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*Sarah Prowell
10th Grade*

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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/>

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

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 19. EDUCATION

PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

CHAPTER 1. AGENCY ADMINISTRATION SUBCHAPTER A. GENERAL PROVISIONS

19 TAC §1.18

The Texas Higher Education Coordinating Board proposes new §1.18, concerning Agency Administration. Specifically, this new section will provide rules for the operation of the Education Research Centers created by Texas Education Code §1.005.

Ms. Susan Brown, Assistant Commissioner, Planning and Accountability, has determined that for each year of the first five years the section is in effect, there will not be any fiscal implications to state or local government as a result of enforcing or administering the rules.

Ms. Brown has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be the ability for the Education Research Centers to have access to data that will allow them to research topics related to P-16 education. There is no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the section as proposed. There is no impact on local employment.

Comments on the proposal may be submitted to Susan Brown, Assistant Commissioner, 1200 East Anderson Lane, Austin, Texas 78752, susan.brown@thecb.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The new section is proposed under the Texas Education Code, §61.027, which provides the Coordinating Board with the authority to adopt rules, and Texas Education Code, §1.005 (j), which authorizes the Coordinating Board and the Commissioner of Education to make rules to implement §1.005.

The new section affects Texas Education Code, §1.005.

§1.18. Operation of Education Research Centers.

(a) DRAFT ERC Rules Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) "FERPA" means the Family Educational Rights and Privacy Act, 42 U.S.C. 1232g, including regulations and informal written guidance issued by the United States Department of Education and any amendments or supplementation thereof.

(2) "Confidential information" as applied to data provided to an Education Research Center (ERC) by Texas Education Agency

(TEA) or the Texas Higher Education Coordinating Board (CB) includes all student-level data, including any data cells small enough to allow identification of an individual student. All social security numbers, student names, student birthdates and data cells containing between one and four students, inclusive, are confidential.

(3) "Small data cells" will be considered any cell containing between one and four students inclusive. Information may not be disclosed where small data cells can be determined through subtraction or other simple mathematical manipulations or subsequent cross-tabulation of the same data with other variables. Institutions may use any of the common methods for masking including:

(A) hiding the small cell and the next larger cell on the row and column so the size of the small cell can not be determined; or

(B) hiding the small cell and displaying the total for both the row and column as a range of at least ten; or

(C) any methodology approved by the TEA and CB.

(b) Purpose.

(1) ERCs may be established by joint approval of the commissioner of education and the CB. An ERC may only be established at a sponsoring public institution of higher education in Texas, but may be awarded to a consortium of such institutions. An ERC must be physically located within Texas and may not provide access to student-level data at any other location.

(2) The CB is responsible for general oversight, technical assistance and state support of ERCs, except as otherwise provided in this chapter. All policy decisions and rulemaking shall be jointly approved by TEA and the CB.

(3) Sponsoring institutions of higher education are responsible for all equipment, salaries and other operating costs of an ERC, including staff and necessary equipment at TEA and the CB necessary to prepare and maintain data for the ERCs, as well as reimbursable expenses of the Joint Advisory Board.

(c) Joint Advisory Board.

(1) The commissioner of education and the commissioner of higher education shall co-chair an advisory board to review and approve research involving access to confidential information and to adopt policies governing ERC operations. Each commissioner may delegate to an agency employee the ability to act as co-chair and vote on matters coming before the Joint Advisory Board.

(2) The commissioner of education and the commissioner of higher education shall jointly appoint ten additional members to the Joint Advisory Board. All research involving access to confidential information must be approved by the said board.

(3) Members of the Joint Advisory Board serve at the pleasure of the commissioner of education and the commissioner of higher education and must be reappointed annually. The Joint Advisory Board

will post its agenda and conduct its meetings in compliance with the Texas Open Meetings Act.

(4) The Joint Advisory Board shall meet at the call of the two chairs at least twice each year.

(d) Operation.

(1) An ERC may operate only under written authorization by the commissioner of education and the CB. Status as an ERC may not be assigned, delegated or transferred to any other entity.

(2) An ERC shall be lead by a managing director who is a professional employee of the sponsoring institution of higher education (IHE). The managing director shall report directly to the chief operating officer of the sponsoring IHE unless a different reporting structure is approved by TEA and the CB.

(3) All research at an ERC involving access to confidential information shall be conducted only with the approval of and under the joint oversight of TEA and the CB through the Joint Advisory Board. Research that does not involve access to confidential information may be conducted by the ERCs without approval of the Joint Advisory Board upon 30 days notice to TEA and the CB and certification by the ERC that sufficient resources will be available to meet all demands for resources to conduct research or manipulate data under the direction of the Joint Advisory Board or on behalf of TEA or the CB.

(4) Confidential information provided to an ERC by TEA or the CB shall be protected by procedures to ensure that any unique identifying number is not traceable to any individual. Such procedures must be maintained as confidential by TEA and the CB and may not be shared with an ERC, or used for any other purpose. Under no circumstances may social security numbers, names, or birthdates be accessed for the purpose of research at an ERC.

(5) ERCs shall adopt written procedures for research conducted using confidential information, subject to approval by the Joint Advisory Board. An ERC may not access confidential information until all such procedures are approved. Such procedures shall include:

(A) measures to ensure against unauthorized disclosure of confidential information;

(B) independent review of all research products to ensure against unauthorized disclosure of confidential information;

(C) review of all datasets created by a researcher to ensure that confidential information is not copied or removed from the ERC;

(D) annual certification of full compliance with all requirements of state and federal laws and regulations regarding the use of confidential information for research purposes by the internal auditor of each participating IHE;

(E) approval of research design by an accredited IHE, including any applicable requirements for research involving human subjects, before submitting a research proposal to the Joint Advisory Board for approval; and

(F) criteria for allocating research access capacity for researchers not affiliated with the sponsoring IHEs.

(6) All research produced at an ERC shall:

(A) be made available upon request to TEA and the CB;

(B) be available for public distribution, copying or reproduction at no cost to TEA or the CB;

(C) contain a disclaimer in a form acceptable to TEA and the CB stating that the conclusions of the research do not neces-

sarily reflect the opinion or official position of those entities or of the State of Texas;

(D) be reviewed before publication or other distribution by individuals other than those conducting the research to ensure that confidential information is not disclosed, in accordance with guidelines adopted under FERPA or by TEA or the CB;

(7) An ERC shall comply with the requirements of the Texas Public Information Act, including requirements relating to data manipulation. An ERC shall process any Public Information Act requests referred by TEA or the CB in a timely manner. Charges for processing Public Information Act requests shall be based on guidelines developed by the Texas Attorney General's Office and approved by the Joint Advisory Board.

(8) A sponsoring IHE shall cooperate fully with all audit requests made by TEA or the CB. Each ERC shall annually request and undergo a security audit performed by the Texas Department of Information Resources, or a contractor approved by that Department, which shall include a penetration test of computer equipment and access.

(e) Sanctions and Termination.

(1) Upon a determination that confidential information has been released or has been copied to another location, or that appropriate security measures are not in place to protect confidential information, the Joint Advisory Board may require an ERC to obtain appropriate services or equipment or to remove confidential information from such other location in order to remedy a security deficit. Such services or equipment shall be purchased by the ERC from vendors subject to approval of the Joint Advisory Board.

(2) An ERC may be terminated by joint action of TEA and the CB for failure to meet the requirements of state or federal law, of this subchapter, or of the terms of a contract establishing the ERC. An ERC shall be entitled to an informal review of a determination to terminate its status by a designee of the commissioner of education and the commissioner of higher education prior to the effective date of the termination.

(3) Notice of termination under subsection (a) and (b) of this section shall be provided to the ERC's designated representative and shall contain information regarding the reasons for the termination.

(4) A termination made pursuant to this section shall become final and binding unless, within 30 days of its receipt of the notice of termination, the ERC invokes the administrative remedies contained in Chapter 1, subchapter B of the Rules of the CB (relating to Hearings and Appeals).

(5) Any ultimate recommendation regarding termination shall be made to both the CB and the commissioner of education. The CB and the commissioner of education must concur for any termination of an ERC invoking such administrative remedies to become final.

(f) Security.

(1) An ERC must comply with all requirements of FERPA in accessing confidential information to conduct research. Notwithstanding any other provision in this subchapter, failure to maintain adequate security to avoid the unauthorized disclosure of confidential information provided to the ERC shall be grounds for immediate termination of the authorization to access such data.

(2) All physical locations at which confidential information may be accessed at an ERC must be located within Texas, at a sponsoring IHE, and approved by both TEA and the CB.

(3) Either TEA or the CB may suspend access to confidential information provided to an ERC based on a significant risk of unauthorized disclosure of confidential information.

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 May 21, 2007.

TRD-200701951

Bill Franz

General Counsel

Texas Higher Education Coordinating Board

Proposed date of adoption: July 19, 2007

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



CHAPTER 4. RULES APPLYING TO
ALL PUBLIC INSTITUTIONS OF HIGHER
EDUCATION IN TEXAS
SUBCHAPTER D. DUAL CREDIT
PARTNERSHIPS BETWEEN SECONDARY
SCHOOLS AND TEXAS PUBLIC COLLEGES
19 TAC §4.85

The Texas Higher Education Coordinating Board proposes an amendment to §4.85, concerning Dual Credit Requirements. Specifically, this amendment will provide more high school students with access to college-level courses.

Dr. Glenda O. Barron, Associate Commissioner of Participation and Success, has determined that for each year of the first five years the section is in effect, there will not be any fiscal implications to state or local government as a result of enforcing or administering the rules.

Dr. Barron has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be providing more high school students with access to college-level courses. There is no effect on small businesses. There is no anticipated economic costs to persons who are required to comply with the section as proposed. There is no impact on local employment.

Comments on the proposal may be submitted to Glenda O. Barron, Associate Commissioner of Participation and Success, P.O. Box 12788, Austin, Texas 78711 or via email at Glenda.Barron@thehb.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendment is proposed under the Texas Education Code, §§29.182, 29.184, 61.027, 61.076(J), 130.001(b)(3) - (4), 130.008, 130.090, and 135.06(d), which provides the Coordinating Board with the authority to regulate dual credit partnerships between public two-year associate degree-granting institution and public universities with secondary schools.

The amendment affects §§29.182, 29.184, 61.027, 61.076(J), 130.001(b)(3) - (4), 130.008, 130.090, and 135.06(d).

§4.85. Dual Credit Requirements.

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

(1) (No change.)

(2) An eleventh grade high school student is also eligible to enroll in dual credit courses under ~~[either of]~~ the following conditions;

(A) a student achieves a score of 2200 on Mathematics and/or a score of 2200 on English Language Arts with a writing subsection score of at least 3 on the tenth grade TAKS relevant to the courses to be attempted. An eligible high school student who has enrolled in dual credit courses in the eleventh grade under this provision shall not be required to demonstrate further evidence of eligibility to enroll in dual credit courses in the twelfth grade; or

(B) the student achieves a combined score of 107 on the PSAT/NMSQT with a minimum of 50 on the critical reading and/or mathematics test relevant to the courses to be attempted. An eligible high school student who has enrolled in dual credit under this provision must demonstrate eligibility to enroll in dual credit courses in twelfth grade; or

(C) the student achieves a composite score of 23 on the PLAN with a 19 or higher in mathematics and English. An eligible high school student who has enrolled in dual credit under this provision must demonstrate eligibility to enroll in dual credit courses in twelfth grade.

(3) - (9) (No change.)

(c) - (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.

Filed with the Office of the Secretary of State on May 21, 2007.

TRD-200701966

Bill Franz

General Counsel

Texas Higher Education Coordinating Board

Proposed date of adoption: July 19, 2007

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



CHAPTER 13. FINANCIAL PLANNING
SUBCHAPTER K. TECHNOLOGY
WORKFORCE DEVELOPMENT GRANT
PROGRAM
19 TAC §13.193

The Texas Higher Education Coordinating Board (CB) proposes an amendment to §13.193 concerning the periodicity and frequency of new request for proposals it issues for the Technology Workforce Development (TWD) Grant Program. Specifically, this amendment will allow the CB to be flexible and issue requests for proposals in response to when federal money becomes available for a new cycle of grants.

Dr. Joseph H. Stafford, Assistant Commissioner for Academic Affairs and Research, has determined that for each year of the first five years the section is in effect, there will not be any fiscal implications to state or local government as a result of enforcing or administering the rules.

Dr. Stafford has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be a quicker, more effective, and more appropriate CB response to the requirements

and needs of both the agencies granting federal funds to the program and the potential subrecipient institutions. There is no effect on small businesses. There is no anticipated economic costs to persons who are required to comply with the section as proposed. There is no impact on local employment.

Comments on the proposal may be submitted to Reinold Cornelius, Program Director, Department of Research, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711 or Reinold.Cornelius@thehb.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendment is proposed under the Texas Education Code, §51.857, which provides the Coordinating Board with the authority to administer a peer-review grants competition for the Technology Workforce Development Grant Program.

The amendment affects implementation of Texas Education Code, §51.857.

§13.193. Proposal Solicitation.

(a) ~~The [At least once each biennium, and no more often than once each fiscal year, the]~~ Board shall authorize distribution of a request for proposals.

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

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

Filed with the Office of the Secretary of State on May 21, 2007.

TRD-200701954

Bill Franz

General Counsel

Texas Higher Education Coordinating Board

Proposed date of adoption: July 19, 2007

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



CHAPTER 17. CAMPUS PLANNING

SUBCHAPTER D. RULES APPLYING TO NEW CONSTRUCTION AND ADDITION PROJECTS

19 TAC §17.30

The Texas Higher Education Coordinating Board proposes an amendment to §17.30, concerning Campus Planning. Specifically, the amendment to §17.30(2)(B) will apply current and applicable industry costs standards for facility projects.

Ms. Susan Brown, Assistant Commissioner for Planning and Accountability has determined that for each year of the first five years the section is in effect, there will not be any fiscal implications to state or local government as a result of enforcing or administering the rules.

Ms. Brown has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section is the ability to apply current industry standards to measure costs effectiveness for facility projects. There is no effect on small businesses. There is no anticipated economic costs to persons who are required to comply with the section as proposed. There is no impact on local employment.

Comments on the proposal may be submitted to Jeff Treichel, Director Finance and Resource Planning, P.O. Box 12788, Austin, Texas 78711; jeff.treichel@thehb.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendment is proposed under the Texas Education Code, §61.027 and §61.058.

The amendment affects the Texas Education Code §61.058.

§17.30. Standards for New Construction and/or Addition Projects.

To obtain Board approval for a new construction and/or addition project, an institution shall demonstrate that the project complies with the following standards:

(1) (No change.)

(2) Project Standards. The institution shall demonstrate that a new construction or addition project complies with the following project standards:

(A) (No change.)

(B) Cost--The construction building cost per gross square foot shall be within the range of similar projects approved by the Board within the last five years, adjusted for inflation as described in the board's Construction Cost report (§17.100 of this title relating to Board Reports). If the construction cost per gross square foot exceeds the maximum cost of similarly approved projects, the cost per gross square foot shall not exceed the highest actual construction cost per gross square foot based on industry standards [reported to R-S: Means] unless the institution can demonstrate that the higher cost is due to market conditions or other circumstances that warrant the higher cost.

(C) (No change.)

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

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TRD-200701952

Bill Franz

General Counsel

Texas Higher Education Coordinating Board

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



SUBCHAPTER K. REPORTS

19 TAC §17.101

The Texas Higher Education Coordinating Board proposes amendments to §17.101, concerning Campus Planning. Specifically, the amendments to §17.101(3)(A) will set up an annual uniform reporting date for the status of all approved facility projects until completion.

Ms. Susan Brown, Assistant Commissioner for Planning and Accountability has determined that for each year of the first five years the section is in effect, there will not be any fiscal implications to state or local government as a result of enforcing or administering the rules.

Ms. Brown has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be the accountability of

institutions for complying with state standards for facility projects. There is no effect on small businesses. There is no anticipated economic costs to persons who are required to comply with the section as proposed. There is no impact on local employment.

Comments on the proposal may be submitted to Jeff Treichel, Director Finance and Resource Planning, P.O. Box 12788, Austin, Texas 78711; jeff.treichel@theccb.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendments are proposed under the Texas Education Code, §61.027, §61.058, and §61.0583.

The amendments affect the Texas Education Code §61.058 and §61.0583.

§17.101. *Institutional Reports.*

Institutions of higher education shall submit current data to the Board for the following reports:

- (1) - (2) (No change.)
- (3) Project Status and Tracking Reports.

(A) Annually, on or before November 1 [~~from the date of approval~~], institutions shall report the status of all [~~an~~] approved projects [~~project~~] to the Board. Reporting to the Board on an annual basis shall cease after the construction project is placed into service and included in the Facilities Inventory Report, or the property acquisition is completed, or the renovation shall be reported to be complete. The report shall include, but is not limited to:

- (i) approved and actual project cost;
- (ii) approved and actual building cost;
- (iii) approved and actual GSF;
- (iv) approved and actual NASF
- (v) approved and actual E&G NASF;
- (vi) approved and actual sources(s) of funding; and

(B) If the actual costs, square footage, or sources(s) of funding changed beyond the thresholds defined in §17.14 of this title (relating to Re-approval of Projects), the institution shall submit a project application requesting re-approval of the project and include a justification for the delay in the request.

- (4) - (5) (No change.)

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

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CHAPTER 21. STUDENT SERVICES
SUBCHAPTER C. HINSON-HAZLEWOOD
COLLEGE STUDENT LOAN PROGRAM

19 TAC §21.55

The Texas Higher Education Coordinating Board proposes amendments to §21.55 concerning the Hinson-Hazlewood College Student Loan Program. Specifically, the proposed amendments would remove the requirement, for the College Access Loan (CAL) Program, that cosigner signatures be notarized and would clarify that cosigners must receive a favorable credit report evaluation to qualify as eligible cosigners.

Ms. Lois Hollis has determined that for each year of the first five years the section is in effect, there will not be any fiscal implications to state or local government as a result of enforcing or administering the rules.

