26(c), by failing to obtain authorization to discharge storm water associated with construction activities; and 30 TAC §213.21(d), by failing to obtain approval of a contributing zone plan; PENALTY: \$16,000; Supplemental Environmental Project (SEP) offset amount of \$6,400 applied to Texas Association of Resource Conservation & Development Areas, Inc. ("RC&D") - Abandoned Tire Clean-Up; ENFORCEMENT COORDINATOR: Lynley Doyen, (512) 239-1364; REGIONAL OFFICE: 2800 South IH 35, Suite 100, Austin, Texas 78704-5712, (512) 339-2929.

(12) COMPANY: Equistar Chemicals, LP; DOCKET NUMBER: 2007-0039-AIR-E; IDENTIFIER: RN100210574; LOCATION: Alvin, Brazoria County, Texas; TYPE OF FACILITY: chemical manufacturing plant; RULE VIOLATED: 30 TAC §116.115(c), Air Permit Number 19558, Special Condition Number 1, and THSC, §382.085(b), by failing to prevent unauthorized emissions; and 30 TAC §101.201(a)(1)(B) and THSC, §382.085(b), by failing to report the April 30, 2004, emissions event within twenty-four hours after discovery; PENALTY: \$80,191; Supplemental Environmental Project (SEP) offset amount of \$40,095 applied to Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program; ENFORCEMENT COORDINATOR: Rebecca Johnson, (713) 767-3500; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(13) COMPANY: Exxon Mobil Corporation; DOCKET NUMBER: 2007-0034-AIR-E; IDENTIFIER: RN102212925; LOCATION: Baytown, Harris County, Texas; TYPE OF FACILITY: chemical company; RULE VIOLATED: 30 TAC §116.715(a), Flexible Permit Number 3452, Special Condition Number 1, and THSC, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$44,575; Supplemental Environmental Project (SEP) offset amount of \$22,287 applied to Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program; ENFORCEMENT COORDINATOR: John Muennink,

(361) 825-3100; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(14) COMPANY: Fort Bend Independent School District; DOCKET NUMBER: 2007-0462-PST-E; IDENTIFIER: RN102469665; LOCATION: Stafford, Fort Bend County, Texas; TYPE OF FACILITY: school district with fleet refueling; RULE VIOLATED: 30 TAC §334.8(c)(5)(A)(i), by failing to possess a valid TCEQ delivery certificate prior to receiving fuel; PENALTY: \$875; ENFORCEMENT COORDINATOR: Melissa Keller, (512) 239-1768; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(15) COMPANY: Benny D. Horn; DOCKET NUMBER: 2007-0459-MWD-E; IDENTIFIER: RN103313250; LOCATION: Corsicana, Navarro County, Texas; TYPE OF FACILITY: operator; RULE VIOLATED: 30 TAC §30.5(a), by failing to obtain a required occupational license; PENALTY: \$210; ENFORCEMENT COORDINATOR: Melissa Keller, (512) 239-1768; REGIONAL OFFICE: 2301 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(16) COMPANY: Jayvik Auto Systems, Inc. dba Speedee Oil Change & Tune Up; DOCKET NUMBER: 2007-0474-PST-E; IDENTIFIER: RN100539923; LOCATION: Denton County, Texas; TYPE OF FACILITY: car maintenance; RULE VIOLATED: 30 TAC §334.50(b)(1)(A), by failing to provide release detection; PENALTY: \$1,750; ENFORCEMENT COORDINATOR: Melissa Keller, (512) 239-1768; REGIONAL OFFICE: 2301 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(17) COMPANY: Kerrville Fast Wash, Inc. dba Five Points Chevron; DOCKET NUMBER: 2007-0454-PST-E; IDENTIFIER: RN100535491; LOCATION: Kerrville, Kerr County, Texas; TYPE OF FACILITY: car maintenance; RULE VIOLATED: 30 TAC §334.50(b)(1)(A), by failing to provide release detection; PENALTY: \$1,750; ENFORCEMENT COORDINATOR: Melissa Keller, (512) 239-1768; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(18) COMPANY: Key Oil Company dba Lawndale Service Station; DOCKET NUMBER: 2006-1897-PST-E; IDENTIFIER: RN102840113; LOCATION: Houston, Harris County, Texas; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §115.246(1), (3) and (7)(A) and THSC, §382.085(b), by failing to maintain Stage II records and make immediately available for inspection; 30 TAC §115.244(1) and (3) and THSC, §382.085(b), by failing to conduct required daily and monthly inspections of the Stage II vapor recovery system (VRS); 30 TAC §115.248(1) and THSC, §382.085(b), by failing to ensure that at least one station representative received training in the operation and maintenance of the Stage II VRS; 30 TAC §115.245(2) and THSC, §382.085(b), by failing to verify proper operation of the Stage II equipment; 30 TAC §37.815(a) and (b), by failing to demonstrate acceptable financial assurance; 30 TAC §334.50(b)(1)(A) and (2) and the Code, §26.3475(a) and (c)(1), by failing to monitor USTs in a manner that will detect a release and by failing to provide proper release detection for the piping associated with the UST system; 30 TAC §334.50(b)(2)(A)(i)(III) and the Code, §26.3475(a), by failing to test the line leak detectors; 30 TAC §334.50(d)(1)(B)(ii) and the Code, §26.3475(c)(1), by failing to conduct reconciliation of detailed inventory control records; 30 TAC §334.50(d)(1)(B)(iii)(I) and the Code, §26.3475(c)(1), by failing to record inventory volume measurements for regulated substance inputs, withdrawals, and the amount still remaining in the tanks each operating day; 30 TAC §334.48(c), by failing to conduct effective manual or automatic inventory control procedures for the UST system; and 30 TAC §334.8(c)(5)(C), by failing to ensure that a legible tag, label, or marking with the UST identification

number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube; PENALTY: \$14,500; ENFORCEMENT COORDINATOR: Thomas Greimel, (512) 239-5690; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(19) COMPANY: Koral Industries, Inc.; DOCKET NUMBER: 2006-2192-AIR-E; IDENTIFIER: RN102539145; LOCATION: Ennis, Ellis County, Texas; TYPE OF FACILITY: bath tub manufacturing plant; RULE VIOLATED: 30 TAC §113.1060 and §116.115(b)(2)(F) and (c), 40 CFR §63.5805(b), Permit Number 18756, General Condition 8, Special Condition 3, and THSC, §382.085(b), by failing to comply with the maximum allowable emission rate for styrene; PENALTY: \$3,850; ENFORCEMENT COORDINATOR: Miriam Hall, (512) 239-1044; REGIONAL OFFICE: 2301 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(20) COMPANY: Donny Lloyd dba Lloyd's Electric Motor Repair; DOCKET NUMBER: 2006-2194-AIR-E; IDENTIFIER: RN100798701; LOCATION: Gainesville, Cooke County, Texas; TYPE OF FACILITY: electric motor repair shop; RULE VIOLATED: 30 TAC §116.110(a)(1) and THSC, §382.085(b) and §382.0518(a), by failing to obtain authorization to operate via a permit or permit by rule (PBR) and meeting all conditions of an applicable PBR; PENALTY: \$1,050; ENFORCEMENT COORDINATOR: Sherronda Martin, (713) 767-3500; REGIONAL OFFICE: 2301 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(21) COMPANY: Matheson Tri-Gas, Inc.; DOCKET NUMBER: 2007-0201-IWD-E; IDENTIFIER: RN102186236; LOCATION: Waxahachie, Ellis County, Texas; TYPE OF FACILITY: wastewater treatment plant; RULE VIOLATED: 30 TAC §305.125(1), TPDES Permit Number WQ0004112000, Effluent Limitations and Monitoring Requirements Number 1, and the Code, §26.121(a), by failing to comply with the daily average permitted limit of 0.2 milligrams per liter (mg/L) for chlorine residual; PENALTY: \$2,780; ENFORCEMENT COORDINATOR: Jorge Ibarra, (817) 588-5800; REGIONAL OFFICE: 2301 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(22) COMPANY: City of Orange; DOCKET NUMBER: 2005-0059-MWD-E; IDENTIFIER: RN101613644, TPDES Permit Number 0010626001; LOCATION: Orange, Orange County, Texas; TYPE OF FACILITY: wastewater treatment plant; RULE VIOLATED: 30 TAC §305.125(1) and (5) and TPDES Permit Number 0010626001, Operational Requirement Number 1, by failing to adequately operate and maintain the ultraviolet (UV) disinfection system; 30 TAC §305.125(1) and (5) and §317.6(c)(2)(H) and TPDES Permit Number 0010626001, Operational Requirement Number 1, by failing to maintain the minimum number of replacement parts for the UV disinfection system; 30 TAC §305.125(1), TPDES Permit Number 0010626001, Effluent Limitations and Monitoring Requirements Number 1, and the Code, §26.121(a), by failing to maintain compliance with the fecal coliform bacteria (FC) single grab, seven-day average, and the total suspended solids (TSS) daily maximum limits; 30 TAC §305.125(1), TPDES Permit Number 0010626001, Effluent Limitations and Monitoring Requirements Number 1, and the Code, §26.121(c), by failing to comply with the FC single grab limit of 800 colonies per 100 milliliters (col/100 ml); 30 TAC §317.6(c)(2)(E), by failing to provide remote operation indicators for all lamps in the UV system; 30 TAC §305.125(1) and (5) and TPDES Permit Number 0010626001, Operational Requirement Number 1, by failing to maintain a functional high level alarm system; 30 TAC §305.125(1) and (5) and TPDES Permit Number 0010626001, Operational Requirement Number 1, by failing to remove the heavy accumulations of oil and grease; and 30 TAC §305.125(1) and (5) and TPDES Permit Number 0010626001,

Operational Requirement Number 1, by failing to maintain the number two pump; PENALTY: \$36,300; Supplemental Environmental Project (SEP) offset amount of \$36,300 applied to Texas Association of Resource Conservation and Development Areas, Inc. (RC&D) - Household Hazardous Waste Clean-Up; ENFORCEMENT COORDINATOR: Catherine Albrecht, (713) 767-3500; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(23) COMPANY: Pencoco, Inc.; DOCKET NUMBER: 2007-0011-MLM-E; IDENTIFIER: RN101629970; LOCATION: Sinton, San Patricio County, Texas; TYPE OF FACILITY: ferrous sulfate production; RULE VIOLATED: 30 TAC §305.125(1) and TPDES General Permit Number TXR050000 Part III, Section A, by failing to implement the storm water pollution prevention plan (SWP3) that had been developed; 30 TAC §305.125(1) and TPDES General Permit Number TXR050000 Part III, Section B(b), by failing to modify the SWP3 as often as necessary; 30 TAC §305.125(9) and TPDES General Permit Number TXR050000 Part III, Section E4(b), by failing to report noncompliance which may endanger human health or safety; 30 TAC §281.25(a)(4), 40 CFR §122.26(c), and TPDES Permit Number TXR050000 Part V, Section C3(a), by failing to develop a security system to prevent accidental or intentional discharges by unauthorized individuals; and 30 TAC §§305.125(1), 327.5(a), and 335.4(1), and TPDES General Permit Number TXR050000 Part III, Section E2(b), by failing to take all reasonable steps to minimize or prevent any discharge which has a reasonable likelihood of adversely affecting human health or the environment and failed to immediately abate and contain the spill or discharge; PENALTY: \$7,490; ENFORCEMENT COORDINATOR: Ruben Soto, (512) 239-4571; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5503, (361) 825-3100.

(24) COMPANY: Performance Food Group of Texas, Inc.; DOCKET NUMBER: 2007-0458-PST-E; IDENTIFIER: RN101432979; LOCATION: Victoria, Victoria County, Texas; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.8(c)(5)(A)(i), by failing to possess a valid TCEQ delivery certificate prior to receiving fuel; PENALTY: \$875; ENFORCEMENT COORDINATOR: Melissa Keller, (512) 239-1768; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5503, (361) 825-3100.

(25) COMPANY: City of Point; DOCKET NUMBER: 2005-1025-MWD-E; IDENTIFIER: RN101612984; LOCATION: Point, Rains County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §305.125(1), TPDES Permit Number 10964001, Final Effluent Limitations and Monitoring Requirements 1 and 6, and the Code, §26.121(a), by failing to comply with permitted effluent limits; 30 TAC §305.125(17) and TPDES Permit Number 10964001, Sludge Provisions, Section II, F. Reporting Requirements, by failing to submit annual sludge reports; 30 TAC §305.125(1) and TPDES Permit Number 10964001, Monitoring and Reporting Requirements Number 1, by failing to timely submit the five-day biochemical oxygen demand data; and 30 TAC §305.125(a) and TPDES Permit Number 10964001, Monitoring and Reporting Requirements Number 1, by failing to submit the discharge monitoring report at outfall 001A for the monitoring period ending March 31, 2004, by April 20, 2004; PENALTY: \$12,773; ENFORCEMENT COORDINATOR: Ruben Soto, (512) 239-4571; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3756, (903) 535-5100.