Ms. Hollis has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of this change will be improved efficiency in the delivery of loan funds to students and the rules will more clearly provide information on eligibility requirements for the program. There is no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the section as proposed. There is no impact on local employment.

Comments on the proposal may be submitted to Lois Hollis, P.O. Box 12788, Austin, Texas 78711, (512) 427-6465, Lois.Hollis@theccb.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendments are proposed under the Texas Education Code, §§52.31-52.40, which provides the Coordinating Board with the authority to establish procedures to administer the Hinson-Hazlewood College Student Loan Program and Texas Education Code, §52.31, which provides the Coordinating Board with the authority to adopt rules to effectuate the provisions of Texas Education Code, Chapter 52.

The amendments affect Texas Education Code, §§52.31 - 52.40.

§21.55. *Eligibility of Students.*

(a) Subject to the requirement in subsection (b) of this provision, the Commissioner may authorize, or cause to be authorized, Hinson-Hazlewood College Student Loans to students at any eligible institution which certifies that the student meets program qualifications, if the student:

- (1) - (7) (No change.)

(8) for CALP loans, has received a favorable evaluation of his/her credit report or has obtained the [~~notarized~~] signature of a qualified cosigner/accommodation party who has received a favorable evaluation of his/her credit report;

- (9) - (10) (No change.)

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

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

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SUBCHAPTER M. TEXAS COLLEGE WORK-STUDY PROGRAM

19 TAC §21.402, §21.404

The Texas Higher Education Coordinating Board proposes amendments to §21.402 and §21.404 concerning the Texas College Work-Study Program. All amendments are proposed in order to delete references to the Work-Study Mentorship Program. Rules for the mentorship program will be proposed in new sections of Board rules. Specifically, amendments to §21.402 are proposed to remove definitions of "Junior", "Mentor", and "Senior"--terms relevant only to the mentorship program and not necessary for the general work-study program and include renumbering the remaining definitions. In addition, amendments to the definition of "Resident of Texas" reflect that Senate Bill 1528, 79th Texas Legislature, Regular Session, enacted Texas Education Code, §§54.0501 - 54.075, establishing new provisions to determine if a person is a Texas resident for tuition purposes at institutions of higher education. The new sections were applied beginning with enrollments for the Fall Semester 2006. Amendments to §21.404 remove language that defines the eligibility requirements for students employed through the mentorship program.

Ms. Lois Hollis, Assistant Commissioner for Student Services, in keeping with the Legislative Budget Board's fiscal note for Senate Bill 201, has determined that for each year of the first five years the amendments are in effect, there will be no significant fiscal implications to state or local government as a result of enforcing or administering the rules.

Ms. Hollis has also determined that for each year of the first five years the amendments are in effect the public benefit anticipated as a result of administering the sections will be a free-standing set of rules for the Mentorship Program, making it easier for the participants to understand the program's unique requirements. There is no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the section as proposed. There is no impact on local employment.

Comments on the proposal may be submitted to Lois Hollis, P.O. Box 12788, Austin, Texas 78711, (512) 427-6465, Lois.Hollis@thehb.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendments are proposed under the Texas Education Code, §56.077 which provides the Coordinating Board with the authority to adopt any rules necessary to administer Texas Education Code, Chapter 56, Subchapter E.

The amendments affect Texas Education Code, §§56.071 - 56.079.

§21.402. *Definitions.*

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

(1) - (9) (No change.)

~~[(10) Junior--a person who has completed at least 60 semester credit hours of college work, including hours acquired while dual-enrolled or through examination.]~~

~~[(11) Mentor--an individual employed to help students raise their academic performance to meet institutional standards.]~~

~~[(10) [(+2)] Program--the Texas College Work-Study Program.~~

~~[(11) [(+3)] Program Officer--The individual named by each participating institution's chief executive officer to serve as agent for the Board. The Program Officer has primary responsibility for all ministerial acts required by the program, including maintenance of all records and preparation and submission of reports reflecting program transactions. Unless otherwise indicated by the administration, the director of student financial aid shall serve as Program Officer.~~

~~[(12) [(+4)] Resident of Texas--A resident of the State of Texas as determined in accordance with §21.727 [§21.24] through §21.736 [§21.27] of this title (relating to Determination of [Determining] Residence Status and Waiver Programs for Certain Nonresident Persons). Nonresident students who are eligible to pay resident tuition rates are not residents of Texas.~~

~~[(15) Senior--a person who has completed at least 90 semester credit hours of college work, including hours acquired while dual-enrolled or through examination, but who has not yet acquired a bachelor's degree.]~~

§21.404. *Eligible Student Employees.*

(a) (No change.)

~~[(b) To be eligible for employment in the mentorship program, a person shall:]~~

~~[(1) meet all the requirements of §21.404(a) of this subsection (relating to Eligible Student Employees);]~~

~~[(2) be enrolled as a junior or senior; and]~~

~~[(3) meet his or her institution's standards for employment as a tutor.]~~

~~[(b) [(e)] A person is not eligible to participate in the work-study program if the person:~~

~~(1) concurrently receives an athletic scholarship;~~

~~(2) is enrolled in a seminary or other program leading to ordination or licensure to preach for a religious sect or to be a member of a religious order.~~

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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Bill Franz

General Counsel

Texas Higher Education Coordinating Board

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19 TAC §§21.405 - 21.411

(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 Higher Education Coordinating Board or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Higher Education Coordinating Board proposes the repeal of §§21.405 - 21.411 concerning the Texas College Work-Study Program. Specifically, §§21.405 - 21.411 are proposed for repeal in order to delete references to the Work-Study Mentorship Program from Board rules. Rules for the mentorship program will be proposed in new sections of Board rules.

Ms. Lois Hollis, Assistant Commissioner for Student Services, in keeping with the Legislative Budget Board's fiscal note for Senate Bill 201, has determined that for each year of the first five years the repeal is in effect, there will be no significant fiscal implications to state or local government as a result of enforcing or administering the rules.

Ms. Hollis has also determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of administering the sections will be a free-standing set of rules for the Mentorship Program, making it easier for the participants to understand the program's unique requirements. There is no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the section as proposed. There is no impact on local employment.

Comments on the proposal may be submitted to Lois Hollis, P.O. Box 12788, Austin, Texas 78711, (512) 427-6465, Lois.Hollis@thehb.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The repeal is proposed under the Texas Education Code, §56.077, which provides the Coordinating Board with the authority to adopt any rules necessary to administer Texas Education Code, Chapter 56, Subchapter E.

The repeal affects Texas Education Code, §§56.071 - 56.079.

§21.405. *Students Eligible for Mentoring.*

§21.406. *Eligible Employers.*

§21.407. *Award Amounts and Uses.*

§21.408. *Allocation and Disbursement of Funds.*

§21.409. *Dissemination of Information and Rules*

§21.410. *Mentorship Progress Report.*

§21.411. *Authority to Transfer Funds.*

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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General Counsel

Texas Higher Education Coordinating Board

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19 TAC §§21.405 - 21.409

The Texas Higher Education Coordinating Board proposes new §§21.405 - 21.409 concerning the Texas College Work-Study Program. Specifically, the new sections are proposed as a result of deleting sections that reference the Work-Study Mentorship Program. Rules for the mentorship program will be proposed in new sections of Board rules. New §21.405 describes requirements of eligible employers and removes language that defines eligible employers for the mentorship program. New §21.406 describes award amounts and uses and removes language that describes the use of funds for the mentorship program. New §21.407 describes the procedure whereby work-study funds are to be allocated and disbursed to institutions. New §21.408 describes how information and rules about the program are to be disseminated. New §21.409 describes under

what circumstances institutions may transfer funds among programs.

Ms. Lois Hollis, Assistant Commissioner for Student Services, in keeping with the Legislative Budget Board's fiscal note for Senate Bill 201, has determined that for each year of the first five years the new rules are in effect, there will be no significant fiscal implications to state or local government as a result of enforcing or administering the rules.

Ms. Hollis has also determined that for each year of the first five years the new rules are in effect the public benefit anticipated as a result of administering the sections will be a free-standing set of rules for the Mentorship Program, making it easier for the participants to understand the program's unique requirements. There is no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the section as proposed. There is no impact on local employment.

Comments on the proposal may be submitted to Lois Hollis, P.O. Box 12788, Austin, Texas 78711, (512) 427-6465, Lois.Hollis@thehb.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The new sections are proposed under the Texas Education Code, §56.077 which provides the Coordinating Board with the authority to adopt any rules necessary to administer Texas Education Code, Chapter 56, Subchapter E.

The new sections affect Texas Education Code, §§56.071 - 56.079.

§21.405. *Eligible Employers.*

(a) An eligible institution may enter into agreements with outside employers to participate in the general work-study program. To be eligible to participate, an employer must:

(1) provide part-time employment to an eligible student in nonpartisan and nonsectarian activities;

(2) provide, insofar as is practicable, employment to an eligible student that is related to the student's academic interests;

(3) use Texas college work-study program positions only to supplement and not to supplant positions normally filled by persons not eligible to participate in the work-study program; and

(4) unless eligible for a waiver of matching funds under subsection (b) of this section, provide not less than 25 percent of an employed student's wages and 100 percent of other employee benefits for the employed student from sources other than federal college work-study program funds, if the employer is a nonprofit entity; or

(5) provide not less than 50 percent of an employed student's wages and 100 percent of other employee benefits for the employed student, if the employer is a profit-making entity.

(b) Institutions eligible to receive Title III funds from the U. S. Department of Education are exempted from the general work-study program requirement to provide 25 percent of an employed student's wages, if they provide the Board with a copy of a current Title III eligibility letter from the U. S. Department of Education.

§21.406. *Award Amounts and Uses.*

(a) Funding. Funds awarded through this program may not exceed the amount appropriated by the Legislature for that purpose, plus matching funds provided by the students' employers.

(b) Award Amount. No award amount shall exceed a student's financial need.

(c) Uses. No general work-study funds earned through this program may be used for any purpose other than for meeting the cost of attending an approved institution.

(d) Over awards. If, at a time after an award has been offered by the institution and accepted by the student, the student receives assistance that was not taken into account in the student's estimate of financial need, so that the resulting sum of assistance exceeds the student's financial need, the institution is not required to adjust the award under this program unless the sum of the excess resources is greater than \$300.

§21.407. Allocation and Disbursement of Funds.

(a) Allocations. The Board shall allocate work-study funds to participating institutions in proportion to the financial need of the students at each school. At the beginning of each year or upon request by the institution, the year's full allocation or funds needed for immediate disbursement to students will be provided to each participating institution for use in reimbursing students for their work.

(b) Reallocations. Institutions will have until a date specified by the Board via a policy memo addressed to the Program Officer at the institution to encumber all funds allocated to them. On that date, institutions lose claim to their unencumbered funds and the unencumbered funds are available to the Board for reallocation to other institutions. If necessary for ensuring the full use of funds, subsequent reallocations may be scheduled until all funds are awarded and disbursed.

(c) Unless given specific permission by the Board to use funds for summer awards, schools will be required to utilize their state work-study funds for employment during the nine-month academic year (fall and spring terms).

§21.408. Dissemination of Information and Rules.

The Board is responsible for publishing and disseminating general information and program rules for the program described in this subchapter.

§21.409. Authority to Transfer Funds.

Institutions participating in a combination of the Toward EXcellence, Access and Success Grant, Tuition Equalization Grant, and Texas College Work-Study Programs, in accordance with instructions from the Board, may transfer in a given fiscal year up to the lesser of 10 percent or \$10,000 between these programs.

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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General Counsel

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SUBCHAPTER X. DETERMINATION OF RESIDENT STATUS AND WAIVER PROGRAMS FOR CERTAIN NONRESIDENT PERSONS

19 TAC §21.735

The Texas Higher Education Coordinating Board proposes an amendment to §21.735(5)(B)(ii), concerning Student Services

regarding waiver program for certain nonresident persons. Specifically, this amendment will remove the stipulation that the higher education institution must have a surplus of space above the amount of predicted space calculated by the latest space projection model.

Ms. Susan Brown, Assistant Commissioner for Planning and Accountability, has determined that for each year of the first five years the section is in effect, there will be approximately \$3,500,000 in waived out of state tuition based on the existing waivers reported by the academic institutions as a result of enforcing or administering the rules.

Ms. Brown, Assistant Commissioner for Planning and Accountability, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be the ability of the general academic institutions to compete in the recruitment of students in the geographic region of the institution. There is no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the section as proposed. There is no impact on local employment.

Comments on the proposal may be submitted to Gary Johnstone, Deputy Assistant Commissioner, 1200 East Anderson Lane, Austin, Texas 78752, gary.johnstone@thecb.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendment is proposed under the Texas Education Code, §54.00601, which provides the Coordinating Board with the authority to establish rules.

The amendment affects no statutes.

§21.735. Waiver Programs for Certain Nonresident Persons.

A person who is classified as a nonresident under the provisions of this section shall be permitted to pay resident tuition, if the person qualifies for one of the following waiver programs:

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

(5) Programs for Lowered Tuition for Individuals from Bordering States or Mexico.

(A) (No change.)

(B) Programs That Do Not Require Reciprocity. Persons who reside in another state may pay a lowered nonresident tuition not less than \$30 per semester credit hour above the current resident tuition rate when they attend a general academic teaching institution located within 100 miles of the Texas border if:

(i) (No change.)

(ii) the Commissioner approves the tuition rate [by finding that the institution has a surplus of total educational and general space as calculated by the Board's most current space projection model]. This obligation to obtain the approval of the Commissioner is continuing and approval to participate in this waiver program must be obtained at least every two years.

(C) (No change.)

(6) - (11) (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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SUBCHAPTER II. EDUCATIONAL AIDE EXEMPTION PROGRAM

19 TAC §21.1081, §21.1083

The Texas Higher Education Coordinating Board proposes amendments to §21.1081 and §21.1083, concerning the Educational Aide Exemption Program.

Specifically, the amendment to §21.1081(4) adds a definition for "educational aide" and clarifies that substitute teachers who have worked in the classroom with students for a minimum of 180 full days in a teaching capacity are included in the definition, allowing such persons to qualify for an exemption under this program. Subsequent definitions in §21.1081 are renumbered accordingly. The definition of "Resident of Texas" is amended to reflect that Senate Bill 1528, 79th Texas Legislature, Regular Session, enacted Texas Education Code, §§54.0501 - 54.075, establishing new provisions to determine if a person is a Texas resident for tuition purposes at institutions of higher education. The new sections were applied beginning with enrollments for the Fall Semester 2006. The amendment to §21.1083 incorporates the definition of "educational aide" into the requirements for being considered an eligible student.

Ms. Lois Hollis, Assistant Commissioner for Student Services, has determined that for each year of the first five years the amendments are in effect, there will be no fiscal implications to state or local government as a result of enforcing or administering these changes in the rules.

Ms. Hollis has also determined that for each year of the first five years the amendments are in effect the public benefit anticipated as a result of administering the sections will be better understanding of the ability of certain substitute teachers to participate in the Educational Aide Exemption Program. There is no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the sections as proposed. There is no impact on local employment.

Comments on the proposal may be submitted to Lois Hollis, P.O. Box 12788, Austin, Texas 78711, (512) 427-6465, Lois.Hollis@theccb.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendments are proposed under the Texas Education Code, §54.214(e), which authorizes the Coordinating Board to establish and administer scholarships for the educational aide exemption program.

The amendments affect Texas Education Code, §54.214.

§21.1081. Definitions.

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

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

(4) Educational Aide--A person who has been employed by a public school district in Texas in a teaching capacity working in the classroom directly with the students for at least one year on a full-time basis. It may include substitute teachers who have been employed by a public school district in Texas for 180 or more full days in a teaching capacity working in the classroom directly with students.

(5) [(4)] Expected family contribution--The amount of discretionary income that should be available to a student from his or her resources and that of his/her family, as determined following the federal methodology.

(6) [(5)] Financial need--An indication of a student's inability to meet the full cost of attending a college or university, measured by one of the following methods:

(A) The cost of attendance at a particular public or private institution of higher education less the expected family contribution. The cost of attendance and family contribution are to be determined in accordance with Board guidelines; or

(B) An income methodology, which considers a student to have financial need if his or her adjusted gross annual income is less than income levels set annually by the Commissioner. If the student is a dependent, the family's adjusted gross family income is considered; if the student is independent, only the student's income (and the income of the student's spouse, if he or she is married) are considered.

(7) [(6)] Program Officer--The individual named by each participating institution's chief executive officer to serve as agent for the Board. The Program Officer has primary responsibility for all ministerial acts required by the program, including maintenance of all records and preparation and submission of reports reflecting program transactions. Unless otherwise indicated by the administration, the director of student financial aid shall serve as Program Officer.

(8) [(7)] Resident of Texas--A resident of the State of Texas as determined in accordance with Chapter 21, Subchapter X [B], §§21.727 - 21.736 of this title (relating to Determination of [Determining] Residence Status and Waiver Programs for Certain Nonresident Persons). Nonresident students who are eligible to pay resident tuition rates are not residents of Texas.

§21.1083. Eligible Students.

To receive an award through the Educational Aide Exemption Program, a student must:

- (1) (No change.)
- (2) have met the definition of an Educational Aide at some time [at least one school year of full-time experience as an educational aide] during the five years preceding the term or semester for which the student is awarded his or her initial exemption;
- (3) - (7) (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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SUBCHAPTER NN. EXEMPTION PROGRAM
FOR VETERANS AND THEIR DEPENDENTS
(THE HAZLEWOOD ACT)

19 TAC §§21.2100 - 21.2103, 21.2105, 21.2108

The Texas Higher Education Coordinating Board proposes amendments to §§21.2100 - 21.2103, 21.2105, and 21.2108, concerning the Exemption Program for Veterans and Their Dependents (The Hazlewood Act).

Specifically, the amendment to §21.2100(4) defines a child who will be eligible to receive a Hazlewood Act exemption because an otherwise eligible parent chooses to assign his or her unused hours of eligibility to the child. The previous definition of "children" is now provided as §21.2100(18) under the definition of "Surviving Children," which is relevant for children who are eligible for a Hazlewood Act exemption because an otherwise eligible parent is deceased. Section 21.2100(5) is deleted because the term "citizen of Texas" no longer appears in the Hazlewood Act statute. Section 21.2100(6) - (18) are renumbered due to the deletion of the definition of "Citizen of Texas," formerly §21.2100(5). Amendments to renumbered §21.2100(7) reflect the deletion of information irrelevant to the Hazlewood Act exemption regarding the dependency of a child. The statute does not require surviving children to be dependents at the time their veteran parent dies in order to qualify for a survivor exemption. Amendments to renumbered §21.2100(16) correct the cross-reference to Coordinating Board rules regarding residency, which now exist as Chapter 21, §§21.727 - 21.736. Section 21.2100 new paragraph (18) is added to provide a distinct definition for a surviving child of a veteran. Amendments to §21.2101 delete subsection (g), regarding flight training at community colleges because this section no longer appears in the Hazlewood Act statute. Section 21.2101(h) and (i) are relettered as (g) and (h). Amendments to §21.2102(a)(1) reflect new language from Senate Bill 874, passed by the 80th Texas Legislature, which eliminated the requirement that a veteran have been a citizen of Texas at the time he or she entered the service. The phrase "citizen of Texas" had been interpreted by the State Attorney General in AG-347, issued August 18, 2005, to mean the veteran had to be a U.S. citizen at the time of entry into service. Texas Education Code, §54.203, The Hazlewood Act statute, as amended by Senate Bill 874, does not use the term "citizen of Texas." Amendments to §21.2102(a)(1)(B) eliminate an outdated reference to Coordinating Board rules on residency. The remaining language relies on the definition of "resident of Texas," as provided in §21.2100(17). Amendments to §21.2102(3) now have the paragraph rely on the definition of "honorably discharged" as provided in §21.2100(12). Amendments to §21.2102(5) clarify that persons cannot receive Hazlewood exemptions if they are in default on a federal loan but only if that default causes the student to lose access to his or her federal veterans' benefits. Amendments to §21.2103(1)(A) reflect changes to the Hazlewood Act arising from the passage of S.B. 874 and H.B. 125 by the 80th Texas Legislature. In particular, S.B. 874 allows persons to qualify for the exemption if they were residents of Texas at the time they entered the service or if their place of entry into the service was Texas. H.B. 125 opens the program to the children of veterans who become totally disabled for purposes of employability. In the past, the only children who could participate were children of deceased veterans. Amendments to §21.2103(1)(B) reflect changes to the exemption from the passage of H.B. 125, which opens the program to the children of certain Texas National Guard or Texas Air National Guard members who are to-

tally disabled. In the past, only children of deceased members of the Guard could participate. Amendments to §21.2105 adjust the documentation to be collected by institutions in determining student eligibility in keeping with the provisions of S.B. 874 that allow persons to qualify for the exemption if they were residents of Texas at the time they entered the service or if their place of entry into the service was Texas. Amendments to §21.2108 specify that institutions are to submit student-specific data for Hazlewood exemption recipients via the CBM 001 report, the state's enrollment report.

Ms. Lois Hollis, Assistant Commissioner for Student Services, has determined that for each year of the first five years the amendments are in effect, the fiscal impact of these changes would be insignificant for the state. There will be no fiscal implications to local government as a result of enforcing or administering these changes in the rules. This determination is based on fiscal notes issued for S.B. 874 and H.B. 125 by the Legislative Budget Board.

Ms. Hollis has also determined that for each year of the first five years the amendments are in effect, the public benefits anticipated as a result of administering the sections will be improved access to the Hazlewood exemption by veterans due to clarification and simplification of the residency requirement while entering the service and the expansion of the exemption to include the children of totally disabled veterans, enabling or making it easier for these individuals to go to college. There is no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the sections as proposed. There is no impact on local employment.

Comments on the proposal may be submitted to Lois Hollis, P.O. Box 12788, Austin, Texas 78711, (512) 427-6465, Lois.Hollis@thecb.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendments are proposed under the Texas Education Code, §54.203(i), which provides the Coordinating Board with the authority to adopt any rules necessary to administer Texas Education Code, §54.203.

The amendments affect Texas Education Code, §54.203.

§21.2100. *Definitions.*

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

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

(4) Child [~~Children~~]-A person who is a natural or adoptive child of an otherwise eligible veteran. [~~Persons who were dependents of members of the armed forces of the United States at the time they were killed or died as a result of injuries directly associated with military service or dependents of members of the Texas National Guard and the Texas Air National Guard killed since January 1, 1946, while on active duty either in the service of Texas or the United States.~~]

[~~(5) Citizen of Texas--A resident of Texas as determined in accordance with Chapter 21, §§21.21 - 21.27 of this title (relating to Determining Residence Status) or an individual whose Place of Entry into the service, according to military documents, was Texas.~~]

(5) [~~(6)~~] Commissioner--The Commissioner of Higher Education.

(6) [~~(7)~~] Contact hours--A unit of measure that represents an hour of scheduled instruction given to students of which 50 minutes must be of direct instruction. Also referred to as clock hours.

(7) [(8)] Dependent--An individual who was claimed as a dependent for federal income tax purposes by the individual's parent or court-appointed legal guardian in a particular year and in the previous tax year. A veteran was a dependent if he or she was claimed as such by a parent or legal guardian during the veteran's year of entry into the service and in the previous tax year. [A child was a dependent if he or she was claimed as a dependent for tax purposes at the time his or her parent or legal guardian died of injuries or illness directly related to military service.]

(8) [(9)] Extraordinary costs--(for community/junior colleges only) tuition and fee costs that exceed the average tuition and fee charges at the institution.

(9) [(40)] Federal survivor benefits--Benefits offered the surviving children of deceased veterans through Title 38, United States Code, Chapter 35.

(10) [(41)] Hazlewood Act Exemption--The tuition and partial fee exemption authorized under Texas Education Code, §54.203.

(11) [(42)] Honorably discharged--Released from active duty military service with an Honorable Discharge, General Discharge under Honorable Conditions, or Honorable Separation or Release from Active Duty, as documented by the Certificate of Release or Discharge from Active Duty (DD214) issued by the Department of Defense.

(12) [(43)] Identification number--An individual's social security number.

(13) [(44)] Institution--A Texas public institution of higher education as defined in Texas Education Code, §61.003(8).

(14) [(45)] Property deposit fees--Fees that an institution may, under Texas Education Code, §54.502, elect to charge to insure that institution against losses, damages, and breakage in libraries and laboratories.

(15) [(46)] Registration, date of--The census date of the term for which the student is applying for the Hazlewood Act Exemption.

(16) [(47)] Resident of Texas--A resident of the State of Texas as determined in accordance with Chapter 21, Subchapter X, §§21.727 - 21.736 [§§21.21 - 21.27], of this title (relating to Determination of Resident Status and Waiver Programs for Certain Nonresident Persons [Determining Residence Status]).

(17) [(48)] Student service fees--Fees that an institution may, under Texas Education Code, §§54.503, 54.5061 and 54.513, elect to charge to students to cover the cost of student services.

(18) Surviving Children--Persons who were dependents of members of the armed forces of the United States at the time they were killed or died as a result of injuries directly associated with military service or dependents of members of the Texas National Guard and the Texas Air National Guard killed since January 1, 1946, while on active duty either in the service of Texas or the United States.

(19) - (20) (No change.)

§21.2101. *Hazlewood Act Exemption.*

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

[(g)] The governing board of a community college may choose to deny a Hazlewood Act Exemption for a course fee or training fee charged the district to cover flight time costs associated with a course in aircraft flight training for individuals who do not have a private pilot rating or who have a private pilot rating but are not actively seeking to fulfill the requirements of the Federal Aviation Administration for

an additional certification or rating. This provision does not apply for terms or semesters beginning in spring 2006 or later.]

(g) [(h)] Beginning with admissions for spring 2006, the governing board of a junior college district may establish a fee for extraordinary costs associated with a specific course or program.

(h) [(i)] In determining whether to admit a person to any certificate program or any baccalaureate, graduate, postgraduate, or professional degree program, an institution may not consider the fact that the person is eligible for an exemption through this chapter.

§21.2102. *Eligible Veterans.*

In order to be eligible to receive a Hazlewood Act Exemption, a veteran shall demonstrate that he or she:

(1) at the time he or she entered the service, [was a citizen of the United States and]

(A) (No change.)

(B) was a resident of Texas[; as determined in accordance with §§21.21 - 21.27 of this title (relating to Determining Residence Status)].

(2) (No change.)

(3) was honorably discharged from service [has an honorable discharge from service, general discharge from service under honorable conditions or an honorable separation from service];

(4) (No change.)

(5) is not in default on an education loan made or guaranteed [by the federal government or] by the State of Texas and is not in default on a federal loan if that default is the reason the student cannot use his or her federal veterans' benefits;

(6) - (8) (No change.)

§21.2103. *Eligible Children.*

In order to be eligible to receive a Hazlewood Act Exemption, children shall demonstrate that they:

(1) are natural or adopted children of:

(A) members of the U.S. Armed Forces who were [citizens of the United States and] residents of Texas when they entered the service or whose place of entry for the service was Texas and who:

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

(iv) became totally disabled for purposes of employability according to the disability ratings of the Department of Veterans Affairs as a result of a service-related injury; or

(B) members of the Texas National Guard or Texas Air National Guard who:

(i) were killed since January 1, 1946 while on active duty either in the service of Texas or the United States; or

(ii) are totally disabled for purposes of employability according to the disability ratings of the Department of Veterans Affairs, regardless of whether the members are eligible to receive disability benefits from the department, as a result of a service-related injury suffered since January 1, 1946, while on active duty either in the service of this state or the United States.

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

§21.2105. *Supporting Documentation for the Hazlewood Act Exemption Application.*

(a) When applying for the first time for the Hazlewood Act Exemption, a veteran shall provide to the institution, along with the

Hazlewood Act Exemption Application, the following supporting documentation:

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

(3) documentation of Texas residency at the time the veteran entered the service or that the person's place of entry into the service was Texas.

(b) When applying for the first time for the Hazlewood Act Exemption, a child shall provide to the institution, along with the Hazlewood Act Exemption Application, the following supporting documentation:

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

(4) documentation that the parent was a resident of Texas when he or she entered the service or that the parent's place of entry into the service was Texas.

§21.2108. *Reporting.*

(a) All institutions shall report by means of the Texas Higher Education Coordinating Board's CBM 001 report, for each eligible veteran and child who is exempted from the payment of tuition and mandatory and discretionary fees, other than property deposit and student service fees, the following information to the Board:

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

(b) (No change.)

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

Filed with the Office of the Secretary of State on May 21, 2007.

TRD-200701961

Bill Franz

General Counsel

Texas Higher Education Coordinating Board

Proposed date of adoption: July 19, 2007

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



19 TAC §21.2109, §21.2110

The Texas Higher Education Coordinating Board proposes new §21.2109 and §21.2110, concerning the Exemption Program for Veterans and Their Dependents (The Hazlewood Act).

Specifically, new §21.2109 reflects new provisions to the Hazlewood exemption for veterans and their dependents that were included in Senate Bill 874, passed by the 80th Texas Legislature. In particular, the new provisions authorize otherwise eligible veterans to assign any unused hours of eligibility for the Hazlewood exemption to a child. Each eligible veteran receives 150 semester credit hours of free tuition and reduced fees. Section 21.2109(a) indicates the veteran can assign unused hours to a child and indicates the process for doing so. Section 21.2109(b) reflects provisions in S.B. 874 that indicate the veteran may terminate his or her previous assignment of hours if the child previously selected to receive the hours fails to use them. In that case, the veteran can reassign the unused hours to a different child. Section 21.2109(c) describes the eligibility requirements for the child who can receive the hours. New §21.2110 reflects provisions in S.B. 874 that authorize hardship conditions under which a child who is older than 25 years of age may receive assigned hours.

Ms. Lois Hollis, Assistant Commissioner for Student Services, has determined that for each year of the first five years the new sections are in effect, the fiscal impact of these changes would be insignificant for the state. There will be no fiscal implications to local government as a result of enforcing or administering the new sections. This determination is based on fiscal notes issued for S.B. 874 by the Legislative Budget Board.

Ms. Hollis has also determined that for each year of the first five years the new sections are in effect, the public benefits anticipated as a result of administering the sections will be greater benefits for honorably discharged veterans who will have the option of using their exemptions themselves or signing the hours of eligibility to a child. There is no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the sections as proposed. There is no impact on local employment.

Comments on the proposal may be submitted to Lois Hollis, P.O. Box 12788, Austin, Texas 78711, (512) 427-6465, Lois.Hollis@theccb.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The new sections are proposed under the Texas Education Code, §54.203(i), which provides the Coordinating Board with the authority to adopt any rules necessary to administer Texas Education Code, §54.203.

The new sections affect Texas Education Code, §54.203.

§21.2109. *Legacy--Assignment of Unused Hours.*

(a) An otherwise eligible veteran who has not used all 150 hours of eligibility under this chapter may assign his or her right to any unused portion of the hours to one of the veteran's children.

(1) To assign hours to a child, the veteran must submit a completed Legacy Application to the Board. The form will include:

(A) the child's name;

(B) the child's identification number;

(C) the child's contact information (address and phone number); and

(D) the number of hours assigned to the child.

(2) The Legacy Application is to be accompanied by proof that the individual to whom the veteran is assigning hours meets program definitions for a child.

(3) Upon receipt of the Legacy application, the Board shall confirm the number of hours available for the child and send the child (with a copy going to the veteran) a letter of eligibility which the child is to submit to his/her institution.

(b) If the first child assigned the unused hours fails to use all of them, the veteran may submit a Legacy Cancellation and Reassignment Form to the Board, indicating the previous assignee is now denied access to any remaining hours and identifying another child as eligible for them.

(c) To be eligible to use assigned hours, a person must:

(1) be classified as a resident by his or her institution;

(2) make satisfactory academic progress towards a degree or certificate as determined by the institution at which the person is enrolled in accordance with the policy of the institution's financial aid department, except that the institution may not require the person to enroll in a minimum course load; and

(3) be 25 years of age or younger on the first day of the term for which the exemption is claimed, unless granted a hardship extension in keeping with §21.2110 of this title (relating to Hardship Extension of Legacy Eligibility).

§21.2110. Hardship Extension of Legacy Eligibility.

An otherwise eligible child who is greater than 25 years of age on the first day of the term for which the exemption is to be claimed may qualify for an exemption under this chapter if the person provides the institution proof that he or she was unable to use the exemption at an earlier age because he or she suffered from a severe illness or other debilitating condition.

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 May 21, 2007.

TRD-200701962

Bill Franz

General Counsel

Texas Higher Education Coordinating Board

Proposed date of adoption: July 19, 2007

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



CHAPTER 22. GRANT AND SCHOLARSHIP PROGRAMS

SUBCHAPTER B. PROVISIONS FOR THE TUITION EQUALIZATION GRANT PROGRAM

19 TAC §22.24

The Texas Higher Education Coordinating Board proposes amendments to §22.24, concerning the Provisions for the Tuition Equalization Grant Program.

Specifically, the amendments to §22.24 will bring rules into agreement with new language passed by the 80th Legislature as Senate Bill 1699. The amendments indicate that, at the end of a student's first year in the Tuition Equalization Grant (TEG) Program, he or she is to meet the academic progress requirements of his or her school in order to qualify for a TEG in the following year. Thereafter, the student must complete 24 hours per year (18 hours for graduate students) with at least a 2.5 grade point average.

Ms. Lois Hollis, Assistant Commissioner for Student Services, in keeping with the Legislative Budget Board's fiscal note for Senate Bill 201, has determined that for each year of the first five years the amendments are in effect, there will be no significant fiscal implications to state or local government as a result of enforcing or administering the rule.

Ms. Hollis has also determined that, for each year of the first five years the amendments are in effect, the public benefit anticipated as a result of administering the section will be that students will more successfully continue in the program, thus improving retention and, eventually, graduation rates. There is no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the section as proposed. There is no impact on local employment.

Comments on the proposal may be submitted to Lois Hollis, P.O. Box 12788, Austin, Texas 78711, (512) 427-6465, Lois.Hol-

lis@theccb.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendments are proposed under the Texas Education Code, §61.229, which provides the Coordinating Board with the authority to adopt any rules necessary to administer Texas Education Code, Subchapter F.

The amendments affect Texas Education Code, §§61.221 - 61.230.

§22.24. Eligible Students.

To receive an award through the TEG Program, a student must:

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

(3) maintain satisfactory academic progress in his or her program of study which requires:

(A) (No change.)

(B) if the person was awarded his or her initial TEG award on or after September 1, 2005:

(i) as of the end of the first year in the TEG program, meet the academic progress requirements as set by the institution;

(ii) as of the end of the second or later years in the program:

(I) [(i)] completion of at least 24 semester credit hours in the person's most recent academic year in an undergraduate degree or certificate program; or completion of at least 18 semester credit hours in the person's most recent academic year in a graduate or professional degree program (unless fewer hours are required for the completion of the degree), and

(II) [(ii)] establishment and maintenance of an overall grade point average of at least 2.5 on a four-point scale or the equivalent on coursework previously attempted at public or private institutions.

(C) (No change.)

(4) - (7) (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 May 21, 2007.

TRD-200701963

Bill Franz

General Counsel

Texas Higher Education Coordinating Board

Proposed date of adoption: July 19, 2007

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



SUBCHAPTER I. PROVISIONS FOR THE FIFTH-YEAR ACCOUNTING STUDENT SCHOLARSHIP PROGRAM

19 TAC §22.165

The Texas Higher Education Coordinating Board proposes amendments to §22.165 concerning Provisions for the Fifth-Year Accounting Student Scholarship Program. Specifically, the amendments indicate that the maximum award amount will be set each year by the program's advisory committee and that

the amount will be announced to the institutions when fund allocations are announced. This will enable the committee to adjust award maximum amounts as appropriate for the funds available for awarding. This is in keeping with the Texas Education Code, §61.757(c), which states: "In addition to any other duties assigned by the board, the advisory committee specifically shall advise the board on . . . the amount of money needed to adequately fund the scholarships and the maximum amount that may be awarded in any given year to an individual student."