(26) COMPANY: Eufrocina Merino dba Roslyn Food Mart; DOCKET NUMBER: 2007-0106-PST-E; IDENTIFIER: RN101809184; LOCATION: Vidor, Orange County, Texas; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and the Code, §26.3475(c)(1), by failing to monitor

the USTs for releases; PENALTY: \$3,900; ENFORCEMENT COORDINATOR: Rajesh Acharya, (512) 239-0577; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(27) COMPANY: City of Royse City; DOCKET NUMBER: 2006-1940-PWS-E; IDENTIFIER: RN101391696; LOCATION: Royse City, Rockwall County, Texas; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.46(b), (q)(1) and (r), by failing to submit raw water samples for microbiological analysis, by failing to issue a boil water notice, and by failing to operate the system to maintain a minimum pressure of 35 pounds per square inch throughout the distribution system; PENALTY: \$3,360; Supplemental Environmental Project (SEP) offset amount of \$2,688 applied to holding a one-day citywide household hazardous waste (HHW) collection event; ENFORCEMENT COORDINATOR: Epifanio Villarreal, (210) 490-3096; REGIONAL OFFICE: 2301 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(28) COMPANY: Sunoco Partners Marketing & Terminals L.P.; DOCKET NUMBER: 2006-0942-MLM-E; IDENTIFIER: RN100214626; LOCATION: Nederland, Jefferson County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §335.4, by failing to prevent the unauthorized discharge of hydrocarbon; 30 TAC §335.6(c), by failing to update the notice of registration; 30 TAC §335.10(b), by failing to put the state transporter's identification and phone numbers on Manifest Number 3372217; 30 TAC §335.9(a)(1), by failing to keep records of all hazardous and industrial solid waste activities; 30 TAC §335.2(a), by failing to obtain authorization to process a hazardous waste (naphtha); 30 TAC §335.62 and 40 CFR §262.11, by failing to conduct a hazardous waste determination and waste classification for spent naphtha generated in the parts washer bin; 30 TAC §305.125(5) and TPDES Permit Number WQ0001151000, Operational Requirements Number 1, by failing to at all times properly operate and maintain all facilities and systems of treatment and control; and the Code, §26.121(c), by failing to prevent the discharge of industrial wastes to a stormwater outfall; 30 TAC §319.5(b) and TPDES Permit Number WQ0001151000, Effluent Limitations and Monitoring Requirements Number 1, Outfalls 002, 003, and 004, by failing to collect effluent samples from stormwater outfalls 002, 003, and 004; and 30 TAC §305.125(1) and TPDES Permit Number WQ0001151000, Permit Conditions Number 4.d., by failing to prevent the introduction of a waste not authorized by the permit into the wastewater treatment facility; PENALTY: \$28,078; ENFORCEMENT COORDINATOR: Laurie Eaves, (512) 239-4495; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(29) COMPANY: Texas Department of Criminal Justice; DOCKET NUMBER: 2006-2188-MWD-E; IDENTIFIER: RN102314432; LOCATION: Huntsville, Walker County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §305.125(1) and TPDES Permit Number 11180002, Effluent Limitations and Monitoring Requirements Numbers 1, 2, and 6, and the Code, §26.121(a), by failing to comply with permitted effluent limitations; 30 TAC §305.125(1) and TPDES Permit Number 11180002, Effluent Limitations and Monitoring Requirements Number 1, by failing to at all times properly operate and maintain all facilities and systems of treatments and control; 30 TAC §305.125(1) and TPDES Permit Number 11180002, Monitoring and Reporting Requirements Number 7(c), by failing to timely submit noncompliance reports; and 30 TAC §30.331(b) and §30.350(d) and TPDES Permit Number 11180002, Other Requirements Number 1, by failing to employ a wastewater operator holding a category B license or higher; PENALTY: \$40,280; Supplemental Environmental Project (SEP) offset amount of \$32,224 applied to Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D") - Unauthorized Trash Dump Clean-Up;

ENFORCEMENT COORDINATOR: Laurie Eaves, (512) 239-4495; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(30) COMPANY: Texas Polymer Services, Inc.; DOCKET NUMBER: 2006-2243-MLM-E; IDENTIFIER: RN100590207; LOCATION: Orange County, Texas; TYPE OF FACILITY: plastics manufacturing; RULE VIOLATED: 30 TAC §305.125(1) and TPDES Permit Number 02835, Other Requirements Number 2, by failing to use a test method sensitive enough to detect the minimum analytical level of 0.005 mg/L for total zinc; 30 TAC §305.125(1) and TPDES Permit Number 02835, Monitoring and Reporting Requirements Number 7c, by failing to submit noncompliance notification to the TCEQ for effluent violations; and 30 TAC §335.4, TPDES Permit Number 02835, Permit Conditions Number 2g, and the Code, §26.121(a), by failing to prevent the unauthorized discharge of industrial waste; PENALTY: \$38,755; ENFORCEMENT COORDINATOR: Pamela Campbell, (512) 239-4493; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

TRD-200701437

Mary R. Risner

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: April 17, 2007



Notice of District Hearing

Notice issued April 12, 2007

Texas Commission on Environmental Quality (TCEQ) Docket No. 2006-1783-DIS; The TCEQ will conduct a hearing on an application for conversion (the "Application") of Mauriceville Special Utility District of Orange, Jasper, and Newton counties (the "District") to a municipal utility district operating under Texas Water Code Chapter 54. The Application was filed with the TCEQ and included a resolution by the District's board of directors. The TCEQ will conduct this hearing under the authority of Texas Water Code Chapters 49 and 54; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The TCEQ will conduct the hearing at: 9:30 a.m., Wednesday, July 25, 2007, Building E, Room 201S, 12100 Park 35 Circle, Austin, Texas. The District was created on December 12, 1994, as a special utility district under Texas Water Code Chapter 65 and Article XVI, Section 59 of the Texas Constitution. The material filed with the Application states that conversion would serve the best interest of the District and would be a benefit to the land and property included in the District.

As required by Texas Water Code §54.032 and 30 Texas Administrative Code §293.15, the above hearing regarding this application will be held no earlier than 14 days after notice of this hearing is published in a newspaper with general circulation in the county or counties in which the district is located. The purpose of this hearing is to provide all interested persons the opportunity to appear and offer testimony for or against the proposal contained in the resolution. At the hearing, pursuant to Texas Water Code §54.033 the Commission will determine whether converting the current district into a municipal utility district that operates under Texas Water Code Chapter 54 would serve the best interest of the district and would be a benefit to the land and property included in the district, or, if there is any opposition to the proposed conversion, the Commission may refer the application to the State Office of Administrative Hearings for a contested case hearing on the application.

INFORMATION SECTION.

For information regarding the date and time this application will be heard before the Commission, please submit written inquiries to the TCEQ, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087, or by phone at (512) 239-3300. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team at (512) 239-4691. General information regarding the TCEQ can be found at our web site at www.tceq.state.tx.us. Si desea información en Español, puede llamar al (512) 239-0200. Persons with disabilities who plan to attend this hearing and who need special accommodations at the hearing should call the TCEQ Office of Public Assistance at 1-800-687-4040 or 1-800-RELAY-TX (TDD) at least one week prior to the hearing.

TRD-200701466

LaDonna Castañuela

Chief Clerk

Texas Commission on Environmental Quality

Filed: April 18, 2007



Notice of Request for Public Comment and Notice of a Public Meeting for the Implementation Plan to Address Zinc in Oyster Tissue of the Nueces Bay Watershed

The Texas Commission on Environmental Quality (TCEQ or commission) has made available for public comment a draft implementation plan for a total maximum daily load (TMDL) concerning zinc loading in Nueces Bay. Nueces Bay drains the Nueces River Basin, along with portions of the San Antonio-Nueces and Nueces-Rio Grande Coastal Basins. TCEQ will also conduct a public meeting to receive comments on the implementation plan.

Nueces Bay (Segment 2482), located in Nueces and San Patricio Counties, is included in the State of Texas Clean Water Act, §303(d) list of impaired water bodies. As required by §303(d) of the federal Clean Water Act, a TMDL was developed for zinc in oyster tissue. The TMDL was adopted by the commission on November 1, 2006, as an update to the State Water Quality Management Plan. Upon adoption by the commission, the TMDL was submitted to the United States Environmental Protection Agency (EPA) for review and approval. EPA approved the TMDL on December 15, 2006. The implementation plan is a flexible tool that the governmental and non-governmental agencies involved in TMDL implementation will use to guide their program management.

The public comment meeting will be held in Corpus Christi, Texas, on May 8, 2007, at 7:00 p.m., at the Texas A&M University - Corpus Christi campus, NRC Building, Conference Room 1003, located at 6300 Ocean Drive. Individuals may present oral statements when called upon in order of registration. Open discussion will not occur during the meeting; however, an agency staff member will be available to discuss the matter 30 minutes prior to the meeting and will answer questions before and after the meeting. The purpose of the public meeting is to provide the public an opportunity to comment on the proposed plan. The commission requests comment on each of the six major components of the implementation plan: description of control actions and management measures, implementation schedule, legal authority, follow-up monitoring plan, measurable outcomes, and communication strategy. After the public comment period, TCEQ staff may revise the implementation plan, if appropriate. The final implementation plan will then be considered for approval by the commission. Upon approval of the implementation plan by the commission, the fi-

nal implementation plan and a response to public comments will be made available on the TCEQ Web site.

Written comments should be submitted to Andrew Sullivan, Texas Commission on Environmental Quality, TMDL Section, MC 203, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-1414. All comments must be received by 5:00 p.m., May 25, 2007, and should reference *Implementation Plan for One Total Maximum Daily Load for Zinc in Oyster Tissue in Nueces Bay, For Segment 2482*. For further information regarding this proposed TMDL implementation plan, please contact Andrew Sullivan, TCEQ Central Office, at (512) 239-4587 or asulliva@tceq.state.tx.us. Copies of the draft implementation plan can be obtained via the commission's Web site at: <http://www.tceq.state.tx.us/implementation/water/tmdl/tmdlcalendar.html> or by calling (512) 239-6682.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the meeting should contact the agency at (512) 239-6682. Requests should be made as far in advance as possible.

TRD-200701434

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: April 17, 2007



Notice of Request for Public Comment for an Implementation Plan to Address Chloride and Total Dissolved Solids in the Colorado River Below E.V. Spence Reservoir Watershed

The Texas Commission on Environmental Quality (TCEQ or commission) has made available for public comment a draft implementation plan concerning total maximum daily loads (TMDLs) for chloride and total dissolved solids loading in the Colorado River Below E. V. Spence Reservoir of the Colorado River Basin.

Colorado River Below E. V. Spence Reservoir (Segment 1426), located in Coke and Runnels Counties, is included in the State of Texas Clean Water Act, §303(d) list of impaired water bodies. As required by §303(d) of the federal Clean Water Act, two TMDLs were developed for chloride and total dissolved solids. The TMDLs were adopted by the commission on February 7, 2007, as an update to the State Water Quality Management Plan. Upon adoption by the commission, the TMDLs were submitted to the United States Environmental Protection Agency (EPA) for review and approval. The implementation plan is a flexible tool that the governmental and non-governmental agencies involved in TMDL implementation will use to guide their program management.

A public comment period to receive written public comment on the draft Colorado River Below E. V. Spence Reservoir implementation plan will commence on April 25, 2007. The commission requests comment on each of the six major components of the implementation plan: description of control actions and management measures, implementation schedule, legal authority, follow-up monitoring plan, measurable outcomes, and communication strategy. After the public comment period, TCEQ staff may revise the implementation plan, if appropriate. The final implementation plan will then be considered for approval by the commission. Upon approval of the implementation plan by the commission, the final implementation plan and a response to public comments will be made available on the TCEQ Web site.

Written comments should be submitted to Kerry Niemann, Texas Commission on Environmental Quality, TMDL Section, MC 203, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-1414.

All comments must be received by 5:00 p.m., May 25, 2007, and should reference, *Implementation Plan for Two Total Maximum Daily Loads for Chloride and Total Dissolved Solids in the Colorado River Below E. V. Spence Reservoir, For Segment Number 1426*. For further information regarding this proposed TMDL implementation plan, please contact Kerry Niemann, TCEQ Central Office, at (512) 239-0483 or kniemann@tceq.state.tx.us. Copies of the draft implementation plan can be obtained via the commission's Web site at: <http://www.tceq.state.tx.us/implementation/water/tmdl/tmdlcalendar.html> or by calling (512) 239-6682.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the meeting should contact the agency at (512) 239-6682. Requests should be made as far in advance as possible.

TRD-200701438

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: April 17, 2007



Notice of Request for Public Comment for an Implementation Plan to Address Chloride, Sulfate, and Total Dissolved Solids in the Petronila Creek Above Tidal Watershed

The Texas Commission on Environmental Quality (TCEQ or commission) has made available for public comment a draft implementation plan concerning total maximum daily loads (TMDLs) for chloride, sulfate, and total dissolved solids loading in the Petronila Creek Above Tidal of the Nueces-Rio Grande Coastal Basin.

Petronila Creek Above Tidal (Segment 2204), located in Nueces and Kleberg Counties, is included in the State of Texas Clean Water Act, §303(d) list of impaired water bodies. As required by §303(d) of the federal Clean Water Act, three TMDLs were developed for chloride, sulfate, and total dissolved solids. The TMDLs were adopted by the commission on January 10, 2007, as an update to the State Water Quality Management Plan. Upon adoption by the commission, the TMDLs were submitted to the United States Environmental Protection Agency (EPA) for review and approval. EPA approved the TMDLs on March 14, 2007. The implementation plan is a flexible tool that the governmental and non-governmental agencies involved in TMDL implementation will use to guide their program management.

A public comment period to receive written public comment on the draft Petronila Creek Above Tidal implementation plan will commence on April 25, 2007. The commission requests comment on each of the six major components of the implementation plan: description of control actions and management measures, implementation schedule, legal authority, follow-up monitoring plan, measurable outcomes, and communication strategy. After the public comment period, TCEQ staff may revise the implementation plan, if appropriate. The final implementation plan will then be considered for approval by the commission. Upon approval of the implementation plan by the commission, the final implementation plan and a response to public comments will be made available on the TCEQ Web site.