Ms. Lois Hollis, Assistant Commissioner for Student Services, has determined that for each year of the first five years the amendments are in effect, there will be no fiscal implications to state or local government as a result of enforcing or administering these changes in the rules.

Ms. Hollis has also determined that for each year of the first five years the amendments are in effect, the public benefit anticipated as a result of administering the sections will be award amounts that more accurately reflect available funding. There is no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed. There is no impact on local employment.

Comments on the proposal may be submitted to Lois Hollis, P.O. Box 12788, Austin, Texas 78711, (512) 427-6465, Lois.Hollis@theccb.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendments are proposed under the Texas Education Code, §61.753 and §61.755, which authorizes the Coordinating Board to establish and administer scholarships for fifth-year accounting students.

The amendments affect Texas Education Code, §§61.751 - 61.760.

§22.165. *Award Amounts and Uses.*

(a) (No change.)

(b) Award Amount and Disbursements.

(1) The maximum annual award for a student through this program is an amount set by the advisory committee and announced to institutions in the allocation announcement sent out for the relevant year, [\$3,000] less any amount received through this program in the past.

(2) No individual may receive an aggregate total of more than the amount set by the advisory committee and announced to institutions in the allocation announcement [\$3,000] through the program.

(3) (No change.)

(c) - (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 May 21, 2007.

TRD-200701964

Bill Franz

General Counsel

Texas Higher Education Coordinating Board

Proposed date of adoption: July 19, 2007

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



SUBCHAPTER P. EXEMPTION PROGRAM FOR CLINICAL PRECEPTORS AND THEIR CHILDREN

19 TAC §22.305, §22.306

The Texas Higher Education Coordinating Board proposes amendments to §22.305 and §22.306 concerning the Exemption Program for Clinical Preceptors and their Children. Specifically, the amendments to §22.305 clarify that in a given term the preceptor, in order to receive an exemption, must serve at a minimum an average of one day per week for the time period the program conducts clinicals. In addition, the amendments reflect changes to the authorizing legislation as a result of the passage of Senate Bill 201 by the 80th Texas Legislature, which extended the preceptor's eligibility to use an exemption to any term that begins within one year of the end of the term in which the person served as a preceptor. Previously, the program required the employment and use of the exemption to be simultaneous. The amendments to §22.306 simplify the description of the enabling parent by referencing §22.305 (relating to Eligible Preceptors), in which the parent's requirements are outlined. In addition, in keeping with Senate Bill 201, the section now clarifies that a child and the preceptor parent may both receive exemptions based on the same semester or term of service.

Ms. Lois Hollis, Assistant Commissioner for Student Services, in keeping with the Legislative Budget Board's fiscal note for Senate Bill 201, has determined that for each year of the first five years the amendments are in effect, there will be no significant fiscal implications to state or local government as a result of enforcing or administering the rules.

Ms. Hollis has also determined that for each year of the first five years the amendments are in effect the public benefit anticipated as a result of administering the sections will be that the exemption will encourage students to continue their work as preceptors, thus enabling more nursing students to receive additional clinical instruction. There is no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the section as proposed. There is no impact on local employment.

Comments on the proposal may be submitted to Lois Hollis, P.O. Box 12788, Austin, Texas 78711, (512) 427-6465, Lois.Hollis@theccb.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendments are proposed under the Texas Education Code, §54.222(g), which provides the Coordinating Board with the authority to adopt any rules necessary to administer Texas Education Code, §54.222.

The amendments affect Texas Education Code, §54.222.

§22.305. *Eligible Preceptors.*

To receive an exemption under this program, a preceptor must:

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

(3) serve, on an average, at least one day per week [be serving] under a written preceptor agreement with an undergraduate professional nursing program as a clinical preceptor for students enrolled in the program for;

(A) the time period the program conducts clinicals during the semester or other academic term for which the exemption is sought; or

(B) the time period the program conducts clinicals during a semester or other academic term that ended less than one year prior to the beginning of the semester or term in which the exemption is to be used.

§22.306. *Eligible Children.*

To receive an exemption under this program, a child must:

(1) (No change.)

(2) be the child of a clinical preceptor as described in §22.305 of this title (relating to Eligible Preceptors) whether or not the preceptor is receiving or has received an exemption based on the same period of service [~~who is serving under a written preceptor agreement with an undergraduate professional nursing program as a clinical preceptor for students enrolled in the program for the semester or other academic term for which the exemption is sought~~]; and

(3) (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 May 21, 2007.

TRD-200701965

Bill Franz

General Counsel

Texas Higher Education Coordinating Board

Proposed date of adoption: July 19, 2007

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



PART 2. TEXAS EDUCATION AGENCY

CHAPTER 97. PLANNING AND ACCOUNTABILITY

SUBCHAPTER AA. ACCOUNTABILITY AND PERFORMANCE MONITORING

The Texas Education Agency (TEA) proposes amendment to §97.1001 and repeal of §97.1002, concerning accountability. The proposed amendment to §97.1001 would adopt applicable excerpts of the *2007 Accountability Manual*, dated May 2007. The proposed repeal of §97.1002 would repeal the separate rule relating to identification of technical assistance team campuses since this provision is addressed in the *2007 Accountability Manual*.

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

The proposed amendment to 19 TAC §97.1001 would adopt excerpts of the *2007 Accountability Manual*, dated May 2007, into rule as a figure. The excerpts, *Chapters 2 - 6, 8, 10 - 12, and 14 - 16* of the *2007 Accountability Manual*, specify the indicators, standards, and procedures used by the commissioner of education to determine accountability ratings, both standard and alternative education accountability (AEA), for districts, campuses, and charter schools. These chapters also specify indicators, standards, and procedures used to determine Gold Performance Acknowledgment (GPA) on additional indicators for Texas public school districts and campuses. The TEA will issue accountability ratings under the procedures specified in the *2007 Accountability Manual* in August 2007. Ratings may be revised as a result of investigative activities by the commissioner as authorized under TEC, §39.074 and §39.075.

In 2007, campuses and districts will be evaluated using four base indicators: Texas Assessment of Knowledge and Skills (TAKS) results, completion rates, annual dropout rates, and student performance on the State Developed Alternative Assessment (SDAA) II. In 2007, the GPA system will award acknowledgment on 14 separate indicators to districts and campuses rated *Academically Acceptable* or higher: Attendance Rate for Grades 1-12; Advanced Course/Dual Enrollment Completion; Advanced Placement/International Baccalaureate Results; College Admissions Test Results; Commended Performance on Reading/English Language Arts (ELA), Mathematics, Writing, Science and/or Social Studies; Recommended High School Program/Distinguished Achievement Program Participation; Comparable Improvement on Reading/ELA and/or Mathematics; and Texas Success Initiative-Higher Education Readiness Component on ELA and/or Mathematics.

The proposed repeal of 19 TAC §97.1002 is necessary since language from the current 19 TAC §97.1002 is included in the *2007 Accountability Manual*; therefore, the separate rule is no longer needed.

Criss Cloudt, associate commissioner for assessment, accountability, and data quality, has determined that, for the first five-year period the proposed amendment and repeal are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed amendment and repeal.

Dr. Cloudt has determined that, for each year of the first five years the proposed amendment and repeal are in effect, the public benefit anticipated as a result of enforcing the proposed amendment and repeal will be to continue to inform the public of the existence of annual manuals specifying rating procedures for the public schools by including the rule in the *Texas Administrative Code*. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed amendment and repeal.

The public comment period on the proposal begins June 1, 2007, and ends July 1, 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 amendment and repeal 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*.

19 TAC §97.1001

(Editor's note: In accordance with Government Code, §2002.014, which permits the omission of material which is "cumbersome, expensive, or otherwise inexpedient," the figure in 19 TAC §97.1001 is not included in the print version of the Texas Register. The Figure is available in the on-line edition of the June 1, 2007, issue of the Texas Register.)

The amendment is proposed under the Texas Education Code, §§39.051(c) - (d), 39.072(c), 39.0721, 39.073, and 29.081(e), which authorize the commissioner of education to specify the indicators, standards, and procedures used to determine standard accountability ratings and alternative education accountability ratings, and to determine acknowledgment on additional indicators. Texas Education Code, §39.1322, requires the commissioner of education to select and assign a technical assistance team to assist a campus in executing a school improvement plan, and any other school improvement strategies the commissioner determines appropriate, for a campus that is rated academically acceptable for the current school year but would be rated as academically unacceptable if performance standards to be used for the following school year were applied to the current school year.

The amendment implements the Texas Education Code, §§39.051(c) - (d), 39.072(c), 39.0721, 39.073, 39.1322, and 29.081(e).

§97.1001. Accountability Rating System.

(a) (No change.)

(b) The standard and alternative procedures by which districts, campuses, and charter schools are rated and acknowledged for 2007 [2006] are based upon specific criteria and calculations, which are described in excerpted sections of the 2007 [2006] *Accountability Manual*, dated May 2007 [May 2006], provided in this subsection.

Figure: 19 TAC §97.1001(b)

[Figure: 19 TAC §97.1001(b)]

(c) - (d) (No change.)

(e) The specific criteria and calculations used in the annual accountability manual adopted for school years prior to 2007-2008 [2006-2007] remain in effect for all purposes, including accountability, data standards, and audits, with respect to those school years.

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 May 18, 2007.

TRD-200701944

Cristina De La Fuente-Valadez

Director, Policy Coordination

Texas Education Agency

Earliest possible date of adoption: July 1, 2007

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



19 TAC §97.1002

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

The repeal is proposed under the Texas Education Code, §§39.051(c) - (d), 39.072(c), 39.0721, 39.073, and 29.081(e),

which authorize the commissioner of education to specify the indicators, standards, and procedures used to determine standard accountability ratings and alternative education accountability ratings, and to determine acknowledgment on additional indicators. Texas Education Code, §39.1322, requires the commissioner of education to select and assign a technical assistance team to assist a campus in executing a school improvement plan, and any other school improvement strategies the commissioner determines appropriate, for a campus that is rated academically acceptable for the current school year but would be rated as academically unacceptable if performance standards to be used for the following school year were applied to the current school year.

The proposed repeal implements the Texas Education Code, §§39.051(c) - (d), 39.072(c), 39.0721, 39.073, 39.1322, and 29.081(e).

§97.1002. Identification of Technical Assistance Team Campuses.

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 May 18, 2007.

TRD-200701945

Cristina De La Fuente-Valadez

Director, Policy Coordination

Texas Education Agency

Earliest possible date of adoption: July 1, 2007

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



SUBCHAPTER CC. COMMISSIONER'S RULES CONCERNING THE ANNUAL EVALUATION OF DISCIPLINARY ALTERNATIVE EDUCATION PROGRAMS

19 TAC §97.1021

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

The Texas Education Agency (TEA) proposes the repeal of §97.1021, concerning disciplinary alternative education programs. The proposed repeal would remove from rule specifications relating to evaluation of the performance of disciplinary alternative education programs. This repeal is proposed in order to comply with legislative changes relating to limitation on compliance monitoring in accordance with House Bill (HB) 3459, 78th Texas Legislature, 2003.

Effective February 14, 2001, the commissioner of education adopted 19 TAC §97.1021, exercising rulemaking authority over developing a process for evaluating a school district disciplinary alternative education program in accordance with Texas Education Code, §37.008(m). The rule addresses the definition of the program and describes an annual evaluation by the TEA of each district's program, including performance data and specific indicators to be evaluated.

In 2003, the 78th Texas Legislature enacted HB 3459, adding TEC, §7.027 (renumbered to §7.028 in subsequent legislative session), which limits compliance monitoring by the state. TEC,

§7.028, gives the board of trustees of a school district or the governing body of an open-enrollment charter school the primary responsibility for ensuring that the district or school complies with all applicable requirements of state educational programs. As a consequence of TEC, §7.028, activities relating to provisions under TEC, §37.008(m), including rulemaking requirements, were suspended.

In addition to TEC, §7.028, TEC, §37.008(m-1), was added and directs the commissioner to identify districts that indicate high risk of data and compliance violations. As a result of these two legislative requirements, the TEA developed a new agency-wide Performance-Based Monitoring (PBM) system. This new monitoring system replaced the former process outlined in the rule being repealed and includes a data validation component.

The proposed repeal of 19 TAC Chapter 97, Subchapter CC, §97.1021, would implement these legislative changes.

Adrain Johnson, associate commissioner for school district services, has determined that, for the first five-year period the proposed repeal is in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Dr. Johnson has determined that, for each year of the first five years the proposed repeal is in effect, the public benefit anticipated as a result of enforcing the repeal will be alignment of rules with current statute. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed repeal.

The public comment period on the proposal begins June 1, 2007, and ends July 1, 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 repeal 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 repeal is proposed under the Texas Education Code (TEC), §7.028, which establishes a limitation on compliance monitoring (including suspension of rulemaking requirements under TEC, §37.008(m)) and TEC, §37.008(m-1), which directs the commissioner to identify districts that indicate a high risk of data and compliance violations. As a result of TEC, §7.028 and §37.008(m-1), the TEA developed a new agency-wide Performance-Based Monitoring system that includes a data validation component.

The repeal implements the TEC, §7.028 and §37.008(m-1).

§97.1021. *Annual Evaluation of Disciplinary Alternative Education Programs.*

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 May 18, 2007.

TRD-200701946

Cristina De La Fuente-Valadez

Director, Policy Coordination

Texas Education Agency

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



TITLE 22. EXAMINING BOARDS

PART 6. TEXAS BOARD OF PROFESSIONAL ENGINEERS

CHAPTER 131. ORGANIZATION AND ADMINISTRATION

SUBCHAPTER A. ORGANIZATION OF THE BOARD

22 TAC §131.15

The Texas Board of Professional Engineers proposes an amendment to §131.15, relating to Committees. The proposed amendment is related to the duration and end date of the Joint Advisory Committee of Engineering and Architecture (JAC).

There is currently no expiration date for the JAC in the Texas Engineering Practice Act (Occupations Code §1001) or the Board rules. Government Code §2110.008 states that any committee of a board that does not have a specified date that the committee shall be abolished on the fourth anniversary of the creation of the committee unless rules are passed by both Boards to extend the end date. The proposed rule amendment will prevent the JAC from being automatically abolished on August 31, 2007.

Lance Kinney, P.E., Deputy Executive Director for the board, has determined that for the first five-year period the proposed amendment is in effect there are no additional fiscal implications for the state or local government as a result of enforcing or administering the section as amended. Mr. Kinney has determined that there is no additional cost to the agency or to licensees. There is no fiscal impact to individuals required to comply with the rule. There is no effect to small or micro businesses.

Mr. Kinney also has determined that for the first five years the proposed amendment is in effect, the public benefit anticipated as a result of enforcing the proposed amendment is for the JAC to continue to work to address issues of overlap between the professions of engineering and architecture.

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

The amendment is proposed pursuant to the Texas Engineering Practice Act, Occupations Code §1001.202, which authorizes the board to make and enforce all rules and regulations and by-laws consistent with the Act as necessary for the performance of its duties, the governance of its own, proceedings, and the regulation of the practice of engineering in this state; Occupations Code §1001.216, which provides for the a Joint Advisory Committee on the Practice of Engineering and Architecture; and Government Code §2110.008 which states that any committee of a board that does not have a specified date that the committee shall be abolished on the fourth anniversary of the creation

of the committee unless rules are passed by both Boards to extend the end date.

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

§131.15. *Committees.*

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

(e) Joint Advisory Committee on Practice of Engineering and Architecture. Pursuant to §1001.216 of the Act, the advisory committee shall work to resolve issues that result from the overlap between activities that constitute the practice of engineering and those that constitute the practice of architecture. The chair shall appoint three members of the board and one practicing architectural engineer to the Joint Advisory Committee on Practice of Engineering and Architecture.

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

(7) The joint advisory committee is abolished on September 1, 2011.

(f) (No change.)

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

Filed with the Office of the Secretary of State on May 15, 2007.

TRD-200701886

Dale Beebe Farrow, P.E.

Executive Director

Texas Board of Professional Engineers

Earliest possible date of adoption: July 1, 2007

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



CHAPTER 137. COMPLIANCE AND PROFESSIONALISM
SUBCHAPTER A. INDIVIDUAL AND ENGINEER COMPLIANCE

22 TAC §137.13

The Texas Board of Professional Engineers proposes an amendment to §137.13, relating to Inactive Status. The proposed amendment is a clarification of current rule language which will allow a license holder to file for inactive status at any time.

The proposed amendment will allow a license holder with a delinquent license to renew and convert their license to inactive status without having to first meet active status requirements including continuing education hours.

Lance Kinney, P.E., Deputy Executive Director for the board, has determined that for the first five-year period the proposed amendment is in effect there are no additional fiscal implications for the state or local government as a result of enforcing or administering the section as amended. Mr. Kinney has determined that there is no additional cost to the agency or to licensees. There is no fiscal impact to individuals required to comply with the rule. There is no effect to small or micro businesses.

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

cation of the licensure process for inactive status and possible retention of license holders that may have allowed their licenses to lapse.

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

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

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

§137.13. *Inactive Status.*

(a) A license holder [~~in good standing~~] may request in writing to change the status of the license to "inactive" at any time [~~prior to license expiration date~~]. A license holder whose license is inactive may not practice engineering. A license holder who has requested inactive status shall not receive any refunds for licensing fees previously paid to the Board.

(b) - (h) (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 May 15, 2007.

TRD-200701887

Dale Beebe Farrow, P.E.