Written comments should be submitted to Kerry Niemann, Texas Commission on Environmental Quality, TMDL Section, MC 203, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-1414. All comments must be received by 5:00 p.m., May 25, 2007, and should reference *Implementation Plan for Three Total Maximum Daily Loads for Chloride, Sulfate, and Total Dissolved Solids in Petronila Creek Above Tidal, For Segment Number 2204*. For fur-

ther information regarding this proposed TMDL implementation plan, please contact Kerry Niemann, TCEQ Central Office, at (512) 239-0483 or kniemann@tceq.state.tx.us. Copies of the draft implementation plan can be obtained via the commission's Web site at: <http://www.tceq.state.tx.us/implementation/water/tmdl/tmdlcalendar.html> or by calling (512) 239-6682.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the meeting should contact the agency at (512) 239-6682. Requests should be made as far in advance as possible.

TRD-200701435
Robert Martinez
Director, Environmental Law Division
Texas Commission on Environmental Quality
Filed: April 17, 2007



Notice of Water Quality Applications

The following notices were issued during the period of April 5, 2007 - April 12, 2007.

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 Texas Commission on Environmental Quality (TCEQ), Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087, WITHIN 30 DAYS OF THE DATE OF NEWSPAPER PUBLICATION OF THE NOTICE.

FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 122 has applied for a renewal of Texas Pollutant Discharge Elimination System (TPDES) Permit No. 14182-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 992,000 gallons per day. The facility is located 1,900 feet south of Farm-to-Market Road 1093 and 3,200 feet west of Harlem Road, approximately 3,200 feet north of Long Point Slough, and 3,700 feet southwest of the intersection of Harlem Road and Farm-to-Market Road 1093 in Fort Bend County, Texas.

FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 134 has applied for a new permit, proposed TPDES Permit No. WQ0014715001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 300,000 gallons per day. The facility will be located approximately 4,850 feet west of the intersection of Farm-to-Market Road 1464 and Madden Road and approximately 1,000 feet south of Madden Road along Red Gully in Fort Bend County, Texas.

CITY OF GOODRICH has applied for a renewal of TPDES Permit No. 12711-001 which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 65,000 gallons per day. The facility is located on the east side of the Southern Pacific Railroad, approximately 1,200 feet southwest of the intersection of Farm-to-Market Road 393 and U.S. Highway 59, northwest of the City of Goodrich in Polk County, Texas.

HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 157 has applied for a renewal of TPDES Permit No. 11906-001, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 2,300,000 gallons per day. The facility is located 19355 Aspen Trail on the northern bank of Dinner Creek and approximately 2,000 feet south of Farm-to-Market Road 529 (Freeman Road) in Harris County, Texas.

CITY OF INDUSTRY has applied for a renewal of TPDES Permit No. WQ0013897001, which authorizes the discharge of treated domestic

wastewater at a daily average flow not to exceed 70,000 gallons per day. The facility is located approximately 6,500 feet northwest of the intersection of State Highway 159 and Farm-to-Market Road 109 in Austin County, Texas.

CITY OF MAYPEARL has applied for a renewal of TPDES Permit No. 10431-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 175,000 gallons per day. The facility is located approximately 0.5 mile south of the intersection of Farm-to-Market Road 66 and Farm-to-Market Road 157 in Ellis County, Texas.

MONTGOMERY COUNTY UTILITY DISTRICT NO. 2 has applied for a renewal of TPDES Permit No. 11271-001 which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 250,000 gallons per day. The facility is located on the east side of Lake Conroe, immediately south of Farm-to-Market Road 830 and approximately 500 feet east of Kingston Cove Lane in Montgomery County, Texas.

MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 99 has applied to the TCEQ for a major amendment to TPDES Permit No. WQ0014604001 to authorize an increase in the discharge of treated domestic wastewater from a daily average flow not to exceed 580,000 gallons per day to an annual average flow not to exceed 1,500,000 gallons per day. The facility is located approximately 2,000 feet east of the centerline of Aldine Westfield Road and approximately 1,700 feet north of the intersection of Fountain Brook Park Lane and Trinity Park Lane in Montgomery County, Texas.

QUADVEST, L.P. has applied for a new permit, proposed TPDES Permit No. WQ0014755001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 150,000 gallons per day. The facility will be located approximately 5,100 feet northeast of the intersection of East Benders Landing Boulevard and Irish Ivy Court in Montgomery County, Texas.

CITY OF STREETMAN has applied for a renewal of TPDES Permit No. 10471-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 80,000 gallons per day. The facility is located west of Farm-to-Market Road 80 and east of the Fort Worth & Denver Railway (F W & D RR) on the north bank of Sloan Creek in the southern portion of the City of Streetman in Freestone County, Texas.

JULIE ANN THAMES has applied for a new permit, proposed TPDES Permit No. WQ0014753001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 10,000 gallons per day. The facility will be located approximately 7 miles west of the City of Burleson, 1 mile south of Farm-to-Market Road 1187 and .50 mile west of Farm-to-Market Road 1902 in Johnson County, Texas.

WEST HOUSTON AIRPORT CORPORATION has applied for a major amendment to TPDES Permit No. 12516-001 to authorize an increase in the discharge of treated domestic wastewater from a daily average flow not to exceed 2,000 gallons per day to a daily average flow not to exceed 15,000 gallons per day. The facility is located on Lakeside Airport property at 18000 Groeschke Road in Harris County, Texas. The treated effluent is discharged to Harris County Flood Control District Ditch # U101-15; thence to South Mayde Creek; thence to Buffalo Bayou Above Tidal in Segment No. 1014 of the San Jacinto River Basin.

WEST MEMORIAL MUNICIPAL UTILITY DISTRICT has applied for a renewal of TPDES Permit No. 11152-001, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 6,480,000 gallons per day. The facility is located at 22023 Kingsland Boulevard, approximately 6000 feet south and 1000 feet

west of the intersection of Interstate Highway 10 and Mason Road in Harris County, Texas.

INFORMATION SECTION

To view the complete issued notices, view the notices on our web site at www.tceq.state.tx.us/comm_exec/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the web site, type in the issued date range shown at the top of this document to obtain search results.

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-200701465

LaDonna Castañuela

Chief Clerk

Texas Commission on Environmental Quality

Filed: April 18, 2007



Notice of Water Rights Applications

Notices issued April 12, 2007 - April 16, 2007

APPLICATION NO. 12048; Walnut Creek Mining Company, P.O. Box H, Bremond, Texas 76629, Applicant, has applied for a Water Use Permit to maintain two (2) existing reservoirs and to construct and maintain one (1) proposed reservoir on unnamed tributaries of South Walnut Creek and Walnut Creek, Brazos River Basin for domestic, live-stock, in-place recreation, and game preserve purposes after cessation of mining activities in Robertson County. Applicant further requests to use the bed and banks of South Walnut Creek and Walnut Creek to convey groundwater downstream for subsequent diversion and use for industrial purposes. The application and fees were received on May 18, 2006, and additional information received on July 26, 2006 and December 8, 2006. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on October 3, 2006. Written public comments and requests for a public meeting should be submitted to the Office of Chief Clerk, at the address provided in the INFORMATION SECTION below, within 30 days of the date of newspaper publication of the notice.

APPLICATION NO. 12-4102A; Standard Investment Company, Applicant, 4131 Emerson, Dallas, Texas 75205, has applied for an amendment to Certificate of Adjudication No. 12-4102 to increase the maximum diversion rate and add industrial purpose of use for drilling operations. The application was received on November 15, 2006. Additional information for the application was received on January 31, 2007 and March 8, 2007. The application was accepted for filing and declared administratively complete on March 6, 2007. Written public comments and requests for a public meeting should be submitted to the Office of Chief Clerk, at the address provided in the INFORMATION SECTION below, within 30 days of the date of newspaper publication of the notice.

APPLICATION NO. 08-2388A; TXU Generation Company, L.P., Applicant, 1601 Bryan Street, Dallas, Texas 75201-3411, has applied for an amendment to Certificate of Adjudication No. 08-2388 to add a new downstream diversion point on the Trinity River, Trinity River Basin, in Freestone County. The application was received on October 16, 2006. Additional information and fees were received on December 18, 2006, January 22, 2007 and February 22, 2007. The application was declared administratively complete and accepted for filing on March 1, 2007. Written public comments and requests for a public

meeting should be submitted to the Office of Chief Clerk, at the address provided in the INFORMATION SECTION below, by May 7, 2007.

INFORMATION SECTION

To view the complete issued notice, view the notice on our web site at www.tceq.state.tx.us/comm_exec/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the web site, type in the issued date range shown at the top of this document to obtain search results.

A public meeting is intended for the taking of public comment, and is not a contested case hearing.

The Executive Director can consider approval of an application unless a written request for a contested case hearing is filed. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and permit number; (3) the statement "I/we request a contested case hearing;" and (4) a brief and specific description of how you would be affected by the application in a way not common to the general public. You may also submit any proposed conditions to the requested application which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the Texas Commission on Environmental Quality (TCEQ) Office of the Chief Clerk at the address provided below.

If a hearing request is filed, the Executive Director will not issue the requested permit and may forward the application and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

Written hearing requests, public comments or requests for a public meeting should be submitted to the TCEQ, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Office of Public Assistance at 1-800-687-4040. General information regarding the TCEQ can be found at our web site at www.tceq.state.tx.us. Si desea información en Español, puede llamar al 1-800-687-4040.

TRD-200701464

LaDonna Castañuela

Chief Clerk

Texas Commission on Environmental Quality

Filed: April 18, 2007



Department of State Health Services

Notice of Agreed Orders

Notice is hereby given that the Department of State Health Services (department) issued Agreed Orders to the following registrants:

-Burkhart Dental Supply (Registration #R14318) of Coppell. A total penalty of \$1,000 shall be paid by registrant for violations of Title 25, Texas Administrative Code, Chapter 289. The registrant shall also comply with additional settlement agreement requirements.

-Knapp Medical Center (Registration #M00268) of Weslaco. Probation for one year from the date of the signed order shall be served by the registrant for violations of Title 25, Texas Administrative Code, Chapter 289. The registrant shall also comply with additional settlement agreement requirements.

A copy of all relevant material is available, by appointment, for public inspection at the Department of State Health Services, Exchange

Building, 8407 Wall Street, Austin, Texas, telephone (512) 834-6688, press "1" then press "0", Monday - Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

TRD-200701381

Cathy Campbell

General Counsel

Department of State Health Services

Filed: April 12, 2007



Texas Health and Human Services Commission

Public Notice - Community Based Alternatives (CBA) Waiver

The Texas Health and Human Services Commission (HHSC) is soliciting public comment on the submission of the State's application for a renewal of the Community Based Alternatives (CBA) waiver, which is a Medicaid Home and Community-Based Service waiver under the authority of §1915(c) of the Social Security Act. The current waiver is scheduled to expire August 31, 2007.

The CBA waiver program allows elderly persons (age 65 and older) and persons over the age of 21 with a disability, who are eligible for nursing facility level of care, to receive services in the community rather than in an institutional facility. The CBA waiver program provides personal care, nursing services, adaptive aids, medical supplies, minor home modifications, and other supports to allow individuals to remain in the community.

CBA waiver services are available in all counties in the State with the exception of counties covered by the STAR+PLUS program (Bexar, Harris, Nueces and Travis service areas). HHSC currently has a waiver pending approval, which would impact CBA services in the Dallas and Tarrant service areas.

The proposed renewal of the waiver is expected to result in cost savings for the State. The specific, estimated cost savings amount will not be known until funding is determined by the 80th Legislature, Regular Session, 2007. The current waiver resulted in a cost savings of approximately (\$2,073.49) per participant for the period of September 1, 2004, through August 31, 2005, and approximately (\$6,479.48) per participant for the period of September 1, 2005, through August 31, 2006. These figures demonstrate that the current waiver meets the requirements set by §1915(c)(2)(D) of the Social Security Act.

HHSC is requesting that the waiver renewal be approved for a five-year period beginning September 1, 2007. This waiver renewal maintains cost neutrality for each year in the five-year renewal period covering 2007 through 2012.

The public comment period will end 30 days following the date this notice is published in the *Texas Register*. To obtain copies of the proposed waiver renewal, interested parties may contact Carmen Capetillo by mail at Health and Human Services Commission, P.O. Box 85200, H-620, Austin, Texas 78708-5200; by telephone at (512) 491-1128; by facsimile at (512) 491-1953; or by e-mail at carmen.capetillo@hhsc.state.tx.us. Comments on the proposed waiver renewal may be submitted by mail to Ms. Capetillo at the above address.

TRD-200701472

Steve Aragón

Chief Counsel

Texas Health and Human Services Commission

Filed: April 18, 2007



Public Notice - Medically Dependent Children Program (MDCP) Waiver

The Texas Health and Human Services Commission (HHSC) is soliciting public comment on the submission of the State's application for a renewal of the Medically Dependent Children Program (MDCP) waiver, which is a Medicaid Home and Community-Based Service waiver under the authority of §1915(c) of the Social Security Act. The current waiver is scheduled to expire August 31, 2007.

The MDCP waiver program provides a variety of services to medically fragile children under 21 years of age who are living in the community and would otherwise require care in a nursing facility. Services include respite care, adaptive aids, minor home modifications, and a selection of other disability-related services that help these children remain in the community.

The proposed renewal of the waiver is expected to result in cost savings for the State. The specific, estimated cost savings amount will not be known until funding is determined by the 80th Legislature, Regular Session, 2007. The current waiver resulted in a cost savings of approximately (\$34,948.49) per participant for the period of September 1, 2004, through August 31, 2005, and approximately (\$85,056.56) per participant for the period of September 1, 2005, through August 31, 2006. These figures demonstrate that the current waiver meets the requirements set by §1915(c)(2)(D) of the Social Security Act.