Executive Director

Texas Board of Professional Engineers

Earliest possible date of adoption: July 1, 2007

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



PART 18. TEXAS STATE BOARD OF PODIATRIC MEDICAL EXAMINERS

CHAPTER 373. ADVERTISING AND PRACTICE IDENTIFICATION

22 TAC §§373.3, 373.7, 373.13

The Texas State Board of Podiatric Medical Examiners proposes an amendment to §§373.3, 373.7, and 373.13 concerning Practitioner Identification, Corporate Trade Names and Assumed Names, and Advertising. The proposed amendments are being proposed to clarify a practitioner's ability to properly identify their practice consistent with board jurisdiction to prevent misleading or deceptive advertising. Section 373.3 provides certain designations of which a podiatrist shall identify his or her practice. The proposed amendment clarifies that any other designation not delineated in the board's rules be approved by the board prior to its use. Section 373.7 seeks to clarify that, although the board is required to approve corporate trade names and assumed names, the board only does so within the advertising scope of practice for podiatry. This proposed amendment ensures that the registration of such names fall upon the civil jurisdiction of

the local county clerks office or the Texas Secretary of State. Section 373.13 is amended to allow specialty board certification that is not recognized by the Council on Podiatric Medical Education or the American Podiatric Medical Association providing that a non CPME-APMA recognized specialty board meet certain standards for the benefit of public health and safety. In the modern age of the internet and with technology availability to any person, there is always a possibility of an individual creating false, deceptive, misleading credentials with the use of computers. This proposed rule allows for non CPME-APMA specialty boards to validly be advertised by their members upon proof of a legitimate organization.

Hemant Makan, Executive Director, has determined that, for each year of the first five years the sections are in effect, there will be no fiscal implications. There will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Makan has also determined that, for each year for the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the rules is that licensees and valid specialty boards may advertise proper practice of podiatric medicine within the board's regulations which allows the public to have greater educated access to a variety of podiatrists which will help to meet their specific needs.. There will be no effect on small or micro-businesses.

Comments on or about the proposal may be submitted to Janie Alonzo, Staff Services Officer V, Texas State Board of Podiatric Medical Examiners, P.O. Box 12216, Austin, TX 78711-2216, Janie.Alonzo@foot.state.tx.us.

The amendments are proposed under Texas Occupations Code, §202.151, which provides the Texas State Board of Podiatric Medical Examiners with the authority to adopt reasonable or necessary rules and bylaws consistent with the law regulating the practice of podiatry, the law of this state, and the law of the United States to govern its proceedings and activities, the regulation of the practice of podiatry, and the enforcement of the laws regulating the practice of podiatry.

The proposed amendments implement the Texas Occupations Code, §202.253(a)(6)(7) and §202.352.

§373.3. *Practitioner Identification.*

(a) A licensed practitioner of ~~of~~ podiatric medicine shall always in any publication that includes his name use only the authorized designation to professionally identify himself or herself. Authorized designations for a podiatric physician are limited to the following: Doctor of Podiatric Medicine, D.P.M., Podiatrist, Podiatric Physician.

(b) A practitioner shall always in any publication that includes the name of his practice use an authorized designation to professionally identify his practice. Authorized designations for a podiatric physicians practice are limited to the following: Foot Surgeon, Podiatric Surgeon, Foot Specialist, Doctor and Surgeon of the Foot, Injuries and Diseases of the Foot, Podiatric Physician.

(c) A practitioner utilizing any other designation must first submit the publication for approval to the Board.

(d) ~~(e)~~ The purpose of this subsection and of so limiting the professional designations of a podiatric physician and his/her practice's business is to insure that the public and all prospective patients are reasonably informed of the distinction between podiatric physicians and other medical practitioners as is reflected by the difference in training and licensing and the scope of practice.

(e) ~~(f)~~ If a practitioner creates a professional corporation or other entity to conduct his practice, he shall, to identify his practice, use an authorized designation followed by one of the suffixes listed in §373.9 of this title (relating to Professional Corporations or Professional Associations). Examples: John Doe, D.P.M., a Prof. Corp.; Dr. John Doe, Podiatrist, Inc.; John Doe, D.P.M., P.A.; John Doe, D.P.M., P.L.L.P.

(f) ~~(g)~~ A practitioner shall not use a trade name or assumed name to identify his practice, except as authorized in §373.7 of this title (relating to Corporate Trade Names and Assumed Names).

§373.7. *Corporate Trade Names and Assumed Names.*

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

(c) The Board approves names from the standpoint that the name remains within the advertising scope of practice for podiatry. The final registration and utilization of any Board approved name rests upon the civil jurisdiction of the local County Clerk's office or the Texas Secretary of State.

(d) ~~(e)~~ If a name is disapproved, the Board shall notify in writing the party requesting the ruling on the name and set forth the reasons for disapproval.

(e) ~~(f)~~ Within any advertisement or like publication that includes the name of a group, each podiatric physician in the group shall also publish his own name and professionally identify himself in the manner provided in §373.3(a) or (b) of this title (relating to Practitioner Identification), as applicable.

(f) ~~(g)~~ Any person who violates any provisions of this section, or a determination of the Board hereunder, is subject to penalty pursuant to Chapter 376 of this title (relating to Violations and Penalties) of up to \$500 for each day of violation, as provided in Texas Occupations Code §202.352, not to exceed the maximum penalty amount set forth in Chapter 376 of this title herein.

§373.13. *Advertising.*

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

(e) A podiatric physician may advertise or publish the name of any board of certification under which the podiatric physician has fully and validly become certified provided, however, that:

(1) The full name of the certifying board is included in the publication; that is, no advertisement or publication may include the bare phrase "board certified", or the like;

(2) It shall be the duty of each podiatric physician to determine before publication of any such advertisement or public communication whether the certifying board he wished to advertise is in fact approved or recognized by the Council on Podiatric Medical Education of the American Podiatric ~~podiatric~~ Medical Association. Except as provided by subsection (e)(3), podiatric ~~Podiatric~~ physicians may not list in any type of advertisement or public communication any certifying board that is not approved or recognized by the Council on Podiatric Medical Education or the American Podiatric Medical Association.

(3) Each certifying board that is not recognized by the Council of Podiatric Medical Education or the American Podiatric Medical Association must meet each of the requirements set forth in paragraphs (A) - (E) of this subsection:

(A) the certifying board requires all podiatric physicians who are seeking certification to successfully pass a written or an oral examination or both, which tests the applicant's knowledge and skills in the specialty or subspecialty area of podiatric medicine. All or part of the examination may be delegated to a testing organization. All examinations require a psychometric evaluation for validation;

(B) the certifying board has written proof of a determination by the Internal Revenue Service that the certifying board is tax exempt under the Internal Revenue Code pursuant to §501(c);

(C) the certifying board has a permanent headquarters and staff;

(D) the certifying board has at least 100 duly licensed certificants from at least one-third of the states; and

(E) the certifying board requires all podiatric physicians who are seeking certification to have satisfactorily completed identifiable and substantial training in the specialty or subspecialty area of podiatric medicine in which the podiatric physician is seeking certification, and the certifying organization utilizes appropriate peer review. This identifiable training shall be deemed acceptable unless determined by the Texas State Board of Podiatric Medical Examiners to be inadequate in scope, content, and duration in that specialty or subspecialty area of podiatric medicine in order to protect the public health and safety.

(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 May 17, 2007.

TRD-200701930

Janie Alonzo

Staff Services Officer V

Texas State Board of Podiatric Medical Examiners

Earliest possible date of adoption: July 1, 2007

For further information, please call: (512) 305-7000



CHAPTER 378. CONTINUING EDUCATION AND LICENSE RENEWAL

22 TAC §378.13

The Texas State Board of Podiatric Medical Examiners proposes an amendment to §378.13 concerning License Renewal. The amendment is being proposed to clarify that the board's rules for license renewal are consistent with Texas Occupations Code §202.301 and related statutes.

Hemant Makan, Executive Director, has determined that for each year of the first five years the section is in effect, there will be no fiscal implications. There will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Makan has also determined that for each year for the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be to ensure that podiatric physicians maintain all requirements for annual licensure and renew their licenses in a timely manner. For example, current rules allow a licensee who has not met continuing medical education requirements to practice without renewing a license for a 365 day period; only accessing renewal penalty fees. The amendments to this section will prohibit those licensees from practice until all annual renewal requirements have been met and will enforce practice without a license penalties including issuance of Cease and Desist notices and orders. Medical facilities such as hospitals and surgical centers who extend privileges to podiatrists are unsure whether or not a licensee who has not renewed a license

but still has 365 days to renew before a license is cancelled, do in fact maintain a license for safe practice. Board review of the current rule yields that the rule is not consistent with Texas Occupations Code §202.301. The proposed amendments clarifies consistency with Texas Occupations Code §202.301 and identifies an active, delinquent and cancelled status of a license so that the public can understand whether or not a podiatrist has a proper license for practice. There will be no effect on small or micro-businesses.

Comments on or about the proposal may be submitted to Janie Alonzo, Staff Services Officer V, Texas State Board of Podiatric Medical Examiners, P.O. Box 12216, Austin, TX 78711-2216, Janie.Alonzo@foot.state.tx.us.

The amendments are proposed under Texas Occupations Code, §202.151, which provides the Texas State Board of Podiatric Medical Examiners with the authority to adopt reasonable or necessary rules and bylaws consistent with the law regulating the practice of podiatry, the law of this state, and the law of the United States to govern its proceedings and activities, the regulation of the practice of podiatry and the enforcement of the laws regulating the practice of podiatry.

The proposed amendments implement the Texas Occupations Code §§202.251, 202.262, 202.301, 202.303, 202.6015 & 202.605.

§378.13. License Renewal.

(a) A person may renew his unexpired license by paying to the Board before the expiration date of the license the required renewal fee. A license to practice podiatric medicine expires on October 31 of each year. To be eligible to renew the license, a licensee must comply with the continuing education requirements prescribed by the Board. Upon completion of proper renewal, an annual renewal certificate for the current year will be issued. For purposes of public verification, the license is considered to be in an "Active" status.

(b) A person with an expired license who practices podiatry without an annual renewal certificate for the current year is considered to be practicing without a license and is subject to all the penalties of the practice of podiatry without a license. For purposes of public verification, the license is considered to be in a "Delinquent" status. "Delinquent" license holders will be allowed a 30-day grace period to renew their licenses. Beginning on December 1st of each year, the Board will enforce practicing without a license penalties to include the issuance of Cease & Desist Notices or Orders.

(c) ~~(b)~~ If a person's "Delinquent" license has been expired for 90 days or less, the person may renew the license by paying to the Board a fee equal to 1-1/2 times the required renewal fee.

(d) ~~(c)~~ If a person's "Delinquent" license has been expired for more than 90 days but less than one year, the person may renew the license by paying to the Board all unpaid renewal fees and a fee that is equal to two times the required renewal fee.

(e) ~~(d)~~ If a person's "Delinquent" license has been expired for one year or longer, the person may not renew the license. For purposes of public verification, the [The] license is then considered to have been "Cancelled" [cancelled]. The person may obtain a new license by submitting to reexamination and complying with the requirements and procedures for obtaining an original license. The Board may renew without reexamination an expired license of a person who was licensed in this state, moved to another state, and is currently licensed and has been in practice in the other state for the two years preceding application. The person must complete an application prescribed by the Board

and pay to the Board a fee that is equal to the examination fee for the license.

(f) [(e)] The annual renewal application and/or postcard notice will be deemed to be written notice of the impending license expiration forwarded to the person at the person's last known address according to the records of the Board.

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 May 17, 2007.

TRD-200701931

Janie Alonzo

Staff Services Officer V

Texas State Board of Podiatric Medical Examiners

Earliest possible date of adoption: July 1, 2007

For further information, please call: (512) 305-7000



CHAPTER 382. NON-CERTIFIED RADIOLOGIC TECHNICIANS

22 TAC §382.9

The Texas State Board of Podiatric Medical Examiners proposes an amendment to §382.9 concerning Annual Renewal. The amendment is being proposed to clarify the proper designation of staff employed by a podiatrist who is a non-certified radiologic technician as opposed to a medical radiologic technologist defined in the Medical Radiologic Technologist Certification Act under the jurisdiction of the Texas Department of State Health Services. The amendment also removes the erroneous requirement that a technician provide proof of mandatory continuing medical education upon annual registration as no such continuing education courses exist.

Hemant Makan, Executive Director, has determined that for each year of the first five years the rule is in effect, there will be no fiscal implications. There will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Makan has also determined that for each year for the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rules will be to remove confusion that continuing medical education courses for technicians exist when in fact no such courses are available. Nevertheless technicians are continually educated in their performance of radiology procedures under the day to day supervision of a podiatrist. There will be no effect on small or micro-businesses.

Comments on or about the proposal may be submitted to Janie Alonzo, Staff Services Officer V, Texas State Board of Podiatric Medical Examiners, P.O. Box 12216, Austin, TX 78711-2216, Janie.Alonzo@foot.state.tx.us.

The amendment is proposed under Texas Occupations Code, §202.151, which provides the Texas State Board of Podiatric Medical Examiners with the authority to adopt reasonable or necessary rules and bylaws consistent with the law regulating the practice of podiatry, the law of this state, and the law of the United States to govern its proceedings and activities, the regulation of the practice of podiatry and the enforcement of the laws regulating the practice of podiatry.

The proposed amendment implements 25 TAC Part 1 §143.20(e).

§382.9. *Annual Renewal.*

(a) (No change.)

(b) If the annual registration fee [and proof of mandatory CME (copy of certificate)] is not received on or prior to the expiration date of the registration, the following penalty will be imposed.

(1) one (1) to thirty (30) days late--\$25.00 plus the annual registration fee;

(2) over thirty (30) days late--registration may not be renewed. The person may obtain a new registration by complying with the requirements and procedures for obtaining an original certification.

(c) (No change.)

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

Filed with the Office of the Secretary of State on May 17, 2007.

TRD-200701932

Janie Alonzo

Staff Services Officer V

Texas State Board of Podiatric Medical Examiners

Earliest possible date of adoption: July 1, 2007

For further information, please call: (512) 305-7000



PART 22. TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY

CHAPTER 523. CONTINUING PROFESSIONAL EDUCATION

SUBCHAPTER D. STANDARDS FOR CONTINUING PROFESSIONAL EDUCATION PROGRAMS AND RULES FOR SPONSORS

22 TAC §523.143

The Texas State Board of Public Accountancy (Board) proposes an amendment to §523.143 concerning Sponsor's Record.

The amendment to §523.143 will require CPE sponsors to keep a copy of the complete course material as contemplated by Board Rule 523.140 rather than just an outline for the course.

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment will be in effect:

A. the additional estimated cost to the state expected as a result of enforcing or administering the amendment will be negligible because the amendment does not impose additional costs to the state.

B. the estimated reduction in costs to the state and to local governments as a result of enforcing or administering the amendment will be negligible because the amendment does not reduce costs to the state.

C. the estimated loss or increase in revenue to the state as a result of enforcing or administering the amendment will be negligible because the amendment does not affect revenue.

Mr. Treacy has determined that for the first five-year period the amendment is in effect the public benefits expected as a result of adoption of the proposed amendment will be a more thorough record for CPE sponsors.

The probable economic cost to persons required to comply with the amendment will be negligible because the amendment does not impose additional costs on those required to comply.

Mr. Treacy has determined that a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

The Board requests comments on the substance and effect of the proposed amendment from any interested person. Comments must be received at the Board no later than noon on July 2, 2007. Comments should be addressed to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 333 Guadalupe, Tower 3, Suite 900, Austin, Texas 78701 or faxed to his attention at (512) 305-7854.

Mr. Treacy has determined that the proposed amendment will not have an adverse economic effect on small businesses because the amendment does not impose additional costs on small businesses.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small business; if the amendment is believed to have such an effect, then how may the Board legally and feasibly reduce that effect considering the purpose of the statute under which the amendment is to be adopted; and if the amendment is believed to have such an effect, how the cost of compliance for a small business compares with the cost of compliance for the largest business affected by the amendment under any of the following standards: (a) cost per employee; (b) cost for each hour of labor; or (c) cost for each \$100 of sales. See Texas Government Code, §2006.002(c).

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code, §901.151 which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

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

§523.143. *Sponsor's Record.*

(a) In order to support the reports required of participants, the sponsor of group or self-study programs must retain for an appropriate period:

- (1) record of participation;
- (2) course materials as contemplated by Board Rule 523.140; [outline of the course (or equivalent);]
- (3) date(s);
- (4) location;
- (5) instructor(s);
- (6) number of credit hours; and
- (7) evaluation of program as directed in §523.141 of this title (relating to Evaluation).

(b) To satisfy the detailed requirements of all jurisdictions, a retention period of three years from the date the program is completed is appropriate. The record of attendance should reflect the credit hours

earned by each participant, including those who arrive late or leave early.

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 May 18, 2007.

TRD-200701940

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: July 1, 2007

For further information, please call: (512) 305-7848



22 TAC §523.144

The Texas State Board of Public Accountancy (Board) proposes an amendment to §523.144 concerning Sponsor's Record.

The amendment to §523.144 will reduce the total registration fee for CPE sponsors that offer 1 - 10 courses from \$600.00 to \$400.00; eliminate the category for sponsors that offer 5 - 10 courses; reduce the total registration fee for sponsors offering 11 - 40 courses from \$1500.00 to \$750.00; and reduce the total registration fee for sponsors offering 41 or more courses from \$2500.00 to \$1250.00.

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment will be in effect:

A. the additional estimated cost to the state expected as a result of enforcing or administering the amendment will be negligible because the amendment does not impose additional costs to the state.

B. the estimated reduction in costs to the state and to local governments as a result of enforcing or administering the amendment will be negligible because the amendment does not reduce the costs to the state.

C. the estimated loss or increase in revenue to the state as a result of enforcing or administering the amendment will be equal to the reduction in fees that the rules require CPE sponsors to pay.

Mr. Treacy has determined that for the first five-year period the amendment is in effect the public benefits expected as a result of adoption of the proposed amendment will be reduced fees for CPE sponsors.

The probable economic cost to persons required to comply with the amendment will be reduced in accordance with the amendment.

Mr. Treacy has determined that a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

The Board requests comments on the substance and effect of the proposed amendment from any interested person. Comments must be received at the Board no later than noon on July 2, 2007. Comments should be addressed to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 333 Guadalupe, Tower 3, Suite 900, Austin, Texas 78701 or faxed to his attention at (512) 305-7854.