HHSC is requesting that the waiver renewal be approved for a five-year period beginning September 1, 2007. This waiver renewal maintains cost neutrality for each year in the five-year renewal period covering 2007 through 2012.

The public comment period will end 30 days following the date this notice is published in the *Texas Register*. To obtain copies of the proposed waiver renewal, interested parties may contact Carmen Capetillo by mail at Health and Human Services Commission, P.O. Box 85200, H-620, Austin, Texas 78708-5200; by telephone at (512) 491-1128; by facsimile at (512) 491-1953; or by e-mail at carmen.capetillo@hhsc.state.tx.us. Comments on the proposed waiver renewal may be submitted by mail to Ms. Capetillo at the above address.

TRD-200701471

Steve Aragón

Chief Counsel

Texas Health and Human Services Commission

Filed: April 18, 2007



Public Notice - Texas Disease Management Program 1915(b) Waiver

The Health and Human Services Commission (HHSC) has received approval from the Centers for Medicare and Medicaid Services to renew the Texas Disease Management Program 1915(b) waiver (number TX-17) to the Texas State Plan for Medical Assistance under Title XIX of the Social Security Act. The waiver renewal period is from July 1, 2007, through June 30, 2009.

The waiver renewal provides for the continuation of the disease management program, which HHSC developed pursuant to the requirements of H.B. 727, 78th Legislature, Regular Session, 2003. The disease management program works in conjunction with current Medicaid services provided to Primary Care Case Management and fee-for-service clients. It is not a duplicative service. The program is designed to be an educational and care management service for individuals who receive services through the Texas Medicaid Program and who have

one or more of the following conditions: Congestive Heart Failure, Asthma, Diabetes, Chronic Obstructive Pulmonary Disease and Coronary Artery Disease. This waiver maintains cost neutrality of service costs.

For additional information, please contact Betsy Johnson, Policy Analyst in the Medicaid and CHIP Division, by telephone at (512) 491-1199 or by e-mail at betsy.johnson@hhsc.state.tx.us.

TRD-200701467

Steve Aragón

Chief Counsel

Texas Health and Human Services Commission

Filed: April 18, 2007

Texas Higher Education Coordinating Board

Request for Proposals for the Texas Fund for Geography Education

This packet contains instructions and forms for submitting a proposal to the Texas Fund for Geography Grant Program. To be eligible for an award, an institution must submit an applications to the Texas Fund for Geography Education Advisory Committee as specified in these instructions. Proposals must be submitted in writing and electronically.

Electronic copies of these instructions and forms may be found on the Texas Higher Education Coordinating Board's (Coordinating Board) website at <http://www.theccb.state.tx.us/AAR/GradAndProfEd/>.

Name: Texas Fund for Geography Education

Purpose: To provide funding to eligible institutions of higher education to support geography education within the state and to improve geography literacy in the K-12 environment.

Authority: Texas Education Code, §§61.9681 - 61.9685; Texas Administrative Code, Title 19, Part 1, Chapter 13, Subchapter J, Rules §§13.180 - 13.187. See appendices.

Eligible Institutions: Only institutions of higher education as defined in Texas Education Code, §61.003(8) and private or independent institutions of higher education as defined in Texas Education Code, §61.003(15) are eligible to compete for grants.

Eligible Projects: New initiatives designed to improve the quality of geography education in the Texas K-12 environment. Collaborative efforts between public or private/independent institutions of higher education in Texas and a K-12 partner. A K-12 partner is, but is not limited to, a school district(s), an individual school or teacher, a regional education service center(s), or one or more public or private entities.

General Selection Criteria: Competitive. Designed to award grants that provide the best overall value to the state. Selection criteria shall be based primarily on project quality, cost, and impact the project will have on enhancing geography education in the K-12 environment.

Available Funds: \$70,000 for the 2007-2008 academic year.

Grant Award: Minimum: None. Maximum: \$15,000.

Grant Period: One-year grants from on or about October 1, 2007 to August 31, 2008.

Grant Disbursement: In a single payment, as soon as possible after the awards are made. Unencumbered funds may not carry over beyond the grant period unless specifically authorized by the Coordinating Board's Program Director for Educator Preparation, Instruction and Academic Affairs, Division of Academic Affairs and Research.

Carryover Funds: Unencumbered funds may not carry over beyond the grant period unless specifically authorized by the Coordinating Board's Program Director for Educator Preparation, Instruction and Academic Affairs, Division of Academic Affairs and Research.

Application Deadline: Applications must be postmarked (or otherwise dated for overnight delivery) by July 13, 2007, or hand-delivered to the Coordinating Board's office by 5:00 p.m., July 13, 2007. Applications must also be received electronically by 5:00 p.m., July 13, 2007. E-mail applications to: susan.hetzler@theccb.state.tx.us.

More Information: Contact Dr. Susan Hetzler, Program Director for Educator Preparation, Instruction and Academic Affairs, Division of Academic Affairs and Research, at (512) 427-6220, or by e-mail at: susan.hetzler@theccb.state.tx.us.

Program Schedule:

July 13, 2007: Proposals are due.

July 20, 2007: Proposals are reviewed by the Geography Education Advisory Committee.

August 3, 2007: Geography Education Advisory Committee meets to consider proposals and funding recommendations to the National Geographic Society.

September 21, 2007: Proposals are awarded by the National Geographic Society.

On or about October 1, 2007: Award letters are sent.

On or about October 1, 2007: Grantee(s) sign award contracts.

February 15, 2008: Interim reports due to the Texas Higher Education Coordinating Board.

August 31, 2008: Final reports due to the Texas Higher Education Coordinating Board.

TRD-200701442

Bill Franz

General Counsel

Texas Higher Education Coordinating Board

Filed: April 17, 2007

Texas Department of Housing and Community Affairs

CDBG Disaster Recovery Program Notice of Funding Availability (NOFA)

(1) Summary

The Texas Department of Housing and Community Affairs ("the Department") announces the availability of \$82,867,166 in federal funding from the Community Development Block Grant (CDBG) Disaster Recovery Fund to be used for repair, rehabilitation, and reconstruction (including demolition, site clearance, and remediation, as described more fully in 24 CFR 570) of existing affordable rental housing physically damaged by Hurricane Rita. The affected housing must be in one of the 22 counties directly affected by Hurricane Rita and designated in the State CDBG Action Plan. The 22 counties are Angelina, Brazoria, Chambers, Fort Bend, Galveston, Hardin, Harris, Jasper, Jefferson, Liberty, Montgomery, Nacogdoches, Newton, Orange, Polk, Sabine, San Augustine, San Jacinto, Shelby, Trinity, Tyler, and Walker. This includes, but is not limited to, public and other HUD-assisted housing damaged by Hurricane Rita. All assisted developments must designate at least 51% of all assisted units to serve low-moderate income individuals and families earning 80% or less of the Area Median Family

Income (AMFI) as defined by HUD with priority given to those applications which benefit extremely low income tenants. Priority will also be given to areas which experienced the greatest degradation of their existing affordable housing stock. The availability and use of these funds is subject to 24 CFR 570 and Chapter 2306 of the Texas Government Code as applicable.

(2) Allocation of CDBG Funds

(a) These funds are made available through a supplemental allocation of CDBG funds to the State of Texas and will be administered by the Department. At least 51% of the units assisted with the funds released under this NOFA are to be used for affordable rental housing for low-moderate income Texans earning 80 percent or less of the Area Median Family Income (AMFI) as defined by HUD.

(b) The Department awards rental funds, as a loan or grant, to eligible recipients for the provision of housing for low-moderate, very low and extremely low income individuals and families. The maximum award may not exceed 90% of the total development costs. The per-unit subsidy may not exceed the per-unit dollar limits established by United States Department of Housing and Urban Development (HUD) under §221(d)(3) of the National Housing Act which are applicable to the area in which the development is located, and as published by HUD.

(c) When CDBG funds, as described more fully in 24 CFR 570, are used for a rehabilitation development, the entire unit must be brought up to the applicable property standards, such as local codes. In the event no codes exist, the Department will require that all units meet Uniform Physical Condition Standards (UPCS); TMCS; and, if reconstruction or rehabilitation, the International Building Code (IBC).

(d) Funds will be awarded in accordance with the rules and procedures as set forth by the Department. The Department may, at its discretion and based upon review of the financial feasibility of the development, determine to award CDBG funds as either a loan or as a grant. Loans cannot exceed amortization of more than 40 years.

(3) Eligible and Ineligible Activities

(a) Eligible activities will include those permissible under the Housing and Community Development Act (HCDA), §105(a) and the federal CDBG Rules at 24 CFR 570, which involve the rehabilitation and reconstruction (including demolition, site clearance, and remediation) of existing affordable rental housing physically damaged by Hurricane Rita of affordable rental developments.

(b) Funds will be available for developments of sixteen (16) or more units through October 24, 2007, which is 180 days from the date the NOFA is published in the *Texas Register*. A Scattered site property is an eligible activity as long as all sites that include the development site have a total of 16 units or more, is for one loan amount, has one ownership structure, and one management operation. For the first 90 days of this period, applicants will apply on a competitive basis with applications required to be submitted no later than 5:00 p.m. on July 26, 2007, which is 90 days from the date the NOFA is published in the *Texas Register*. For the remaining 90 days, through October 24, 2007 and if funds are available, applicants may apply on a first-come first-serve basis. All applicants must meet the Department's threshold criteria and must meet financial feasibility criteria. After October 24, 2007, any funds not requested and awarded may be made available under a subsequent NOFA which would include properties with less than 16 units.

(c) Prohibited activities include those under federal CDBG rules at 24 CFR 570, OMB Circular A-87, and other applicable state and federal requirements.

(d) Existing affordable housing is defined as the development offering units that were either subsidized or while unrestricted, 51% of the units served tenants qualified as a low-moderate income person earning 80 percent or less of the AMFI as defined by HUD prior to September 24, 2005.

(e) The applicant must establish that the property was physically damaged by Hurricane Rita and an insurance claim related to Hurricane Rita must have been filed and subsequently reviewed by the insurance provider.

(f) Applicants are encouraged to familiarize themselves and/or consult appropriate specialists (i.e., attorneys, accountants, etc.) with regard to any local, state, or federal regulations which may apply if these funds are awarded to an application that has existing, or will be funded with, any local, state, or federal programs.

(4) Eligible and Ineligible Applicants

(a) The Department provides CDBG funding from the federal government to qualified nonprofit organizations, for-profit entities, sole proprietors, public housing authorities, and units of local government.

(b) Applicant properties must be located within the 22 county area directly affected by Hurricane Rita.

(c) Applicants may be ineligible for funding if they meet any of the criteria detailing ineligibility with any requirements under 10 TAC §§49.5(a)(1) - (4) and (9); (b)(4) - (7), (9), and (10); and (c)(1) - (6). Applicants are encouraged to familiarize themselves with the Department's certification and debarment policies prior to application submission.

(d) Applicants must prove ownership of the development site on or before the date of impact by Hurricane Rita, September 24, 2005. For the purposes of this section, the proposed development may have been owned by any person in the ownership structure for the proposed application; and the ownership must have been continuous.

(5) Affordability Requirements

(a) Each development will require a minimum affordability period pursuant to §570.489 of the CDBG Rules, that begins from the date the CDBG funds are first spent for the property until 5 years after closeout of the loan or grant. Throughout this period, the applicant agrees to maintain the development for the intended purpose as outlined in the Land Use Restriction Agreement ("LURA"). Compliance will be monitored by the Department consistent with 10 TAC §60, Subchapter A, Compliance Monitoring.

(b) At a minimum, 51% of the assisted units must benefit low-moderate income persons earning 80 percent or less of the AMFI as defined by HUD and detailed in the Housing and Community Development Act of 1974 (HCDA), Title I, §105(a).

(c) Properties will be restricted under a "LURA", or other such instrument as determined by the Department for these terms. Among other restrictions, the LURA may require the owner of the property to continue to accept subsidies which may be offered by the federal government, prohibit the owner from exercising an option to prepay a federally insured loan, impose tenant income-based occupancy and rental restrictions, or impose any of these and other restrictions as deemed necessary at the sole discretion of the Department in order to preserve the property as affordable housing on a case-by-case basis.

(d) The maximum monthly gross rent charged (which includes the tenant paid portion of the rent, the utility allowance, and any rental assistance payment) by the development owner for units benefiting low-moderate income persons earning 80 percent or less of the AMFI, as defined by HUD, shall not exceed the limits determined by the Depart-

ment and published on an annual basis. Such rent shall not be greater than the lesser of the fair market rent, or thirty percent (30%) of the income of a family whose income equals sixty-five percent (65%) of AMFI as defined by HUD with adjustments for family size. This is the same as the "High HOME Rent" maximum rent limitation.

(6) Site and Development Restrictions:

(a) Pursuant to 24 CFR 570, housing that is constructed or rehabilitated with CDBG funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. In the absence of a local code for new construction or rehabilitation, reconstruction or rehabilitation must meet the International Building Code (IBC).

Reconstructed housing must meet the current edition of the Model Energy Code. Energy conservation and efficiency upgrades will be encouraged through scoring.

(b) All CDBG-assisted housing must meet all applicable state and local housing quality standards and code requirements; and if there are no such standards or code requirements, the housing must meet the housing quality standards in 24 CFR 982.401. When CDBG funds are used for a rehabilitation of a development, the entire unit must be brought up to the applicable property condition standards.

(c) Housing must meet the accessibility requirements at 24 CFR Part 8, which implements §504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and covered multifamily dwellings, as defined at 24 CFR 100.201 and must also meet the design and construction requirements at 24 CFR 100.205, which implement the Fair Housing Act (42 U.S.C. 3601 - 3619). A certification will be required after the Development is completed from an inspector, architect, or accessibility specialist. Any Developments designed as single family structures must also satisfy the requirements of §2306.514, Texas Government Code.

(d) All developments are subject to Department restrictions on sites located in a flood plain in accordance with 10 TAC §1.35. Units that are being demolished and rebuilt shall be elevated in accordance with FEMA advisory flood elevations.

(8) Threshold Criteria

The following Threshold Criteria listed in this subsection are mandatory requirements at the time of Application submission unless specifically indicated otherwise:

(a) At a minimum, 51% of the assisted units must be made affordable to low-moderate income persons.

(b) Developments must have existed in the affordable housing stock of the 22-county area prior to September 24, 2005 and continue to be affordable after construction. Applicants must certify that at least 51% of the units had rental subsidies or served tenants qualified as a low-moderate income person earning 80 percent or less of the Area Median Family Income (AMFI) as defined by HUD prior to September 24, 2005.

(c) The development will be evaluated for financial feasibility using the Department's "Underwriting, Market Analysis, Appraisal, Environmental Site Assessment, Property Condition Assessment, And Reserve For Replacement Rules And Guidelines", located at 10 TAC §1.35. However, a Market Analysis will not be required. A Property Condition Assessment is only required for properties doing rehabilitation but is not required for demolition/reconstruction.

(d) Developments to be assisted with CDBG Disaster Recovery Funds must prove ownership on or before the date of impact by Hurricane Rita, September 24, 2005 by the current owner (with continual ownership) and must prove that the subject development incurred damage in that same storm. The applicant must establish that this property

was physically damaged by Hurricane Rita through the provision of evidence that an insurance claim related to Hurricane Rita was filed and subsequently reviewed by the insurance provider. In addition, at least the same number of affordable units must be made available after construction as those units available before September 24, 2005 unless funded by HOPE VI with approved deconcentration plan from HUD. Owners must prove that they are not duplicating previous (or pending) assistance, either public or private. However, leveraging of additional funds with CDBG funds is encouraged.

(e) Recipients must establish an escrow account, consistent with §570.511 of the CDBG Rule.

(f) All applications will be required to meet Section 8 Housing Quality Standards detailed under 24 CFR 982.401, Texas Minimum Construction Standards (TMCS), as well as the Fair Housing Accessibility Standards and §504 of the Rehabilitation Act of 1973. Developments must also meet all local building codes or standards that may apply. If the development is located within a jurisdiction that does not have building codes, developments must meet the most current International Building Code (IBC).

(g) All contractors, consulting firms, and Administrators must sign an affidavit to attest that each request for payment of CDBG funds is for the actual cost of providing a service and that the service does not violate any conflict of interest provisions.

(h) All of 2007 Qualified Allocation Plan and Rules at 10 TAC §49.9(h), excluding:

(3) regarding set-asides;

(4)(E), (4)(F), (4)(G), (4)(K), and (4)(M) regarding certifications;

(6)(C) and (D) which relate to tax credit syndication;

(8) regarding notifications;

(11)(B) regarding non-profit set-aside for tax credits;

(14)(A) and (B) regarding environmental site assessment and market study;

(14) (D) regarding appraisal;

As noted, (14)(C) for the Property Condition Assessment applies only in cases of rehabilitation, but not demolition/reconstruction.

(9) Selection Process

(a) Scoring Criteria. Applicants may receive up to 115 points based on the scoring criteria listed below, and must obtain a minimum score of 60 points to be considered for award. Evidence of these items must be submitted in accordance with the 2007 Final Application Submission Procedures Manual (ASPM), effective as of the date of issuance of this NOFA. The scoring criteria are:

(i) Extremely Low-Income Targeting: To encourage the inclusion of families and individuals with the highest need for affordable housing, applicants will receive 20 points for proposed developments that provide at least 5% of units to families or individuals earning 30% or less of the area medium income for the development site. The maximum monthly rent (which includes the tenant paid portion of the rent, the utility allowance, and any rental assistance payment) charged by the development owner for units benefiting low-moderate income persons earning 30 percent or less of the AMFI as defined by HUD shall not exceed the limits determined by the Department and published on an annual basis. Such rent shall not be greater than thirty percent (30%) of the income of a family whose income equals thirty percent (30%) of AMFI as defined by HUD with adjustments for family size. Maximum for this item: 20 points.

(ii) Exceeding the LMI requirement: All assisted developments must designate at least 51% of all assisted units to serve low-moderate income families earning 80% or less of AMFI as defined by HUD for the applicable affordability period. Developments that exceed this minimum figure for the affordability period will receive the following points:

For developments that designate at least 61% but less than 71% of the units to serve low-moderate income families: 5 points.

For developments that designate at least 71% but less than 81% of the units to serve low-moderate income families: 10 points.

For developments that designate at least 81% but less than 91% of the units to serve low-moderate income families: 15 points.

For developments that designate at least 91% of the units to serve low-moderate income families: 20 points.

Maximum for this item: 20 points.

(iii) Cost-Effectiveness of a Proposed Development - For units designated for elderly individuals if cost per square foot do not exceed \$87.00, the applicant will receive 10 points. For units designated for families if the costs per square foot does not exceed \$77.00 per square foot, the applicant will receive 10 points.

Maximum for this item: 10 points.

(iv) Increasing the Affordable Housing Stock - In order to target units that will have the most impact on increasing the affordable housing, stock points will be awarded based on the habitability of the development.

(a) Developments that will make at least three (3) uninhabitable affordable units habitable will receive: 5 points.

(b) Developments that will make at least six (6) uninhabitable affordable units habitable will receive: 10 points.

In addition to the units scored above:

(c) Developments that will make at least five (5) substandard affordable units meet habitability standards will receive: 5 points.

(d) Developments that will make at least sixteen (16) substandard affordable units meet habitability standards will receive: 10 points.

Maximum for this item: 20 points.

(v) Serving Persons with Disabilities - Developments that increase the number of accessible units beyond the minimum required by §504, the Fair Housing Accessibility Guidelines or other mandated minimums. To earn points, units must meet the full mobility requirements of §504 to receive points.

Developments that increase the required accessible units by an additional 5% (rounded to the next whole unit) will receive: 5 points.

Developments that increase the required accessible units by an additional 10% (rounded to the next whole unit) will receive: 10 points.

Maximum for this item: 10 points.

(vi) Units that meet or exceed low maintenance and energy efficiency, any combination of the following items may be used; however, a maximum of 10 points will be awarded-

(a) Install water-conserving fixtures with the following specifications for toilets and shower heads and follow requirements for other fixtures wherever and whenever they are replaced: toilets - 1.6 gallons per flush; showerheads - 2.0 gallons per minute; kitchen faucets - 2.0 GPM; bathroom faucets - 2.0 GPM. (in all units): 2 points.

(b) Install Energy Star labeled refrigerators in all units: 2 points.

(c) Install Energy Star-labeled lighting fixtures in all interior units and use. Energy Star or high-efficiency commercial grade fixtures in all common areas: 2 points.

(d) Use tankless hot water heaters or install conventional hot water heaters in rooms with drains or catch pans piped to the exterior of the dwelling and with non-water sensitive floor coverings (for all units): 2 points.

(e) Install Energy Star-labeled power vented fans or range hoods that exhaust to the exterior (in all units): 2 points.

(f) Install Energy Star-labeled bathroom fans in all units that exhaust to the outdoors which has a humidistat sensor or timer, or operates continuously in all units: 2 points.

(g) Install correctly sized HVAC units (according to Manual J) of at least 14 SEER or better in all units: 3 points.

(h) Perform an energy analysis of existing building condition, estimate costs of improvements, make those with a 10-year or shorter payback: 4 points.

Maximum for this item: 10 points.

(vii) Units that help people avoid or transition from homelessness. Developments that dedicate at least 51% of their units towards serving persons who have previously been homeless or at risk of being homeless will receive 10 points.

Maximum for this item: 10 points.

(viii) Greatest Financial Need - Developments will receive points for the percentage of remaining need represented in their sources and uses documentation. This will be calculated as a percentage of total benefits received from private insurers and public benefits compared to the CDBG funds required for necessary repairs and reconstruction. Applicants will be required to document how these benefits were expended on the subject property or make the funds available for the CDBG funded project. This calculation will be CDBG funds requested divided by total funds needed including funds previously used.

(a) Applicants that require at least 10% but less than 25% of their total budget from CDBG funds will receive 5 points.

(b) Applicants that require at least 25% but less than 50% of their total budget from CDBG funds will receive 10 points.

(c) Applicants that require at least 75% of their total budget from CDBG funds will receive 15 points.

Maximum for this item: 15 points.

(ix) Leveraging of Public and Private Financing - Developments will receive points for the involvement of non-CDBG financing in the housing under one of the following subparagraphs.

(a) Applicants that receive a total contribution of funding from other local, state, federal, or private contributions equal to or greater than 1% of the Total Housing Development Cost of the Development (as reflected in the Cost Schedule): 5 points; or

(b) Applicants that receive a total contribution of funding from other local, state, federal, or private contributions equal to or greater than 3% of the Total Housing Development Cost of the Development (as reflected in the Cost Schedule): 10 points; or

(c) Applicants that receive a total contribution of funding from other local, state, federal, or private contributions equal to or greater than 5% of the Total Housing Development Cost of the Development (as reflected in the Cost Schedule): 15 points.

Maximum for this item: 15 points.

(10) Tie Breakers

(a) The Department will utilize the factors in this paragraph, in the order they are presented, to determine which Development will receive a preference in consideration for an award. The Department may also recommend a partial funding recommendation.

(i) Greatest increase to the affordable housing stock—developments that put the most unoccupied units into service or upgrade the most sub-standard units will be funded.

(ii) Priority will be given to areas which experienced the greatest degradation of their existing affordable housing stock.

(iii) Long-term Feasibility. The second tie breaker criteria will be average debt coverage ratio calculated on the Applicant's originally submitted pro-forma. The Applicant with the highest average debt coverage ratio over the period of time represented in the pro-forma will win the tie breaker.

(11) Submission and Review Process

(a) All Applications submitted under this NOFA must be received on or before 5:00 p.m. on July 24, 2007. The Department will accept applications from 8:00 a.m. to 5:00 p.m. each business day, excluding federal and state holidays from the date this NOFA is published on the Department's web site until the deadline. The Department will publish a list of all Applications received on or before August 7, 2007. Applications will be reviewed for Applicant and Activity Eligibility, Threshold Criteria, Scoring, and Financial Feasibility, in accordance with this NOFA.

(b) All applications must be submitted, and provide all documentation, as described in this NOFA and associated application materials.

(c) If an Application contains deficiencies which, in the determination of the Department staff, require clarification or correction of information submitted at the time of Application, the Department staff may request clarification or correction of such Administrative Deficiencies including threshold and/or scoring documentation.

(d) A site visit will be conducted as part of the CDBG Program development feasibility review. The assessment will be used to confirm the representations made in the application. Applicants must receive recommendation for approval from the Department to be considered for CDBG funding by the Board.

(e) The Department may decline to consider any Application if the proposed activities do not, in the Department's sole determination, represent a prudent use of the Department's funds. The Department is not obligated to proceed with any action pertaining to any Applications which are received, and may decide it is in the Department's best interest to refrain from pursuing any selection process. The Department strives, through its loan terms, to securitize its funding while ensuring the financial feasibility of a Development. The Department reserves the right to negotiate individual elements of any Application.

(f) A minimum award amount may be established to ensure feasibility. Subsequently, recommendations for funding will be made available on the Department's website at least seven calendar days prior to the Board meeting at which the awards may be awarded.

(g) The Department will evaluate the net operating income of the Development and the existing debt service capacity to determine if the award will be made in the form of a loan or grant or a combination thereof. The Department's underwriting guidelines in 10 TAC §1.32 will be used which set as a minimum feasibility a 1.15 debt coverage ratio. Where the anticipated debt coverage ratio in the year after completion exceeds 1.35, a loan or partial loan will be recommended.

(h) The Department will provide a written agreement after an award is made which will detail grant or loan terms and include benchmarks for closing, project development, and expenditure of funds awarded. At a minimum, the funds will expire 36 months from the effective date of the agreement.

(i) In accordance with §2306.082, Texas Government Code, the Department has established an ADR Policy at 10 TAC §1.17. In addition, the Department rules to appeal Department decisions are at 10 TAC §1.7 and §1.8.

(12) Application Submission

(a) Application materials must be organized and submitted in the manner detailed in the 2007 application materials for rental developments. Applicants must submit one complete printed copy of all application materials. All scanned copies must be scanned in accordance with the guidance provided in the 2007 application materials.

(b) All Application materials including manuals, NOFA, program guidelines, and all applicable CDBG rules, will be available on the Department's website at www.tdhca.state.tx.us. Applications will be required to adhere to the CDBG Rule and threshold requirements in effect at the time of the Application submission. Applications must be on forms provided by the Department and cannot be altered or modified and must be in final form before submitting them to the Department.

(c) Applicants are required to remit a non-refundable Application fee payable to the Texas Department of Housing and Community Affairs in the amount of \$250 per Application. Payment must be in the form of a check, cashier's check, or money order. Do not send cash. Section 2306.147(b) of the Texas Government Code requires the Department to waive Application fees for nonprofit organizations that offer expanded services such as child care, nutrition programs, job training assistance, health services, or human services. These organizations must include proof of their exempt status and a description of their supportive services in lieu of the Application fee. The Application fee is not an allowable or reimbursable cost under the CDBG Program.

(d) Applications must be sent via overnight delivery to:

Texas Department of Housing and Community Affairs
Disaster Recovery Division
221 East 11th Street
Austin, TX 78701

or via the U.S. Postal Service to:

Texas Department of Housing and Community Affairs
Disaster Recovery Division
Post Office Box 13941
Austin, TX 78711-3941

Please contact Jen Joyce at (512) 475-3995 or jennifer.joyce@tdhca.state.tx.us for any questions regarding this NOFA.