Mr. Treacy has determined that the proposed amendment will not have an adverse economic effect on small businesses because the amendment reduces the amount CPE sponsors must pay.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small business; if the amendment is believed to have such an effect, then how may the Board legally and feasibly reduce that effect considering the purpose of the statute under which the amendment is to be adopted; and if the amendment is believed to have such an effect, how the cost of compliance for a small business compares with the cost of compliance for the largest business affected by the amendment under any of the following standards: (a) cost per employee; (b) cost for each hour of labor; or (c) cost for each \$100 of sales. See Texas Government Code, §2006.002(c).

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code, §901.151 which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

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

§523.144. *Board Registered CPE Sponsors after January 1, 2005.*

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

(c) Each organization applying to become a board registered CPE sponsor must submit an application on registration forms provided by the board. The application must be complete in all respects and must be accompanied with payment of a non-refundable registration fee unless the sponsor is exempt from paying the fee in accordance with this rule. Sponsors that offer regularly scheduled course titles that are at least one hour and up to four hours in length may accumulate these course titles into an eight-hour course block when determining fees. A maximum of 24 hours may be accumulated into three eight-hour course blocks. Refer to interpretative comment in subsection (j) of this section for explanation. The registration fee is based on the number of course titles offered and is identified in the following chart:

Figure: 22 TAC §523.144(c)

(d) - (k) (No change.)

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

Filed with the Office of the Secretary of State on May 18, 2007.

TRD-200701941

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: July 1, 2007

For further information, please call: (512) 305-7848



TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 97. COMMUNICABLE DISEASES

SUBCHAPTER E. PROVISION OF ANTI-RABIES BIOLOGICALS

25 TAC §§97.121, 97.123 - 97.125

The Executive Commissioner of the Health and Human Services Commission on behalf of the Department of State Health Services (department) proposes amendments to §97.121 and §§97.123 - 97.125, concerning the provision of anti-rabies biologicals (vaccines and hyper-immune sera) by the department in accordance with recommendations of the Advisory Committee on Immunization Practices (ACIP).

BACKGROUND AND PURPOSE

Government Code, §2001.039, requires that each state agency review and consider for re-adoption every 4 years each rule adopted by that agency pursuant to the Government Code, Chapter 2001. Sections 97.121 and 97.123 - 97.125 have been reviewed and the department has determined that reasons for adopting the sections continue to exist because rules on this subject are needed.

In the 4-year review of these rules, the amendments to §97.121 and §§97.123 - 97.125 update the agency, division, section, and branch names, plus, reorder text to simplify processes. In addition, the amendments clarify the department's policies for storage, distribution, loss due to negligence, and reporting requirements of anti-rabies biologicals, plus, provide the ACIP as a reference for assessing rabies exposure and treatment recommendations.

The department consulted with the Health Service Regions, the Zoonosis Control Program, and the regional doctors of veterinarian medicine during the rule development process.

SECTION-BY-SECTION SUMMARY

Amendments to §97.121 and §§97.123 - 97.125 update the agency, division, section, and branch names and update language for consistent terminology. Amendments to §97.121 establish that the provision of anti-rabies biologicals be in accordance with recent recommendations of the ACIP. Amendments to §97.123 reorder the text, and clarify procedures for stocking, issuing, and returning anti-rabies biologicals. Amendments to §97.124 provide clarification of payment responsibilities, including the clarification that issuance of anti-rabies biologicals will not be withheld due to a patient's inability to pay. Amendments to §97.125 clarify that department-owned anti-rabies biologicals may be dispensed from depots at the price the department procures the vaccine under the current state contract, plus, explains the depot's responsibilities when vaccine is lost due to negligence.

FISCAL NOTE

Casey S. Blass, Section Director, Disease Prevention and Intervention Section, has determined that for each year of the first five years that the sections will be in effect, there will be no fiscal implications to state or local governments as a result of enforcing and administering the sections as proposed.

SMALL AND MICRO-BUSINESS IMPACT

Mr. Blass has also determined that there will be no effect on small businesses or micro-businesses required to comply with the sections as proposed. This was determined by interpretation of the rules that small businesses and micro-businesses will not be required to alter their business practices in order to comply with the sections. There are no anticipated economic costs

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

PUBLIC BENEFIT

Mr. Blass has determined that for each year of the first five years that the sections are in effect, the public will benefit from adoption of the sections. The public benefit anticipated as a result of enforcing or administering the sections as proposed is to operate the program to ensure the safety of the public, and to clarify processes.

REGULATORY ANALYSIS

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

TAKINGS IMPACT ASSESSMENT

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

PUBLIC COMMENT

Comments on the proposed rules may be submitted to Victoria Brice, Disease Prevention and Intervention Section, Division of Prevention and Preparedness, Department of State Health Services, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7111, extension 6658, or by email to Victoria.Brice@dshs.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

LEGAL CERTIFICATION

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

STATUTORY AUTHORITY

The proposed rules are authorized by Health and Safety Code, §81.021, which requires the department to protect the public from communicable disease; and §81.004 which allows the department to adopt rules for the effective administration of the Communicable Disease Act; §826.025 which allows the department to adopt rules to provide, and obtain payment for anti-rabies biologicals; §826.011 which allows the department to adopt rules necessary to administer the Rabies Control Act; 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 proposed rules affect Health and Safety Code, Chapters 81, 826 and 1001; and Government Code, Chapter 531. Review of the sections implements Government Code, §2001.039.

§97.121. Purpose.

The purpose of these sections is to provide anti-rabies biologicals (vaccines and hyper-immune sera) in accordance with the recent "Human Rabies Prevention, United States, Recommendations of the Advisory Committee on Immunization Practices (ACIP)" of the U.S. Health Services [for the use and benefit of persons exposed, or suspected of having been exposed, to rabies].

§97.123. Stocking, ~~and~~ Issuing, and Returns.

(a) Stocking. Anti-rabies biologicals may be procured and distributed by the Department of State Health Services [~~Texas Department of Health~~] (department). The department may enroll off-site depots for the storage and distribution of department-owned anti-rabies biologicals. [Anti-rabies biologicals may be stocked in depots located throughout the state.] The depot will be licensed as defined by the Texas Board of Pharmacy that allows for the storage and distribution of anti-rabies biologicals to individuals presenting a signed order from a medical practitioner licensed to practice in Texas. The products in each depot will remain under the ownership [control] of the [appropriate regional director of this] department until issued.

(b) Issuing.

(1) Anti-rabies biologicals may only be issued [~~for post-exposure treatment for any person~~] upon receipt of a [the] signed order from [~~of~~] a medical practitioner [~~professional~~] licensed to practice in Texas.

(2) The department has the right to refuse to provide anti-rabies biologicals if the incident in question does not warrant rabies post-exposure prophylaxis according to the recent ACIP's recommendations on human rabies prevention. [The guidelines established by the Advisory Committee on Immunization Practices of the U.S. Public Health Service will be used as guidelines for assessing rabies exposure. In event the department elects not to supply biologicals for post-exposure prophylaxis, the department will provide the medical professional the name of a source from which anti-rabies biologicals may be purchased.]

(3) Partial issuance. Issues may be less than the full regimen of treatment when:

(A) there is reason to believe that the treatment may be terminated before completion; or

(B) in the event of a biological shortage.

[(3) The following will be accomplished at time of issue:]

[(A) A department-prepared human rabies prophylaxis surveillance report will be completed by the person issuing the anti-rabies biologicals and sent to the Texas Department of Health.]

[(B) An information sheet about rabies and rabies biologicals will be provided by the department to the attending medical professional for informing the patient of the risks and benefits of the anti-rabies treatment.]

[(C) The most recent guidelines for treatment for the prevention of rabies as recommended by the Advisory Committee on Immunization Practices of the U.S. Public Health Service will be provided by the department to the attending medical professional.]

(4) For individuals who are declined anti-rabies biologicals, the department will provide a source from which biologicals may be purchased.

(5) At the time of issuance.

(A) A human rabies prophylaxis surveillance report will be completed by the person issuing the anti-rabies biologicals and forwarded to the appropriate health service region.

(B) An information sheet about rabies and rabies biologicals will be provided by the department for use by the attending medical practitioner to inform the patient of the risks and benefits of the anti-rabies treatment.

(C) The recent ACIP's recommendations on human rabies prevention will be provided to the attending medical practitioner.

(D) An information sheet will be provided to the patient or the patient's agent on the proper transport of the biologicals.

(E) The patient or patient's agent will receive and sign an information sheet pertaining to payment responsibilities.

(F) Anti-rabies materials may be obtained from the Department of State Health Services, Immunization Branch, 1100 West 49th Street, Austin, Texas 78765-3199, or by request by phoning, 1-800-252-9152.

[(e) Partial issue. Issues may be made of less than the full regimen of treatment whenever less than the full regimen is necessary, or when there is reason to believe that treatment may be terminated before completion of the full course for any reason. After a partial issue is made, the remaining doses needed may be issued later if laboratory tests or other evidence confirm the need for continuing the treatment.]

[(d) Administration of anti-rabies biologicals. Anti-rabies biologicals issued by the Texas Department of Health may be administered to humans only by or under the supervision of a medical professional licensed to practice in Texas. Anti-rabies biologicals may be issued at the depot to the bearer of the medical professional's order for transport to a medical professional and subsequent administration to the patient by or under the supervision of a medical professional.]

(c) [(e)] Return of anti-rabies biologicals. Once issued to a patient or patient's agent and removed from the depot storage area, no anti-rabies biologicals may be returned for credit or reimbursement [; nor may any returned anti-rabies biologicals be reissued for use of any kind].

§97.124. Payment for Anti-Rabies Biologicals.

The department is specifically authorized by law to distribute anti-rabies biologicals and to receive reimbursement based on the department's current contract [for the cost of the biologicals].

(1) Options for reimbursement will be in accordance with policies set by the department [Immunizations Division, Texas Department of Health], and are as follows:

(A) The patient or patient's agent will provide the department proof of viable insurance coverage. If the insurance does not pay or does not pay the entire amount, the patient or patient's agent may be responsible for any outstanding balance.

[(A) Payment at time of issue. Arrangements for payment must be complete at the time of issuance of the anti-rabies biologicals, including options for monthly payments and/or third party coverage, or payment in full at the time of receipt. The regional director is responsible for ensuring that payment arrangements are made.]

(B) Proof of inability to pay. If a patient is unable to pay, the patient will be required to sign a statement that he/she will provide the department with financial information to pursue a reduced amount charged.

[(B) Inability to pay. The regional director will accept, in lieu of payment, a statement signed by the patient that the patient is unable to pay in whole or part the cost of the biologicals and has no third party or other alternate source to provide payment.]

(2) Refusal to pay. The department shall have the right to seek reimbursement in the event of a refusal to pay by a patient, or by his or her third-party coverage or other legally obligated source. A county or district attorney or the Texas Attorney General [attorney general], upon request of the [a] department, may initiate suit or other proceeding in the county of the recipient's residence [against the recipient, the parent, guardian, or other person or persons legally responsible for the support of the recipient or against responsible third parties].

(3) The issuance of anti-rabies biologicals will not be withheld due a patient's inability to pay.

§97.125. Designation of Depots for Anti-Rabies Biologicals.

The department may enroll [procure] off-site depots [facilities] for the storage and dispensing of department-owned anti-rabies biologicals.

(1) The [These] depots will be licensed as defined by the Texas Board of Pharmacy that allows for the storage and distribution of anti-rabies biological to individuals presenting a signed order from a medical practitioner licensed to practice in Texas [comply with the department's policy regarding storage, dispensing and reporting requirements].

(2) The depot's designee will enroll as a depot with the department and comply with the department's policy regarding storage, distribution, and reporting requirements [depots will dispense the vaccine at the price designated by the department].

(3) Anti-rabies biologicals will be dispensed at the price the department procures the vaccine under the current state contract.

(4) Loss due to negligence.

(A) The department will require a letter outlining the reason for the loss and the corrective action to prevent recurrence.

(B) The department will review the letter and determine if billing is appropriate.

(C) If found to be at fault and reimbursement does not occur, the department may pursue legal action.

(D) Failure to reimburse the department within the specified time frame may result in revocation of the authority to dispense anti-rabies biologicals.

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 May 17, 2007.

TRD-200701928

Linda Wiegman

Deputy General Counsel

Department of State Health Services

Earliest possible date of adoption: July 1, 2007

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



TITLE 34. PUBLIC FINANCE

PART 11. OFFICE OF THE FIRE FIGHTERS' PENSION COMMISSIONER

CHAPTER 306. CREDITABLE SERVICE FOR MEMBERS OF THE TEXAS EMERGENCY SERVICES RETIREMENT SYSTEM

34 TAC §306.1

The State Board of Trustees of the Texas Emergency Services Retirement System proposes amended rule 34 Texas Administrative Code §306.1, regarding credit for certain prior service of members of the Texas Emergency Services Retirement System (System).

The amended rule will authorize participating department to purchase pension credit for prior service of its members performed before the department joined the System. The System provides retirement, disability, and death benefits for volunteer fire fighters and EMS personnel in departments that participate in the System.

The proposed amended rule will simplify the administration of the pension system by limiting the options for and the time period in which a department may purchase prior service for participating members under this section. The proposal establishes 10 years as the maximum amount of qualified prior service credit in the System that a department may purchase for a member under this section. The proposal will allow a new department to purchase prior service credit within two years of joining the System.

If the proposed rule is adopted, it will eliminate the option for a participating department to purchase an accrued time benefit for prior service performed by a member prior to entry into the System. The proposed rule will eliminate the current prior service options known as "Accrued Time" or "Accrued Time with Buy-back" to reduce the complexity of administration and to eliminate options that could provide inadequate benefits.

The Board was also concerned that the purchase of accrued time benefits by departments would result in fewer members vesting in the System and limit the ability of members to qualify for System pension benefits. Although the "accrued time" option allowed departments to provide equivalent benefits for prior service performed under the Texas Local Fire Fighters Retirement Act, the service purchased did not count toward System vesting or retirement benefits. All prior service purchased under the proposed rule will count as qualified service in the System and will allow participating members to vest sooner and receive higher benefits from the System.

Kevin Deiters, Program Director, has determined that for the first five years the proposed rule amendment is in effect it will reduce costs to those local municipal governments and emergency services districts purchasing prior service by reducing the minimum rate and by limiting the maximum period of prior service that a department may purchase for a member. The proposed rule will allow local municipal governments and emergency services districts to purchase prior service at any contribution rate or rates that equal or exceed the minimum contribution rate in effect for the period covered. The proposed rule will reduce costs to the State by simplifying the process and reducing the amount of staff time needed to prepare and present financial estimates to the interested parties. The simplified approach will also reduce the cost to the agency for computer programming and actuarial testing.

In 2006, the State Board adopted rules increasing the minimum contribution rate by \$4 per year until the minimum rate reaches \$36 per member per month in 2011. Departments purchasing

prior service credit for service performed before September 1, 2005 could purchase that service at the \$12 minimum contribution rate that was in effect before September 1, 2005. The proposed amendment will also limit the amount of qualified service that a department may purchase to 10 years instead of 15 years. This reduction in the maximum number of years of service that a participating department may purchase is needed to make the purchase of prior service more affordable.

Mr. Deiters has also determined that for the first five years that the amended rule is in effect that departments purchasing prior service credit will have more flexibility in setting the rate and ultimate cost to purchase qualified prior service credit in the System for their members.

Mr. Deiters has also determined that for the first five years that the amended rule is in effect the public benefit anticipated as a result of the adoption of the amendment will be to provide participating departments with improved benefits to recruit volunteer fire fighters and emergency services personnel to protect local communities. Small businesses and individuals will not be affected by the amendment.

This agency hereby certifies that the proposed rule amendments have been reviewed by the System's retained actuaries. It is their opinion that since the proposed rule amendments would not change a department's responsibility for the financing of the purchase of prior service credit, the proposed rule amendments are cost neutral and will have no actuarial effect on the System.

Comments on the amendment may be submitted in writing to Lisa Ivie Miller, Commissioner, Office of the Fire Fighter Pension Commissioner, P.O. Box 12577, Austin, Texas 78711-2577 no later than July 31, 2007. Comments may also be submitted electronically to rules@ffpc.state.tx.us or faxed to (512) 936-3480.

The amended rule is proposed under the statutory authority of Title 8, Government Code, Subtitle H, Texas Emergency Services Retirement System, Chapter 863, Creditable Service.

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

§306.1. Prior Service Credit for Members of Participating Departments.

(a) A department that elects to participate in the pension system may, before the second anniversary of the date the department begins participation, make a one-time election to purchase service credit for qualified service performed for the department before the effective date of the department's participation by the persons who became members of the pension system on the effective date of the department's participation. [A department that elects to participate in the pension system may, at the first meeting of the local board, elect to purchase service credit for service performed by the persons who became members on the effective date of departmental participation.]

(b) ~~[The maximum amount of prior service credit a member may receive under this section is 10 years.]~~ The pension system shall grant prior service credit under this section if the department agrees in writing to finance the prior service credit by an up-front [a] lump-sum payment or within a period not to exceed 10 years from the [effective] date of the election to purchase the credit.

(c) The cost to finance the purchase of prior service credit is based on the actuarially assumed rate of investment return on fund assets at the time payment for the credit begins. A department may purchase prior service credit at any contribution rate or rates at or above the minimum provided by statute or board rule for the period purchased.

(d) The department must provide the commissioner with the contribution rate or rates the department will pay and a record of prior service showing the amount of service performed by each member of the department. The record for each member must include the member's name, date of birth and entry date in the department. [The commissioner shall furnish to each participating department that agrees to purchase prior service credit a record of member prior service to be completed and returned to the commissioner showing the amount of prior service performed by each member of the department. The record must be signed by the chair and secretary of the local board and the administrative head of the department and be accompanied by a copy of the minutes of the local board showing approval of the amounts of prior service credit given the members.]

(e) The maximum amount of prior service permitted to be purchased by this rule applies only to prior service credit purchased on or after July 1, 2007.

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 May 21, 2007.

TRD-200701948

Kevin Deiters

Policy Director

Office of the Fire Fighters' Pension Commissioner

Earliest possible date of adoption: July 1, 2007

For further information, please call: (512) 936-3472



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 1. TEXAS DEPARTMENT OF PUBLIC SAFETY

CHAPTER 34. NEGOTIATION AND MEDIATION OF CERTAIN CONTRACT DISPUTES

SUBCHAPTER B. NEGOTIATION OF CONTRACT DISPUTES

37 TAC §34.22, §34.24

The Texas Department of Public Safety proposes amendments to §34.22 and §34.24, concerning Negotiation of Contract Disputes. Proposed amendments to §34.22 and §34.24 are necessary in order to make the department's administrative rules consistent with the amendments to Chapter 2260 of the Texas Government Code pursuant to HB 1940 from the 79th Regular Session.

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

Mr. Ybarra also has determined that, for each year of the first five-year period the proposed rule amendments are in effect, the public benefit anticipated as a result of enforcing the rule amendments will be current and updated rules. There is no adverse

economic impact anticipated for individuals, small businesses, or micro-businesses.

The department has determined that Chapter 2007 of the Government Code does not apply to these proposed rule amendments. Accordingly, the department is not required to complete a takings impact assessment regarding these rule amendments.

Comments on the proposal may be submitted to Kevin Jones, CTPM, Procurement & Contract Administrator, Texas Department of Public Safety, P.O. Box 4087, Austin, Texas 78773-0130, (512) 424-2071.

The amendments are proposed pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Government Code, §2260.052(c).

Texas Government Code, §411.004(3), and §2260.052(c) are affected by this proposal.

§34.22. Counterclaim.

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

(d) The notice of counterclaim shall be delivered to the contractor no later than the deadline provided in §2260.051(d) of the Texas Government Code. The statutory deadline depends on the date of the contract upon which the counterclaim is based[90 days after the department's receipt of the contractor's notice of claim].

(e) (No change.)

§34.24. Timetable.

(a) (No change.)

(b) Subject to subsection (c) of this section, the parties shall begin negotiations by the deadline provided in §2260.052(a) of the Texas Government Code. The statutory deadline depends on the date of the contract upon which the claim, as well as any counterclaim, is based[within a reasonable period of time, not to exceed 60 days following the later of:]

{(1) the date of termination of the contract;}

{(2) the completion date, or substantial completion date in the case of construction projects, in the original contract; or}

{(3) the date the department receives the contractor's notice of claim.}

(c) The department may delay negotiations until after the 180th day after the date of the event giving rise to the claim of breach of contract by delivering written notice to the contractor that the commencement of negotiations will be delayed and providing written notice to the contractor of the date that the department anticipates it will be prepared to begin negotiation. However, this subsection only applies to claims, as well as any counterclaims, involving a breach of a contract entered into by the department before September 1, 2005.

(d) - (g) (No change.)

(h) The parties may agree to mediate the dispute at any time before the deadline provided in §2260.056(a) of the Texas Government Code and[270th day after the department receives the contractor's notice of claim or] before the expiration of any extension agreed to by the parties pursuant to subsection (f) of this section. The statutory deadline depends on the date of the contract upon which the claim, as well as any counterclaim, is based. The mediation shall be governed by Subchapter C of this chapter.

(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.

Filed with the Office of the Secretary of State on May 21, 2007.

TRD-200701968

Thomas A. Davis, Jr.

Director

Texas Department of Public Safety

Earliest possible date of adoption: July 1, 2007

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



WITHDRAWN RULES

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

TITLE 22. EXAMINING BOARDS

PART 6. TEXAS BOARD OF PROFESSIONAL ENGINEERS

CHAPTER 137. COMPLIANCE AND PROFESSIONALISM

SUBCHAPTER C. PROFESSIONAL CONDUCT AND ETHICS

22 TAC §137.59

The Texas Board of Professional Engineers withdraws the proposed amendment to §137.59 which appeared in the March 9, 2007, issue of the *Texas Register* (32 TexReg 1186).

Filed with the Office of the Secretary of State on May 15, 2007.

TRD-200701891

Dale Beebe Farrow, P.E.

Executive Director

Texas Board of Professional Engineers

Effective date: May 15, 2007

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



TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 97. COMMUNICABLE DISEASES

SUBCHAPTER C. CONSENT FOR IMMUNIZATION

25 TAC §97.91

Proposed amended §97.91, published in the November 10, 2006, issue of the *Texas Register* (31 TexReg 9202), is withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Filed with the Office of the Secretary of State on May 17, 2007.

TRD-200701925



25 TAC §97.92

Proposed repeal of §97.92, published in the November 10, 2006, issue of the *Texas Register* (31 TexReg 9203), is withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Filed with the Office of the Secretary of State on May 17, 2007.

TRD-200701926



SUBCHAPTER G. VACCINATION STAMPS

25 TAC §§97.151 - 97.156

Proposed new and amended §§97.151 - 97.156, published in the November 10, 2006, issue of the *Texas Register* (31 TexReg 9203), are withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Filed with the Office of the Secretary of State on May 17, 2007.

TRD-200701927



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 10. COMMUNITY DEVELOPMENT

PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CHAPTER 1. ADMINISTRATION

SUBCHAPTER A. GENERAL POLICIES AND PROCEDURES

10 TAC §1.21

The Texas Department of Housing and Community Affairs (the Department) adopts new §1.21, concerning Action by the Department if Outstanding Balances Exist. The new section is adopted without changes to the proposed text, as published in the March 16, 2007, issue of the *Texas Register* (32 TexReg 1453), and will not be republished. The purpose of this new section is, in accordance with Chapter §2306.052(b)(4), Texas Government Code, to provide a mechanism to increase the collection of funds owed to the Department by persons requesting additional action by the Department prior to providing voluntary services. The rule will not impact required services related to the delivery of compliance functions.

No comments were received by the Department concerning the proposed new section.

The new section is adopted pursuant to the authority of the Texas Government Code, Chapter 2306. The adopted 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 May 21, 2007.

TRD-200701950
Michael Gerber
Executive Director
Texas Department of Housing and Community Affairs
Effective date: June 10, 2007
Proposal publication date: March 16, 2007
For further information, please call: (512) 475-4595



CHAPTER 5. COMMUNITY SERVICES PROGRAMS

SUBCHAPTER C. EMERGENCY SHELTER GRANTS PROGRAM

10 TAC §§5.204, 5.208, 5.211

The Texas Department of Housing and Community Affairs (the Department) adopts without changes, the proposed revisions, concerning Emergency Shelter Grants Program (ESGP), as published in the April 6, 2007, issue of the *Texas Register* (32 TexReg 1980). No changes were made to §§5.204, 5.208, and 5.211; and therefore, will not be republished.

These sections are adopted, to implement technical changes and in order to codify the regulations and requirements for administering the Emergency Shelter Grants Program.

No public comment was received concerning the Emergency Shelter Grants Program.

These amendments are adopted pursuant to the authority of the Texas Government Code, Chapter 2306.

No other code, articles or statutes are affected by these sections.

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 May 18, 2007.

TRD-200701947
Michael Gerber
Executive Director
Texas Department of Housing and Community Affairs
Effective date: June 7, 2007
Proposal publication date: April 6, 2007
For further information, please call: (512) 475-4595



TITLE 16. ECONOMIC REGULATION

PART 1. RAILROAD COMMISSION OF TEXAS

CHAPTER 20. ADMINISTRATION

SUBCHAPTER B. ACCESS TO AND CHARGES FOR RECORDS

16 TAC §20.101

The Railroad Commission of Texas (Commission) adopts amendments to §20.101, relating to Access to and Charges for Commission Records, without changes to the version published in the April 13, 2007, issue of the *Texas Register* (32 TexReg 2078).

The Commission adopts the amendments pursuant to Senate Bill 452 and Senate Bill 727, 79th Legislature, 2005, which transferred the duties of the Texas Building and Procurement Com-

mission (TBPC) under the public information law to the Office of the Attorney General (OAG). The TBPC rules regulating charges for copies of public information were previously located under Title 1, Part 5, Chapter 111, Subchapter C, of the Texas Administrative Code, and were transferred to the OAG and reorganized under Title 1, Part 3, Chapter 70, of the Texas Administrative Code effective September 1, 2005, as published in the September 29, 2006, issue of the *Texas Register* (31 TexReg 8251). The Commission's adopted amendments to §20.101 add the OAG rule numbers and update the adopted or amended dates in subsection (a)(1) - (11).

The Commission received no comments on the proposed amendments.

The Commission adopts the amendments under Texas Government Code, §2161.003, which requires the Commission to adopt the rules of the Texas Building and Procurement Commission promulgated under Texas Government Code, §2161.002, as the Commission's own rules; and Texas Civil Statutes, Article 6447, which authorizes the commissioners to make all rules necessary for their government and proceedings.

Statutory authority: Texas Government Code, §2161.003 and Chapters 2155, 2158, 2161, 2162, 2166, 2252, and 2254; and Texas Civil Statutes, Article 6447.

Cross-reference to statute: Texas Government Code, §2161.003 and Texas Civil Statutes, Article 6447.

Issued in Austin, Texas, on May 15, 2007.

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 May 15, 2007.

TRD-200701876

Mary Ross McDonald

Managing Director

Railroad Commission of Texas

Effective date: June 4, 2007

Proposal publication date: April 13, 2007

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



PART 9. TEXAS LOTTERY COMMISSION

CHAPTER 401. ADMINISTRATION OF STATE LOTTERY ACT

SUBCHAPTER D. LOTTERY GAME RULES

16 TAC §401.302

The Texas Lottery Commission (Commission) adopts amendments to 16 TAC §401.302 (relating to Instant Game Rules), with changes to the proposed text as published in the April 6, 2007, issue of the *Texas Register* (32 TexReg 1981).

The rule as adopted changes subsection (j)(1)(B) to conform the rule language with the proposed Texas Lottery Commission Rider 14, General Appropriations Act, H.B. 1, 80th Leg., R.S. (2007) at VII-11 (ver.A362 Sen-7) language. The proposed Rider 14 language provides that out of the funds appropriated in

Strategy A.1.7, Instant Ticket Production Contract, \$3,000,000 in GR-Dedicated-Lottery Account No. 5025 funds in each fiscal year are contingent upon the commission adopting rules governing instant ticket games that close games after the final top prize in the a game has been claimed and rules that provide procedures for ending the sale of an instant ticket game within 45 days of the game being closed.

The purpose of the rule amendment is to provide for the closing of instant games in which all top prizes have been claimed. The rule, as amended, will provide for the implementation of agency procedures that require timely closing for instant games after all top prizes have been claimed and shorten the time period after the initiation of the game closing process to expeditiously collect these games from retailer locations, thus effectively ending the sales of these instant games. Prior to these procedural changes, the game closing process was initiated on a monthly basis and the fact that all top prizes had been claimed was not a factor considered for closing a specific instant game. Due to public concern, the agency decided to review its procedures relating to closing instant games and to propose this rule amendment relating to these procedures. As a result of the agency's review, the agency decided to revise its instant game closing process to address the concerns expressed. The rule amendment sets out the underlying foundation for the agency procedures. Additionally, at the time of its March 23, 2007 Commission meeting when the Commission voted to propose these amendments, it was aware of proposed legislation, specifically S.B. 1200, relating to rules governing the sale of tickets to an instant lottery game. Subsequent to the commission meeting, Texas Lottery Commission Appropriations Rider 14 was proposed and contained specific language requiring the adoption of rules for ending the sale of an instant ticket game within 45 days of the game being closed. The Rider makes \$3,000,000.00 of dedicated funds contingent upon the adoption of these rules. Further, on May 3, 2007, House Committee on Licensing and Administrative Procedures substituted C.S.S.B 1200. C.S.S.B. 1200 requires the adoption of rules prohibiting the sale of instant tickets after the 46th day after which the commission initiates procedures to close the game. In order to conform the rule language to both the proposed legislation and the proposed appropriations rider, the agency revised the language in subsection (j)(1)(B).

This change in the rule language is a rule change that does not require republication of the proposed rule. Pursuant to *Texas Workers' Compensation Commission v. Patient Advocates of Texas and Allen J. Meril, M.D.*, 136 S.W.3d 643 (Tex. 2004), this rule language change from the language "no later than the 46th day after game closing procedures have been initiated" to the language "within 45 days after game closing procedures have been initiated" does not materially alter issues raised in the proposed rule or affect persons other than those previously on notice. Therefore, republication is not required.

A public comment hearing was held on April 20, 2007. There was no one present at the hearing. No written comments were received during the comment period.

The amendments are adopted under Texas Government Code, §466.015, which provides the Commission with the authority to adopt rules governing the operation of the lottery. The section is also adopted under Texas Government Code, §467.102, which provides the Commission with the authority to adopt rules for the enforcement and administration of the laws under the Commission's jurisdiction.

Texas Government Code, Chapter 466, is affected by this rule.

§401.302. *Instant Game Rules.*

(a) Sale of instant game tickets.

(1) Only retailers who have been licensed by the commission are authorized to sell instant game tickets, and tickets may be sold only at a licensed location.

(2) Each instant game ticket shall sell for the retail sales price authorized by the executive director and stated in the individual game procedures.

(3) Each instant game ticket shall state the overall estimated odds of winning a prize of any kind, including a break even prize.

(b) Game procedures.

(1) The director of the marketing division may approve and publish individual game procedures prior to each instant game being introduced for sale to the public. Game procedures shall be published in the *Texas Register* and shall be made available upon request to the public.

(2) At a minimum, the game procedures for each game shall contain the following information:

- (A) confirming captions;
- (B) game name;
- (C) game number;
- (D) prize structure;
- (E) playstyle;
- (F) play symbols;
- (G) ticket order quantity;
- (H) retail sales price;
- (I) dollar amount of prizes that may be paid by retailers;

and

- (J) eligibility requirements for a prize drawing, if any.

(3) The play style for an individual game shall be fully described in the game procedures and may take the form of one of the following methods of play:

- (A) match up;
- (B) add up;
- (C) three in a line;
- (D) key number/symbol match;
- (E) yours beats theirs;
- (F) prize legend;
- (G) cards;
- (H) bingo;
- (I) directional arrows through maze;
- (J) bonus game features; or

(K) any other approved play style or bonus game feature developed by the commission.

(c) Determination of prize winner.

(1) The play symbols shall be used by a player to determine eligibility for instant prizes. Qualifying play symbols are stated in the game procedures.

(2) A player's eligibility to win a prize is subject to the ticket validation requirements provided in subsection (d) of this section.

(3) For each individual game, the player shall rub off the latex covering on the front of the ticket to reveal the play symbols. Eligibility to win a prize is based on the approved play style as follows.

(A) Match up. If the designated number of identical play symbols is revealed on the ticket, the player shall win the prize indicated.

(B) Add up. If the player adds up all of the play symbols printed on the ticket and the amount is greater than or equal to the required total amount printed on the ticket, the player shall win the prize indicated.

(C) Three in a line. If the player reveals three identical play symbols, either diagonally, vertically, or horizontally, on the same ticket, the player shall win the prize indicated.

(D) Key number/symbol match. If the player reveals a play symbol that matches the designated key play symbol, the player shall win the prize indicated.

(E) Yours beats theirs. If the player reveals a play symbol designated as yours that is greater than the play symbol(s) designated as theirs, the player shall win the prize indicated.

(F) Prize legend. If the player reveals the designated number of play symbols, the player wins the prize amount that corresponds to the legend.

(G) Cards. If the player reveals the play symbol needed for that particular card game in a winning combination, the player shall win the prize indicated.

(H) Bingo. If the player matches their Bingo card numbers with all of the Caller's Card numbers and reveals certain patterns as specified on the ticket, the player shall win the prize indicated for that Bingo card and pattern.

(I) Directional arrows through maze. If the player follows the directional arrows to make a path or paths through a maze and the path(s) leads to a prize amount, the player shall win that prize.

(J) Bonus game features. These features are added to the game for extra play value and entertainment. The specific variants, as described below, are used for a particular game and are described in the individual game procedures:

(i) Doubler. If the player reveals the designated play symbol as part of the winning combination of the game, the player doubles their prize. The player may also reveal the "doubler" play symbol in a prize box, in which case the prize amount that the player won is doubled.

(ii) Wild card. The player may use this designated play symbol as part of the winning combination of the game.

(iii) Double and Double Doubler. If the player reveals one of these designated play symbols as part of the winning combination of the game, the player either doubles or quadruples their prize respectfully, as stated in the game card itself. The player may also reveal the "double" or "double doubler" play symbols in a prize box, in which case the prize amount that the player won is either doubled or quadrupled respectfully, as stated in the game card itself.

(iv) Tripler. If the player reveals the designated play symbol as part of the winning combination of the game, the player triples their prize. The player may also reveal the "trippler" play symbol

in a prize box, in which case the prize amount that the player won is tripled.

(v) Auto win. If the player reveals the designated play symbol, the player wins the corresponding prize automatically.

(vi) Entry ticket. If the player reveals the designated play symbol, the player may use the ticket as a means of entering a drawing, subject to the game procedures for each game.

(K) Any other approved play style or bonus game feature developed by the Texas Lottery. If the player reveals the designated play symbols or bonus play features, the player shall win the prize(s) as indicated.

(d) Ticket validation requirements.

(1) Each instant game ticket shall be validated according to validation procedures prior to payment of a prize.

(2) An instant game ticket shall comply with all of the following.

(A) The ticket shall not be stolen or appear on any list of omitted tickets on file with the commission.

(B) The ticket shall not be counterfeit or forged, in whole or in part.

(C) The ticket shall not be mutilated, altered, unreadable, reconstituted, or tampered with in any manner.

(D) The ticket shall have been issued by the commission in an authorized manner.

(E) The ticket shall have been received or recorded by the commission by applicable deadlines.

(F) The ticket shall pass all the confidential validation and security tests appropriate to the applicable playstyle.

(G) The validation number of an apparent winning ticket shall appear on the commission's official list of validation numbers of winning tickets for the particular game and pack. A ticket with that validation number shall not have been paid previously.

(3) The commission may pay the prize for a ticket that is partially mutilated or not intact if the ticket can still be verified as a valid ticket and validated by the other validation requirements and procedures.