NOTE: This NOFA does not include the text of the various applicable regulatory provisions that may be important to the particular CDBG Program. For proper completion of the application, the Department strongly encourages potential applicants to review all applicable State and Federal regulations.

TRD-200701432

Michael Gerber
Executive Director
Texas Department of Housing and Community Affairs
Filed: April 17, 2007



Notice of Public Hearing

Multifamily Housing Revenue Bonds (Residences on Old Denton) Series 2007

Notice is hereby given of a public hearing to be held by the Texas Department of Housing and Community Affairs (the "Issuer") at Fossil Ridge High School, Main Gymnasium, 4101 Thompson Road, Keller, Tarrant County, Texas 76248, at 6:00 p.m. on May 15, 2007, with respect to an issue of tax-exempt multifamily residential rental development revenue bonds in an aggregate principal amount not to exceed \$15,000,000 and taxable bonds, if necessary, in an amount to be determined, to be issued in one or more series (the "Bonds"), by the Issuer. The proceeds of the Bonds will be loaned to Old Denton Housing Partners, Ltd., a limited partnership, or a related person or affiliate thereof (the "Borrower") to finance a portion of the costs of acquiring, constructing, and equipping a multifamily housing development (the "Development") described as follows: 224-unit multifamily residential rental development to be located at approximately the southeast corner of Old Denton Road and Thompson Road at approximately the 8100 block of North Old Denton Road, Tarrant County, Texas. Upon the issuance of the Bonds, the Development will be owned by the Borrower.

All interested parties are invited to attend such public hearing to express their views with respect to the Development and the issuance of the Bonds. Questions or requests for additional information may be directed to Teresa Morales at the Texas Department of Housing and Community Affairs, P.O. Box 13941, Austin, TX 78711-3941; (512) 475-3344; and/or teresa.morales@tdhca.state.tx.us.

Persons who intend to appear at the hearing and express their views are invited to contact Teresa Morales in writing in advance of the hearing. Any interested persons unable to attend the hearing may submit their views in writing to Teresa Morales prior to the date scheduled for the hearing. Individuals who require a language interpreter for the hearing should contact Teresa Morales at least three days prior to the hearing date. Personas que hablan español y requieren un intérprete, favor de llamar a Jorge Reyes al siguiente número (512) 475-4577 por lo menos tres días antes de la junta para hacer los preparativos apropiados.

Individuals who require auxiliary aids in order to attend this meeting should contact Gina Esteves, ADA Responsible Employee, at (512) 475-3943 or Relay Texas at (800) 735-2989 at least two days before the meeting so that appropriate arrangements can be made.

TRD-200701459
Michael G. Gerber
Executive Director
Texas Department of Housing and Community Affairs
Filed: April 18, 2007



Texas Department of Insurance

Company Licensing

Application for incorporation to the State of Texas by PURITAN LIFE INSURANCE COMPANY, a domestic life, accident, and/or health company. The home office is in Addison, Texas.

Application for admission to the State of Texas by FARMERS NATIONAL TITLE INSURANCE COMPANY, a foreign title company. The home office is in Columbia, Missouri.

Application for admission to the State of Texas by THE SAVINGS BANK LIFE INSURANCE COMPANY OF MASSACHUSETTS, a foreign life, accident, and/or health company. The home office is in Woburn, Massachusetts.

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

TRD-200701462
Gene C. Jarmon
Chief Clerk and General Counsel
Texas Department of Insurance
Filed: April 18, 2007



Notice of Application by a Small Employer Health Benefit Plan Issuer to be a Risk-Assuming Health Benefit Plan Issuer

Notice is given to the public of the application of the listed small employer health benefit plan issuer to be a risk-assuming health benefit plan issuer under Insurance Code §1501.312. A small employer health benefit plan issuer is defined by Insurance Code §1501.002(16) as a health benefit plan issuer offering, delivering, issuing for delivery, or renewing health benefit plans subject to the Insurance Code, Chapter 1501, Subchapters C-H. A risk-assuming health benefit plan issuer is defined by Insurance Code §1501.301(4) as a small employer health benefit plan issuer that does not participate in the Texas Health Reinsurance System. The following small employer health benefit plan issuer has applied to be a risk-assuming health benefit plan issuer:

Genworth Life and Health Insurance Company.

The application is subject to public inspection at the offices of the Texas Department of Insurance, Legal Division - Nick Hoelscher, 333 Guadalupe, Tower I, Room 920, Austin, Texas.

If you wish to comment on the application of American Alternative Insurance Corporation to be a risk-assuming health benefit plan issuer, you must submit your written comments within 60 days after publication of this notice in the *Texas Register* to Gene C. Jarmon, General Counsel and Chief Clerk, Mail Code 113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-91204. Upon consideration of the application and comments, and a determination that all requirements of law have been met, the Commissioner or his designee may take final action on the applicant's election to be a risk-assuming health benefit plan issuer.

TRD-200701469
Gene C. Jarmon
Chief Clerk and General Counsel
Texas Department of Insurance
Filed: April 18, 2007



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 SCHALLER ANDERSON OF TEXAS, L.P., a domestic third party administrator. The home office is HARLINGEN, TEXAS.

Application of SCHALLER ANDERSON OF ARIZONA, L.L.C., a foreign third party administrator. The home office is PHOENIX, ARIZONA.

Application to change the name of GROUP EXECUTIVE INSURANCE MARKETING, INC. to GROUP EXECUTIVE INSURANCE MARKETING, INC. (using the assumed name of GEM ADMINISTRATORS), a foreign third party administrator. The home office is PHOENIX, ARIZONA.

Any objections must be filed within 20 days after this notice is published in the *Texas Register*, addressed to the attention of Matt Ray, MC 107-1A, 333 Guadalupe, Austin, Texas 78701.

TRD-200701461
 Gene C. Jarmon
 Chief Clerk and General Counsel
 Texas Department of Insurance
 Filed: April 18, 2007

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Texas Lottery Commission

Instant Game Number 814 "Roll the Dice"

1.0 Name and Style of Game.

A. The name of Instant Game No. 814 is "ROLL THE DICE". The play style is "add up with auto win".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 814 shall be \$1.00 per ticket.

1.2 Definitions in Instant Game No. 814.

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 DICE SYMBOL, 2 DICE SYMBOL, 3 DICE SYMBOL, 4 DICE SYMBOL, 5 DICE SYMBOL, 6 DICE SYMBOL, \$1.00, \$2.00, \$4.00, \$5.00, \$10.00, \$20.00, \$40.00, \$100 or \$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. 814 - 1.2D

PLAY SYMBOL	CAPTION
1 DICE SYMBOL	ONE
2 DICE SYMBOL	TWO
3 DICE SYMBOL	THR
4 DICE SYMBOL	FOR
5 DICE SYMBOL	FIV
6 DICE SYMBOL	SIX
\$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. Retailer Validation Code - Three (3) letters found under the removable scratch-off covering in the play area, which retailers use to verify and validate instant winners. These three (3) small letters are for validation purposes and cannot be used to play the game. The possible validation codes are:

Figure 2: GAME NO. 814 - 1.2E

CODE	PRIZE
ONE	\$1.00
TWO	\$2.00
FOR	\$4.00
FIV	\$5.00
TEN	\$10.00
TWN	\$20.00

Low-tier winning tickets use the required codes listed in Figure 2. Non-winning tickets and high-tier tickets use a non-required combination of the required codes listed in Figure 2 with the exception of Ø, which will only appear on low-tier winners and will always have a slash through it.

F. Serial Number - A unique 13 (thirteen) digit number appearing under the latex scratch-off covering on the front of the ticket. There is a boxed four (4) digit Security Number placed randomly within the Serial Number. The remaining nine (9) 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: 0000000000000.

G. Low-Tier Prize - A prize of \$1.00, \$2.00, \$4.00, \$5.00, \$10.00 or \$20.00.

H. Mid-Tier Prize - A prize of \$40.00 or \$100.

I. High-Tier Prize - A prize of \$1,000.

J. Bar Code - A 22 (twenty-two) character interleaved two (2) of five (5) bar code which will include a three (3) digit game ID, the seven (7) digit pack number, the three (3) digit ticket number and the nine (9) digit Validation Number. The bar code appears on the back of the ticket.

K. Pack-Ticket Number - A 13 (thirteen) digit number consisting of the three (3) digit game number (814), 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: 814-0000001-001.

L. Pack - A pack of "ROLL THE DICE" 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 246 to 250 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.

M. 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.

N. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "ROLL THE DICE" Instant Game No. 814 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 "ROLL THE DICE" Instant Game is determined once the latex on the ticket is scratched off to expose 15 (fifteen) Play Symbols. If a player's YOUR DICE play symbols total 7 or 11 within a ROLL, the player wins prize shown for that ROLL. If the BONUS ROLL play symbol total 7 or 11, the player wins all 5 prizes shown. 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 15 (fifteen) 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 15 (fifteen) 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 15 (fifteen) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 15 (fifteen) 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. No duplicate non-winning ROLLS in any order.

C. No duplicate non winning prize symbols.

D. The BONUS ROLL will total 7 or 11 on five times winning tickets as dictated by the prize structure.

E. A winning prize symbol will never be the same as a non-winning prize symbol.

F. When the BONUS ROLL totals 7 or 11, ROLL 1 through ROLL 4 will never total 7 or 11.

2.3 Procedure for Claiming Prizes.

A. To claim a "ROLL THE DICE" 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, make payment of the amount due the claimant and physically void the ticket; provided that the Texas Lottery Retailer may, but is not, in some cases, 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 "ROLL THE DICE" 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 "ROLL THE DICE" 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 "ROLL THE DICE" 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 "ROLL THE DICE" 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 10,080,000 tickets in the Instant Game No. 814. The approximate number and value of prizes in the game are as follows:

Figure 3: GAME NO. 814 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in**
\$1	1,008,000	10.00
\$2	403,200	25.00
\$4	201,600	50.00
\$5	100,800	100.00
\$10	67,200	150.00
\$20	67,200	150.00
\$40	13,734	733.94
\$100	1,890	5,333.33
\$1,000	168	60,000.00

*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 5.41. 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. 814 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. 814, 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-200701382
 Kimberly L. Kiplin
 General Counsel
 Texas Lottery Commission
 Filed: April 12, 2007

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Panhandle Regional Planning Commission

Legal Notice

The Panhandle Regional Planning Commission (PRPC) is seeking proposals to purchase a multi-site IP telephone system for the Panhandle WorkSource office(s) of the Texas Panhandle. A copy of the Request for Proposal can be obtained Monday through Friday, 8:00 a.m. to 5:00 p.m., at 415 West Eighth Ave., Amarillo, Texas 79101 or by contacting Leslie Hardin, PRPC's Workforce Development Facilities Coordinator at (806) 372-3381 or lhardin@theprpc.org.

A Proposer's Conference will be held on Thursday, May 10, 2007 at 2:00 p.m., in the 3rd Floor Conference Room of PRPC. Proposals must be received at PRPC by 3:00 p.m. on May 31, 2007.

TRD-200701458

Leslie Hardin
Facilities Coordinator
Panhandle Regional Planning Commission
Filed: April 18, 2007

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Texas Parks and Wildlife Department

**Notice of Proposed Real Estate Transaction and Opportunity
for Comment**

Lease Exchange - Cameron, Hidalgo and Starr counties

In a meeting on May 24, 2007, the Texas Parks and Wildlife Commission (the Commission) will consider granting a lease to the United States Fish and Wildlife Service in exchange for a memorandum of agreement for the management of lands adjacent to units of the World Birding Center. The meeting will start at 9:00 a.m. at 4200 Smith School Road, Austin, Texas. Before taking action, the Commission will take public comment regarding the proposed transaction. Prior to the date of the meeting, public comment may be submitted to Ted Hollingsworth, Land Conservation, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744 or by email at ted.hollingsworth@tpwd.state.tx.us or in person at time of meeting.

TRD-200701446
Ann Bright
General Counsel
Texas Parks and Wildlife Department
Filed: April 18, 2007

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**Notice of Proposed Real Estate Transaction and Opportunity
for Comment**

Land Sale - Travis County

In a meeting on May 24, 2007, the Texas Parks and Wildlife Commission (the Commission) will consider the sale of 4.26 acres currently used for the Game Warden Academy. The sale is being handled as a public sale through the General Land Office. The recommended sales price is anticipated to be at least \$1.2 million. The meeting will start at 9:00 a.m. at 4200 Smith School Road, Austin, Texas. Before taking action, the Commission will take public comment regarding the proposed transaction. Prior to the date of the meeting, public comment may be submitted to Ted Hollingsworth, Land Conservation, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744 or by email at ted.hollingsworth@tpwd.state.tx.us or in person at time of meeting.

TRD-200701447
Ann Bright
General Counsel
Texas Parks and Wildlife Department
Filed: April 18, 2007

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**Notice of Proposed Real Estate Transaction and Opportunity
for Comment**

Land Transfer - Wood County

In a meeting on May 24, 2007, the Texas Parks and Wildlife Commission (the Commission) will consider the transfer of two buildings (the Stinson Home and Honeymoon Cottage) to the Quitman Heritage Foundation to complete the divestiture of the Governor Hogg Shrine facility. No payment is recommended for the transfer other than the

continued operation of the facility. The meeting will start at 9:00 a.m. at 4200 Smith School Road, Austin, Texas. Before taking action, the Commission will take public comment regarding the proposed transaction. Prior to the date of the meeting, public comment may be submitted to Ted Hollingsworth, Land Conservation, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744 or by email at ted.hollingsworth@tpwd.state.tx.us or in person at time of meeting.

TRD-200701448
Ann Bright
General Counsel
Texas Parks and Wildlife Department
Filed: April 18, 2007

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**Notice of Proposed Real Estate Transaction and Opportunity
for Comment**

Easement Donation - Van Zandt County

In a meeting on May 24, 2007, the Texas Parks and Wildlife Commission (the Commission) will consider the acceptance of the donation of right-of-way easement at Purtsis Creek State Park. The meeting will start at 9:00 a.m. at 4200 Smith School Road, Austin, Texas. Before taking action, the Commission will take public comment regarding the proposed transaction. Prior to the date of the meeting, public comment may be submitted to Ted Hollingsworth, Land Conservation, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744 or by email at ted.hollingsworth@tpwd.state.tx.us or in person at time of meeting.

TRD-200701449
Ann Bright
General Counsel
Texas Parks and Wildlife Department
Filed: April 18, 2007

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Public Utility Commission of Texas

**Announcement of Application for an Amendment to a
State-Issued Certificate of Franchise Authority**

The Public Utility Commission of Texas received an application on April 10, 2007, 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., doing business as Suddenlink Communications, for an Amendment to its State-Issued Certificate of Franchise Authority, Project Number 34128 before the Public Utility Commission of Texas.

Information on the application may be obtained by contacting the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All inquiries should reference Project Number 34128.

TRD-200701393
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: April 12, 2007

Announcement of Application for an Amendment to a State-Issued Certificate of Franchise Authority

The Public Utility Commission of Texas received an application on April 13, 2007, 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 Charter Communications VI, L.L.C., doing business as Charter Communications, for an Amendment to its State-Issued Certificate of Franchise Authority, Project Number 34140 before the Public Utility Commission of Texas.

Information on the application may be obtained by contacting the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All inquiries should reference Project Number 34140.

TRD-200701429
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: April 16, 2007



Announcement of Application for an Amendment to a State-Issued Certificate of Franchise Authority

The Public Utility Commission of Texas (commission) received an application on April 13, 2007, 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 Marcus Cable Associates, L.L.C., doing business as Charter Communications, for an Amendment to its State-Issued Certificate of Franchise Authority, Project Number 34141 before the Public Utility Commission of Texas.

Information on the application may be obtained by contacting the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All inquiries should reference Project Number 34141.

TRD-200701430
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: April 16, 2007



Notice of Application for Amendment to Service Provider Certificate of Operating Authority

On March 11, 2007, Stratos Offshore Services Company filed an application with the Public Utility Commission of Texas (commission) to amend its service provider certificate of operating authority (SPCOA) granted in SPCOA Certificate Number 60191. Applicant intends to reflect a change in ownership/control and corporate restructuring.

The Application: Application of Stratos Offshore Services Company for an Amendment to its Service Provider Certificate of Operating Authority, Docket Number 34135.

Persons wishing to comment on the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477 no later than May 2, 2007. 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 34135.

TRD-200701405
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: April 13, 2007



Notice of Application for Relinquishment of a Service Provider Certificate of Operating Authority

On April 11, 2007, PhoneSense filed an application with the Public Utility Commission of Texas (commission) to relinquish its service provider certificate of operating authority (SPCOA) granted in SPCOA Certificate Number 60206. Applicant intends to discontinue service and relinquish its certificate.

The Application: Application of PhoneSense to Relinquish its Service Provider Certificate of Operating Authority, Docket Number 34136.

Persons wishing to comment on the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477 no later than May 2, 2007. 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 34136.

TRD-200701406
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: April 13, 2007



Notice of Application for Service Provider Certificate of Operating Authority

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on April 10, 2007, for a service provider certificate of operating authority (SPCOA), pursuant to §§54.151 - 54.156 of the Public Utility Regulatory Act (PURA).

Docket Title and Number: Application of Network Innovations, Inc. for a Service Provider Certificate of Operating Authority, Docket Number 34132 before the Public Utility Commission of Texas.

Applicant intends to provide T1-Private Line, and Dedicated Internet Access services.

Applicant's requested SPCOA geographic area of the State of Texas currently served by all incumbent local exchange carriers.

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 May 2, 2007. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All comments should reference Docket Number 34132.

TRD-200701397

Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: April 12, 2007



Notice of Application for Service Provider Certificate of Operating Authority

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on April 13, 2007, for a service provider certificate of operating authority (SPCOA), pursuant to §§54.151 - 54.156 of the Public Utility Regulatory Act (PURA).

Docket Title and Number: Application of Legacy Long Distance International, Incorporated for a Service Provider Certificate of Operating Authority, Docket Number 34142 before the Public Utility Commission of Texas.

Applicant intends to provide plain old telephone service and long distance services.

Applicant's requested SPCOA geographic area includes the entire State of Texas.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477 no later than May 2, 2007. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All comments should reference Docket Number 34142.

TRD-200701440
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: April 17, 2007



Notice of Filing for Approval of the Provision of Non-Emergency 311 Service

Notice is given to the public of the filing, on March 26, 2007, with the Public Utility Commission of Texas (commission) of an application for Administrative Approval to Provide Non-Emergency 311 Service for Webb County.

Docket Title and Number: Application of Southwestern Bell Telephone, L.P., doing business as AT&T Texas, for Administrative Approval to Provide Non-Emergency 311 Service for Webb County; Docket Number 34054.

The Application: Notice is given to the public of the filing with the Commission of an administrative filing by AT&T Texas for approval of the provision of Non-Emergency 311 Service, pursuant to P.U.C. Substantive Rule §26.127 and AT&T's Texas' existing General Exchange Tariff, Section 47.

As a certified telecommunications utility (CTU), AT&T Texas seeks approval on behalf of Webb County to provide Non-Emergency 311 (NE311) service to its residents within the legally-defined county limits of Webb County, Texas. NE311 is available to local government entities to provide to their residents an easy to-remember number to call for access to non-emergency services. By implementing NE311 service, communities can improve 911 response times for those callers with true emergencies. Each local government entity that elects to im-

plement 311 will determine the types of non-emergency calls that will be handled by their 311 call center.

Persons who wish to comment on this administrative filing should notify the Public Utility Commission of Texas, by May 14, 2007. Requests for further information should be mailed to the Public Utility Commission of Texas, at P.O. Box 13326, Austin, Texas 78711-3326, or you may call the commission's Office of Customer Protection at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or toll free 1-800-735-2989.

TRD-200701439
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: April 17, 2007



Notice of Intent to File LRIC Study Pursuant to P.U.C. Substantive Rule §26.214

Notice is given to the public of the filing on April 10, 2007, with the Public Utility Commission of Texas (commission), a notice of intent to file a long run incremental cost (LRIC) study pursuant to P.U.C. Substantive Rule §26.214. The Applicant will file the LRIC study on April 20, 2007.

Docket Title and Number: Application of Windstream Communications Kerrville, LP for Approval of LRIC Study to Add Rates and Charges for Direct Inward Dial Numbers for ISDN Primary Rate Interface Service Pursuant to P.U.C. Substantive Rule §26.214, Docket Number 34129.

Any party that demonstrates a justiciable interest may file with the administrative law judge, written comments or recommendations concerning the LRIC study referencing Docket Number 34129. Written comments or recommendations should be filed no later than 45 days after the date of a sufficient study and should be filed at the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or toll free 1-800-735-2989. All comments should reference Docket Number 34129.

TRD-200701394
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: April 12, 2007



Notice of Intent to File LRIC Study Pursuant to P.U.C. Substantive Rule §26.214

Notice is given to the public of the filing on April 10, 2007, with the Public Utility Commission of Texas (Commission), a notice of intent to file a long run incremental cost (LRIC) study pursuant to P.U.C. Substantive Rule §26.214. The Applicant will file the LRIC study on April 20, 2007.

Docket Title and Number: Application of Windstream Communications Southwest for Approval of LRIC Study to Add Rates and Charges for Direct Inward Dial Numbers for ISDN Primary Rate Interface Service Pursuant to P.U.C. Substantive Rule §26.214, Docket Number 34130.

Any party that demonstrates a justiciable interest may file with the administrative law judge, written comments or recommendations concerning the LRIC study referencing Docket Number 34130. Written comments or recommendations should be filed no later than 45 days after the date of a sufficient study and should be filed at the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or toll free 1-800-735-2989. All comments should reference Docket Number 34130.

TRD-200701395
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: April 12, 2007



**Notice of Intent to File LRIC Study Pursuant to P.U.C.
Substantive Rule §26.214**

Notice is given to the public of the filing on April 10, 2007, with the Public Utility Commission of Texas (commission), a notice of intent to file a long run incremental cost (LRIC) study pursuant to P.U.C. Substantive Rule §26.214. The Applicant will file the LRIC study on April 20, 2007.

Docket Title and Number: Application of Windstream Sugar Land, Inc. for Approval of LRIC Study to Add Rates and Charges for Direct Inward Dial Numbers for ISDN Primary Rate Interface Service Pursuant to P.U.C. Substantive Rule §26.214, Docket Number 34131.

Any party that demonstrates a justiciable interest may file with the administrative law judge, written comments or recommendations concerning the LRIC study referencing Docket Number 34131. Written comments or recommendations should be filed no later than 45 days after the date of a sufficient study and should be filed at the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or toll free 1-800-735-2989. All comments should reference Docket Number 34131.

TRD-200701396
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: April 12, 2007



**Notice of Intent to File LRIC Study Pursuant to P.U.C.
Substantive Rule §26.214**

Notice is given to the public of the filing on April 12, 2007, with the Public Utility Commission of Texas (commission), a notice of intent to file a long run incremental cost (LRIC) study pursuant to P.U.C. Substantive Rule §26.214. The Applicant will file the LRIC study on April 23, 2007.

Docket Title and Number: Application of Central Telephone Company of Texas, doing business as Embarq, for Approval of LRIC Study for Price Reduction Associated with Optional Extended Metropolitan Service for the Hutto Exchange Pursuant to P.U.C. Substantive Rule, §26.214, Docket Number 34139.

Any party that demonstrates a justiciable interest may file with the administrative law judge, written comments or recommendations con-

cerning the LRIC study referencing Docket Number 34139. Written comments or recommendations should be filed no later than 45 days after the date of a sufficient study and should be filed at the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All comments should reference Docket Number 34139.

TRD-200701407
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: April 13, 2007



**Notice of Intent to Implement Minor Rate Changes Pursuant to
P.U.C. Substantive Rule §26.171**

Notice is given to the public of Livingston Telephone Company, Inc. (Livingston) application filed with the Public Utility Commission of Texas (commission) on April 10, 2007, for approval of a minor rate change pursuant to P.U.C. Substantive Rule §26.171.

Docket Title and Number: Livingston Telephone Company, Inc. Notice of Intent to Implement a Minor Rate Change Pursuant to Substantive Rule §26.171; Docket Number 34133.

The Application: Livingston filed an application to change the rates to the 1-Party Monthly Local Exchange Access Line Rates for residence and business customers; the 4-Party residential Local Exchange Access Line rate; the business Rotary Key Trunk and PBX Trunk rates; and intraLATA Directory Assistance Service. The proposed effective date for the proposed rate changes is August 1, 2007. The estimated annual revenue increase recognized by Livingston is \$90,301 or less than 5% of Livingston's gross annual intrastate revenues. Livingston has 7,748 access lines (residence and business) in service in the state of Texas.

If the commission receives a complaint(s) relating to this application signed by the lesser of 5% or 1,500 of the affected local service customers to which this application applies by July 1, 2007, the application will be docketed. The 5% limitation will be calculated based upon the total number of customers of record as of the calendar month preceding the commission's receipt of the complaint(s).

Persons wishing to comment on this application should contact the Public Utility Commission of Texas by July 1, 2007. Requests to intervene should be mailed to the commission's Filing Clerk at P.O. Box 13326, Austin, Texas 78711-3326, or you may call the commission at (512) 936-7120 or toll-free 1-800-735-2989. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 34133.

TRD-200701445
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: April 17, 2007



Office of Rural Community Affairs

**Notice of Funding Availability Hurricane Rita Disaster
Recovery**

Texas Community Development Program

Summary:

(a) The Office of Rural Community Affairs (Office) announces the availability of \$42,000,000 in federal funding from the Community Development Block Grant (CDBG) Disaster Recovery Program to be used for the restoration of critical infrastructure damaged by Hurricane Rita in the 29 counties directly affected by Hurricane Rita and designated in the State of Texas Action Plan for CDBG Disaster Recovery (Action Plan). Due to set-asides specified in the Action Plan, \$22,200,000 remains available for the restoration of critical infrastructure damaged by Hurricane Rita in the 29 counties directly affected by Hurricane Rita and designated in the Action Plan. The availability and use of these funds is subject to the Action Plan, Title I of the Housing and Community Development Act (Act), State CDBG Program rules at 24 CFR 570, and Chapter 2306, Texas Government Code, unless specifically waived in the *Federal Register*, dated February 13, 2006 or October 30, 2006.

(b) Applicants will be scored based on Section 5 of this NOFA.

(c) Applications will be due no later than 120 days after the U.S. Department of Housing and Urban Development approves the State of Texas Action Plan for CDBG Disaster Recovery.

(d) Complete details and all application forms are available in the Hurricane Rita Restoration of Critical Infrastructure Application Guide located on the ORCA website at www.orca.state.tx.us.

(e) ORCA will hold at least 2 application workshops in the affected area to cover the requirements of this program.

Allocation of CDBG Funds:

(a) These funds are made available through a supplemental allocation of CDBG funds to the State of Texas and will be administered by the Office of Rural Community Affairs in partnership with the Texas Department of Housing and Community Affairs. All funds released under this NOFA are to be used to meet one of the three federal national objectives (24 CFR 570.482) and be for CDBG eligible activities for damages directly related to Hurricane Rita.

(b) ORCA will, with the approval of the TDHCA Governing Board, award contracts in the form of a grant to cities and counties for critical infrastructure projects within the affected area. The minimum award per contract will not be less than \$50,000 and will not exceed \$5,000,000. Only one application for up to \$5,000,000 will be accepted per city or county.

(c) Applicants must demonstrate that the activities relate to infrastructure projects where there is outstanding damage that is a direct result of Hurricane Rita and that all other similar options of financing have been explored and no other options are available.

(d) Funds may not be used as the matching requirement, share, or contribution for any other Federal program, for reimbursement of activities already completed, or for projects where any other similar source of funds can be obtained.

(e) Projects must be identified, approved, and underway within 12 months of approval of the Action Plan by HUD. Work must be substantially underway and drawing funds within 18 months. Funds that have not been committed within 12 months may be reallocated to the Housing Assistance Program or may be deobligated if substantial progress has not been achieved within 18 months.

(f) Unless specifically waived, all awards from the CDBG Disaster Recovery Program will be subject to all federal and state regulations including but not limited to environmental review, labor standards (Davis Bacon), and procurement.

Eligible and Ineligible Activities:

(a) Eligible activities include:

1. flood and drainage projects (including flood buyouts in which the property is converted into open, undeveloped land);
2. repair of roads and bridges, utilities, water control facilities, water supply facilities, waste water facilities, buildings and permanently affixed equipment, hospitals, and other medical facilities;
3. debris removal.

Eligible activities will include those activities permissible under §105(a) of the Act.

(b) Ineligible activities include:

1. reimbursement of entities for disaster related funding that has been previously expended;
2. portable equipment; and
3. assistance for storm shelters that were not damaged by Hurricane Rita.

The general rule in the State CDBG program is that any activity that is not stated in HCDA 105(a) as eligible should be considered to be ineligible. Further direction can be found in the entitlement regulations at 24 CFR 570.207 and the applicable OMB circulars.

Eligible and Ineligible Applicants:

(a) Eligible applicants:

All Cities and Counties located within the 29 affected counties are eligible to apply under the CDBG Disaster Recovery Program (Affected counties include: Angelina, Brazoria, Chambers, Fort Bend, Galveston, Hardin, Harris, Jasper, Jefferson, Liberty, Montgomery, Nacogdoches, Newton, Orange, Polk, Sabine, San Augustine, San Jacinto, Shelby, Trinity, Tyler, Walker, Cherokee, Gregg, Harrison, Houston, Marion, Panola, and Rusk Counties.)

(b) Ineligible applicants: Bridge City, Hardin County, Memorial Hermann Baptist Orange Hospital, Houston, and Harris County are ineligible to apply for the competitive unreserved funding because of direct reserved funds made available under the CDBG Disaster Recovery Program for these entities.

(c) Requests regarding utility reconstruction are limited to municipally owned entities

(d) Applicants may be ineligible for funding if they meet any of the criteria detailing ineligibility with any requirements under 10 TAC §49.5(a) excluding subsections (5) thru (8) or 10 TAC §255.1(h)(6).

Selection Process:

Applicants may receive up to 400 points based on set scoring criteria. Evidence of these criteria must be submitted in accordance with the application guide on the application forms provided. Applicants will be competitively scored against one another based on a project prioritization and scoring model as detailed below:

PROJECT TYPE (200 Points):

Drainage and Debris Projects:

The following scoring ranges are expressed as ratios of households to businesses (HH:B) for the area being served.

- *9:1 and above (200 Points)
- *8:1- 6:1 (150 Points)
- *5:1- 3:1 (100 Points)
- *2:1 and below (50 Points)

Project Eligibility Requirements:

Projects addressing drainage and debris issues directly related to Hurricane Rita will be prioritized based on residential benefit. Residential Benefit will be established by the number of homes benefiting compared to the number of businesses benefiting from the project.

Primarily, drainage projects are those that relieve imminent hazards to life and property created by a natural disaster that causes a sudden impairment of a watershed. However, due to the nature of this disaster, drainage projects located outside of a watershed, Special Flood Hazard Area, or Non-Special Flood Hazard Area will also be considered. A watershed is a region or area drained by a river, stream, or other body of water. Special Flood Hazard Areas are land areas at high risk for flooding, while Non-Special Flood Hazard Areas are those located within low-to-moderate risk flood zones. Applications for projects to be conducted within a watershed or flood hazard area must be accompanied by maps and any other pertinent documentation to be provided by a licensed engineer.

Common drainage projects include removing debris from stream channels, reshaping and protecting eroded banks, correcting damaged drainage facilities, construction of water detention ponds, and repairing levees and structures. However, the purchasing of floodplain easements will be categorized under the Property Buyout Projects category for this application. Furthermore, it is important to note that curb and gutter projects being conducted within a watershed or flood hazard area in conjunction with street repair or improvements will be scored on a percentage basis based on the actual dollars spent for curb and gutter activities. The curb and gutter portion of the project will be scored by multiplying its percentage of costs of the overall project by 200. The remaining percentage of the project will be scored by multiplying the non-drainage related street activities percentage of costs by the maximum allowable points of 150 for road repair.

High wind events and flooding generally produce large amounts of debris. This debris may consist primarily of vegetation, construction, and demolition materials from damaged or destroyed structures and personal property. Under this category, only debris identified as the responsibility of the local jurisdiction will be eligible. Debris located on private property is ineligible unless the local jurisdiction has determined that the existing material poses an immediate threat to public health and safety. Furthermore, removal of debris from private property must be determined by the local jurisdiction to be beyond the capability of the property owner.

The methods by which applicants may choose to collect and store debris prior to proper disposal depends greatly on the type of debris, as well as the capabilities of the jurisdiction. Prior to collecting debris, all pertinent environmental concerns must be taken into consideration. For example, the removal of debris from natural streams will often require a Clean Water Act Section 404 permit from the United States Army Corp of Engineers (USACE). Additional environmental guidelines may be reviewed by obtaining the 2006 Implementation Manual located on the ORCA website at www.orca.state.tx.us.

While construction and demolition debris may be collected and disposed of at an appropriately rated landfill, woody and/or vegetative debris must be stored prior to disposal. This will require the use of a temporary debris storage and reduction sites (TDSR). The preparation and operation of a TDSR site is typically left to the contractor. However, local jurisdictions choosing to conduct their own debris operations may review Chapter 7 of the FEMA Debris Management Guide regarding the use of TDSR sites. This document may be obtained at <http://www.fema.gov/pdf/government/grant/pa/demagde.pdf>.

Maintaining the life expectancy of landfills in and around the state is of great concern. Therefore, applicants proposing to dispose of woody

and/or vegetative debris must choose burning, chipping, or grinding as the method of disposal. If the project proposes to dispose of woody and/or vegetative debris by sending it to a landfill, the applicant must provide adequate justification for their decision. These applications will be reviewed on a case-by-case basis. Applicants choosing other forms of disposal for woody and/or vegetative debris may contact the Office of Rural Community Affairs prior to submitting their applications for additional direction.

Determining Beneficiaries:

Acceptable methods by which to identify the number of homes and businesses benefiting from this project type include the 2000 Census, an independent count of occupied structures that will benefit from the proposed project (Household/Business Count Data Sheet is required for this method), and city or county tax data.

Once the number of households has been identified, the number of beneficiaries may be calculated. The proper method for calculating the total beneficiary count for each project is to multiply the total number of households benefiting by the average household size for that census geographic area.

Municipally Owned Public Utilities/Public Facilities Projects:

*Public Water and Wastewater Projects (200 Points)

*Other Public Facilities (100 Points)

*Generators for public water and wastewater facilities only (50 Points)

The repair of existing water and wastewater facilities will receive the highest priority under this project type.

Other public facilities are eligible under this project type as well. However, requests related to utility reconstruction are limited to municipally owned entities.

Applications for the purchase of new generators will be limited in scope to public water and wastewater facilities only.

Road and Bridge Projects:

*Repair, replacement, or mitigation of an existing bridge (200 points).

*Replacement and/or repair of culverts or other drainage not located within a watershed or flood hazard area (150 points).

*Road repairs (150 points).

The repair, replacement, or mitigation of an existing bridge damaged in relation to Hurricane Rita will receive the highest priority under this project type. Per the Action Plan, "none of the funds made available under this heading may be used by a State or locality as a matching requirement, share, or contribution for any other Federal program". Therefore, the applicant must be the sole entity responsible for the maintenance and up-keep of the structure.

The replacement and/or repair of culverts or other drainage structures not located within a watershed or flood hazard area will be included within this project type. However, culverts and other drainage structures located within a watershed or flood hazard area will be categorized as drainage projects. Please refer to the section regarding drainage projects for further guidance regarding scoring criteria and methodology.

The repair of roads under this project type must be directly related to damages sustained as a result of the event and not a lack of maintenance.

Property Buyout Projects:

The following scoring ranges are expressed as ratios of households to businesses (HH:B).

Projects located within a flood hazard area:

9:1 and above (200 Points)

8:1- 6:1 (150 Points)

5:1- 3:1 (100 Points)

2:1 and below (50 Points)

Projects not located within a flood hazard area:

9:1 and above (100 Points)

8:1- 6:1 (75 Points)

5:1- 3:1 (50 Points)

2:1 and below (25 Points)

A count of occupied structures that will benefit from the proposed project (Buyout Household/Business Count Data Sheet is required) is the only acceptable method by which to identify the number of homes and businesses benefiting from this project type.

Once the number of households has been identified, the number of beneficiaries may be calculated. The proper method for calculating beneficiaries under this project type is to multiply the average household size for that particular census geographic area as noted in the census by the number of occupied household units to benefit.

Ratios under Project Type will be calculated using the rounding convention of .5 and above is always rounded up for both odd and even integers. Round (x) = Integer (x + 0.5).

AMOUNT OF DAMAGES SUSTAINED (100 Points):

The purpose of this scoring criterion is to give weight to those applicants that sustained large amounts of damages as documented by FEMA.

(Dollar amount of damages reported for applicant on FEMA document)/(Dollar amount of total damages reported for infrastructure (all applicants))* 100 = Total Points

AMOUNT OF DAMAGES - PER CAPITA BASIS (100 Points):

The purpose of this scoring criterion is to provide a more accurate depiction of the overall impact sustained by an applicant as a result of Hurricane Rita. It is important to note that municipalities must include all damages sustained within their jurisdiction.

(Dollar amount of damages reported for applicant (FEMA documentation))/total population (citywide and/or countywide) = damages per capita

Then:

Average damages per capita * 1.25 = Base

Then:

(Applicant's damages per capita)/Base * 100 = Score

Submission and Review Process:

(a) All applications submitted under this NOFA must be received on or before 5:00 p.m. on (DATE 120 days after HUD approval of Action Plan) at the ORCA Headquarters:

Office of Rural Community Affairs

Mailing Address: PO BOX 12877, Capitol Station

Austin, TX 78711

1700 N Congress Avenue, Suite 220

Austin, TX 78701

Applications will be reviewed for applicant and activity eligibility and scoring as detailed in this NOFA and all applicable federal and state regulations.

(b) All applications must be submitted, and provide all documentation, as described in this NOFA and the application guide available on the ORCA and TDHCA web sites.

(c) ORCA may decline to consider any application if the proposed activities do not, in ORCA's sole determination, represent a prudent use of the CDBG Disaster Recovery Program funds. ORCA reserves the right to negotiate individual elements of any application.

(d) After eligible applications have been evaluated and ranked in accordance with this NOFA and the application guide, ORCA staff shall make its recommendations to the TDHCA Governing Board for award approval.

Application Submission:

(a) Application materials must be organized and submitted in the manner detailed in the application guide. Each applicant must submit one complete "original" version of the application and one "copy" of all application materials.

(b) The application guide and all application materials including the Action Plan, NOFA, program guidelines, and all applicable CDBG rules, will be available on the ORCA and TDHCA web sites. Applicants will be required to adhere to the CDBG program applicable federal regulations and/or state regulations. Applications must be on forms provided by ORCA in the application guide and cannot be altered or modified.

(c) If an application contains deficiencies which, in the determination of ORCA staff, requires clarification or correction of information submitted at the time of application, ORCA staff may request clarification or correction of such administrative deficiencies including scoring documentation. ORCA staff may request clarification or correction in a deficiency notice in the form of a facsimile or a telephone call to the applicant advising that such a request has been transmitted. All deficiency responses should be received within 5 days of request. The time period for responding to a deficiency notice begins at the start of the business day following the deficiency notice date. An applicant may not change or supplement an application in any manner after the filing deadline, except in response to a direct request from ORCA.

For complete information regarding the requirements of this NOFA and the appropriate application forms, please see the application guide for the CDBG Disaster Recovery Program.

NOTE: This NOFA does not include the text of the various applicable regulatory provisions that may be important to the particular CDBG Program. For proper completion of the application, ORCA strongly encourages potential applicants to review all applicable State and Federal regulations.

COMMENTS:

Comments on the proposal may be submitted to Heather Lagrone, Team Lead, Office of Rural Community Affairs, P.O. Box 12877, Austin, Texas 78711, telephone: (512) 936-6701. Comments will be accepted for 30 days following the date of publication of this announcement in the *Texas Register*.

TRD-200701468

Mark Wyatt

Manager, Program Development

Office of Rural Community Affairs

Filed: April 18, 2007

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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 30 (2005) is cited as follows: 30 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 "30 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 30 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 (800) 226-7199.

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 (1-800-356-6548), and West Publishing Company (1-800-328-9352).

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* (January 21, April 15, July 8, and October 7, 2005). 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).