(4) Any ticket not passing all of the validation tests and requirements is void and ineligible for any prize and shall not be paid. The executive director may, at his/her exclusive determination, reimburse the player for the cost of the void ticket.

(5) If a defective ticket is purchased and is void, the sole remedy available against the commission and the commission's sole liability shall be, at the executive director's sole discretion, reimbursement for the cost of the void ticket, or replacement of the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Game).

(e) Payment of low-tier and mid-tier prizes.

(1) Low-tier and mid-tier prizes shall be paid by any retailer or claim center.

(2) Retailers may pay cash prizes in cash or by certified check, cashier's check, or money order. Retailers may also pay prizes by business check if acceptable to the claimant. If a retailer decides to pay a prize with a business check, the retailer shall inform the claimant prior to ticket validation.

(3) Retailers may pay claims for prizes during their normal business hours, if the commission's validation system is operational.

(4) Before paying a prize, retailers shall validate the winning ticket according to established validation requirements and procedures.

(5) Payment of a prize by a retailer will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification, if appropriate.

(6) If a low or mid-tier claim is presented to the commission, the claimant shall follow all procedures of the commission related to claiming a prize, including but not limited to filling out a claim form, presenting appropriate identification if required, completing the back of the ticket, and submitting these items including the apparent winning ticket to the commission by mail or in person. Upon validation of a winning ticket, the commission shall present or mail a check to the claimant in payment of the amount due. If the ticket is determined to be a non-winning ticket, the claim shall be denied and the claimant shall be promptly notified. Tickets will not be returned to the claimant.

(f) Payment of high-tier prizes.

(1) High-tier prizes must be presented for payment to the commission. For purposes of this provision, the term "commission" includes claim centers located throughout Texas. In connection with certain instant games, the top level prizes must be claimed at commission headquarters.

(2) If a high tier claim is presented to the commission, the claimant shall follow all procedures of the commission related to claiming a prize, including but not limited to filling out a claim form, presenting appropriate identification if required, completing the back of the ticket, and submitting these items including the apparent winning ticket to the commission by mail or in person. Upon validation of the ticket as a winning ticket, the commission shall pay the claimant the amount due in accordance with commission procedures. If the ticket is determined to be a non-winning ticket, the claim shall be denied and the claimant shall be promptly notified. Tickets will not be returned to the claimant.

(3) Before paying any prize, claim center personnel shall validate the winning ticket according to established validation requirements and procedures.

(4) All prizes shall be subject to tax withholding, offsets, and other withholdings as provided by law.

(5) If a person is indebted or owes delinquent taxes to the state, other than those specified in paragraph (4) of this subsection, the winnings of a person shall be withheld until the debt or taxes are paid.

(6) When paying a prize of \$600 or more, the commission shall file the appropriate income reporting form with the Internal Revenue Service.

(7) Payment of a prize will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification.

(8) The director shall recognize only one person as claimant of a particular prize. A claim may be made in the name of a person other than an individual only if the person possesses a federal employer identification number (FEIN) issued by the Internal Revenue Service and such number is shown on the claim form. Groups, family units, clubs, organizations, or other persons without an FEIN shall designate one individual in whose name the claim is to be filed. If a claim is erroneously entered with multiple claimants, the claimants shall designate one of them as the individual recipient of the prize,

or, if they fail to designate an individual recipient, the director may designate any one of the claimants as the sole recipient. In either case, the claim shall then be considered as if it were originally entered in the name of the designated individual and payment of any prizes won shall be made to that single individual. Once a ticket is validated, it will not be returned to the winner, but will be forwarded to the lottery, along with the completed claim form.

(9) The executive director has discretion to set a maximum total cash amount or maximum payment time period for each prize level.

(g) Payment of prize awarded to minor.

(1) A person 18 years of age or older may purchase a ticket to give as a gift to another person, including a minor.

(2) If a minor is entitled to a cash prize of less than \$600, the commission shall deliver to an adult member of the minor's family or to the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

(3) If a minor is entitled to a cash prize of more than \$600, the commission 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.

(4) If a minor is entitled to a prize other than money, the commission shall pay the cash equivalent of such prize in the manner provided by paragraphs (2) and (3) of this subsection.

(5) A retailer is not authorized to pay a prize claimed by a minor.

(h) Ticket responsibility.

(1) A ticket is a bearer instrument until signed on the back by the ticket holder.

(2) The commission shall not be responsible for lost, stolen, or destroyed tickets.

(3) The commission shall not be responsible for erroneous or mutilated tickets.

(4) The commission shall not be responsible for tickets claimed by a player in error for a lower prize at a retailer.

(5) The commission shall not be responsible for tickets delivered to any address other than that designated by the commission for such purpose.

(i) Disputed ticket. If a dispute arises between the commission and a ticket claimant concerning whether the ticket is a winning ticket and if the ticket prize has not been paid, the executive director may, exclusively at his/her determination, reimburse the claimant for the cost of the disputed ticket. This shall be the claimant's exclusive remedy.

(j) Game closing.

(1) The executive director or his/her designee shall determine the closing date for an individual instant game in accordance with an instant game closing procedure that defines the criteria used to monitor Instant Ticket sales performance and that identifies when instant games should be closed.

(A) The procedure shall provide for the timely closing of an instant game after all top level prizes in the game have been claimed or on an earlier date as determined by the executive director.

(B) The procedure shall provide for ending ticket sales in an instant game within 45 days after game closing procedures have been initiated.

(2) No tickets in an instant game may be sold after the instant game closing date.

(k) Governing law. In purchasing an instant game ticket, the lottery player agrees to comply with and abide by Texas law, all rules, procedures, and final decisions of the commission, and all procedures and instructions established by the executive director for the conduct of the instant game.

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 May 21, 2007.

TRD-200701974

Kimberly L. Kiplin

General Counsel

Texas Lottery Commission

Effective date: June 10, 2007

Proposal publication date: April 6, 2007

For further information, please call: (512) 344-5113



16 TAC §401.307

The Texas Lottery Commission (Commission) adopts the repeal of 16 TAC §401.307 (relating to "Pick 3" On-Line Game Rule), without changes to the proposed text as published in the December 29, 2006, issue of the *Texas Register* (31 TexReg 10488). By separate action, the Commission adopts new 16 TAC §401.307 (relating to "Pick 3" On-Line Game Rule), which authorizes a new version of the Pick 3 on-line lottery game to be played in Texas. The Commission is adopting a new rule, rather than adopting amendments to the existing rule, in order to make the rule easier to understand by clarifying language and eliminating unnecessary language throughout the rule.

A public comment hearing on the repeal was held on January 11, 2007. There were no members of the public present at the hearing. No written comments were received during the comment period.

The repeal is adopted under Texas Government Code, §466.015, which authorizes the Commission to adopt rules governing the operation of the lottery, including the type of lottery games to be conducted. The repeal is also adopted under Texas Government Code, §467.102, which authorizes the Commission to adopt rules for the enforcement and administration of the laws under the Commission's jurisdiction.

Texas Government Code, Chapter 466, is affected by the adopted repeal.

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

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Kimberly L. Kiplin

General Counsel

Texas Lottery Commission

Effective date: June 10, 2007

Proposal publication date: December 29, 2006

For further information, please call: (512) 344-5113

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16 TAC §401.307

The Texas Lottery Commission (Commission) adopts new 16 TAC §401.307 (relating to "Pick 3" On-Line Game Rule), with changes to the proposed text as published in the April 6, 2007, issue of the *Texas Register* (32 TexReg 1982). The rule as adopted changes subsection (d)(14) to make clear that a player may continue to purchase up to 12 consecutive day plays or 12 consecutive night plays.

The Commission, by separate action, adopts the repeal of existing Title 16, Part 9, Chapter 401, §401.307 (relating to "Pick 3" On-Line Game Rule), without changes to the proposed text as published in the December 29, 2006, issue of the *Texas Register* (31 TexReg 10488).

The Commission is committed to generating revenue for the State of Texas through the responsible management and sale of entertaining lottery products. Pick 3 is currently the Commission's best selling on-line game, and the Commission believes that the many choices the game offers players, such as selection of play type and base play amount, in addition to the twelve drawings offered per week, contribute to the game's success. The Commission believes that the addition of a new feature will keep Pick 3 fresh and interesting so that Pick 3 will continue to generate revenue for the state.

The new Pick 3 rule changes the old Pick 3 rule by adding a Sum It Up feature. The Sum It Up feature allows a second play in connection with any other type of Pick 3 play. A Sum It Up play is a winning play if the sum of the player's three single-digit numbers is the same as the sum of the three single-digit numbers drawn in the applicable drawing.

The new rule changes the old rule by eliminating the concept of "prize pool." The old rule allocates a percentage of Pick 3 ticket sales to a "prize pool." Commission rules define the term "prize pool" as the percentage of ticket sales that is allocated to prizes for a particular draw period. 16 T.A.C. §401.301(43). The concept is not applicable in a game such as Pick 3 in which the amount of sales devoted to prizes in connection with a drawing varies over time because of guaranteed prizes.

The new rule changes the old rule by deleting references to a prize reserve fund. The Commission has determined that a prize reserve fund is an unnecessary accounting mechanism because the State Lottery Account is available for the payment of prizes for any game and there is therefore no need to segregate proceeds by game.

The new rule also clarifies definitions and deletes unnecessary definitions and provisions that are redundant of statutory provisions.

The Commission is adopting a new rule, rather than adopting amendments to the existing rule, in order to make the rule easier to understand by clarifying language and eliminating unnecessary language throughout the rule.

A public comment hearing was held on April 20, 2007, in regard to the proposed text as published in the April 6, 2007, issue of the *Texas Register* (32 TexReg 1982). There were no members of the public present at the hearing. No written comments were received during the comment period.

The new rule is adopted under Texas Government Code, §466.015, which authorizes the Commission to adopt rules governing the operation of the lottery. The section is also

adopted under Texas Government Code, §467.102, which authorizes the Commission to adopt rules for the enforcement and administration of the laws under the Commission's jurisdiction.

Texas Government Code, Chapter 466, is affected by this rule.

§401.307. "Pick 3" On-Line Game Rule.

(a) Pick 3. The executive director is authorized to conduct a game known as "Pick 3." The executive director may issue further directives and procedures for the conduct of Pick 3 that are consistent with this rule. In the case of conflict, this rule takes precedence over §401.304 of this title (relating to On-Line Game Rules (General)).

(b) Definitions. When used in this rule, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise.

(1) Play--A play other than a Sum It Up play consists of:

(A) the selection of a play type;

(B) the selection of a Pick 3 base play amount of \$.50, \$1, \$2, \$3, \$4 or \$5;

(C) the selection of a draw date and time;

(D) the selection of numbers in accordance with subsection (c) of this section; and

(E) the purchase of a ticket evidencing those selections.

(2) Sum It Up Play--A Sum It Up play consists of:

(A) the selection of the Sum It Up play type in connection with an exact order play, an any order play, an exact order/any order play, or a combo play;

(B) the selection of a Sum It Up base play amount of \$.50, \$1, \$2, \$3, \$4 or \$5; and

(C) the purchase of a ticket evidencing those selections.

(3) Playboard--A panel on a playslip containing three fields of numbers for use in selecting numbers for a Pick 3 play, with each field of numbers containing the numbers 0, 1, 2, 3, 4, 5, 6, 7, 8 and 9.

(4) Playslip--An optically readable card issued by the commission for use in making selections for one or more Pick 3 plays.

(c) Play types

(1) Pick 3 may include the following play types: exact order, any order, exact/any order, combo, and Sum It Up.

(A) An "exact order" play is a winning play if the player's three single-digit numbers match in exact order the three single-digit numbers drawn in the applicable drawing.

(B) An "any order" play is a winning play if the player's three single-digit numbers match in any order the three single-digit numbers drawn in the applicable drawing.

(i) An any order play is a 3-way play when any order play is selected as the play type in connection with a set of three single-digit numbers that includes two occurrences of one single-digit number and one occurrence of one other single-digit number. A 3-way any order play involves three possible winning combinations.

(ii) An any order play is a 6-way play when any order play is selected as the play type in connection with a set of three single-digit numbers that includes a single occurrence of three different single-digit numbers. A 6-way any order play involves six possible winning combinations.

(iii) Any order play is not permitted in connection with a set of numbers that includes three occurrences of one single-digit number.

(C) An "exact order/any order" play is a winning play either if the player's three single-digit numbers match in exact order the numbers drawn in the applicable drawing or if the player's three single-digit numbers match in any order the numbers drawn in the applicable drawing.

(i) An exact order/any order play is a 3-way play when exact order/any order play is selected as the play type in connection with a set of three single-digit numbers that includes two occurrences of one single-digit number and one occurrence of one other single-digit number. An exact order/3-way any order play involves three possible winning combinations.

(ii) An exact order/any order play is a 6-way play when exact order/any order play is selected as the play type in connection with a set of three single-digit numbers that includes a single occurrence of three different single-digit numbers. An exact order/6-way any order play involves six possible winning combinations.

(iii) An exact order/any order play is not permitted in connection with a set of numbers that includes three occurrences of one single-digit number.

(D) A "combo" play combines all of the possible straight (exact) plays that can be played with the three single-digit numbers selected for the play.

(i) A combo play may be a 3-way combo play or a 6-way combo play.

(ii) 3-way combo play is combo play in connection with a set of three single-digit numbers that includes two occurrences of one single-digit number and one occurrence of one other single-digit number. A 3-way combo play involves three possible winning combinations.

(iii) 6-way combo play is combo play in connection with a set of three single-digit numbers that includes a single occurrence of three different single-digit numbers. A 6-way combo play involves six possible winning combinations.

(iv) Combo play is not permitted in connection with a set of numbers that includes three occurrences of one single-digit number.

(E) A Sum It Up play is a winning play if the sum of the player's three single-digit numbers is the same as the sum of the three single-digit numbers drawn in the applicable drawing. A Sum It Up play must occur in connection with a play of some other play type.

(2) The executive director shall determine a start date for Sum It Up play. The start date shall be no later than August 31, 2008. Otherwise, the executive director may allow or disallow any type of play described in this subsection. Currently available play types must be posted on the commission's web site.

(d) Plays and tickets

(1) A ticket may be sold only by an on-line retailer and only at the location listed on the retailer's license. A ticket sold by a person other than an on-line retailer is not valid.

(2) A Pick 3 play involves the selection of three single-digit numbers, with each selected from the numbers 0, 1, 2, 3, 4, 5, 6, 7, 8, and 9.

(3) The cost of an exact order play is the same as the Pick 3 base play amount selected for the play.

(4) The cost of an any order play is the same as the Pick 3 base play amount selected for the play.

(5) The cost of an exact order/any order play is:

(A) \$1 if the Pick 3 base play amount selected for the play is \$.50;

(B) \$2 if the Pick 3 base play amount selected for the play is \$1;

(C) \$4 if the Pick 3 base play amount selected for the play is \$2;

(D) \$6 if the Pick 3 base play amount selected for the play is \$3;

(E) \$8 if the Pick 3 base play amount selected for the play is \$4; or

(F) \$10 if the Pick 3 base play amount selected for the play is \$5.

(6) The cost of a combo play is determined by multiplying the Pick 3 base play amount selected for the play by the number of winning combinations possible with the three single-digit numbers selected for the play.

(7) The cost of a Sum It Up play is the same as the Sum It Up base pay amount selected for the Sum It Up play. The cost of a Sum It Up play is in addition to the cost of the connected Pick 3 play.

(8) The cost of a ticket is determined by the total cost of the plays evidenced by the ticket.

(9) A player may complete up to five playboards on a single playslip.

(10) A person may select numbers for a play by:

(A) using a self-service terminal;

(B) using a playslip;

(C) requesting a retailer to use Quick Pick; or

(D) requesting a retailer to manually enter numbers into an on-line terminal.

(11) A player may select the play type, base play amount, and drawn date and time for a play by:

(A) using a self-service terminal;

(B) using a playslip; or

(C) requesting a retailer to manually enter the selections.

(12) Playslips must be completed manually. A ticket generated from a playslip that was not completed manually is not valid.

(13) An on-line retailer may accept a request to manually enter selections or to make quick-pick selections only if the request is made in person.

(14) A player may purchase one or more plays for any one or more of the next 12 drawings after the purchase and may purchase up to 12 consecutive night plays or 12 consecutive day plays.

(15) An on-line retailer shall issue a ticket as evidence of one or more plays. A ticket must show the numbers, play type and base play amount selected for each play; the number of plays, the draw date(s) for which the plays were purchased; and the security and transaction serial numbers. Tickets must be printed on official Texas Lottery paper stock.

(16) A playslip has no monetary value and is not evidence of a play.

(17) The purchaser is responsible for verifying the accuracy of the numbers and other selections shown on a ticket.

(18) The commission shall establish a time period before each drawing during which tickets may not be sold.

(19) An unsigned winning ticket is payable to the holder or bearer of the ticket if the ticket meets all applicable validation requirements.

(e) Cancellation of plays

(1) An on-line retailer may cancel a Pick 3 play only in accordance with the following provisions:

(A) The ticket evidencing the play must have been sold at the retail location at which it is cancelled;

(B) The on-line retailer must have possession of the ticket evidencing the play;

(C) All Pick 3 plays evidenced by a single ticket must be cancelled;

(D) Cancellation may occur no later than 60 minutes after sale of the ticket evidencing the play;

(E) Cancellation must occur before the beginning of the next draw break after the sale of the ticket evidencing the play; and

(F) Cancellation must occur before midnight on the day the ticket evidencing the play was sold.

(2) An on-line retailer must retain the ticket and the cancellation receipt for the play(s) evidenced by that ticket for at least 30 days after the cancellation.

(f) Drawings

(1) Pick 3 drawings shall be held twice a day, Monday through Saturday, at 12:27 p.m. and 10:12 p.m., central time. The executive director may change the drawing schedule, if necessary.

(2) At each Pick 3 drawing, three single-digit numbers shall be drawn. Each single-digit number will be drawn from a set that includes a single occurrence of all ten single-digit numbers (0, 1, 2, 3, 4, 5, 6, 7, 8, and 9).

(3) Numbers drawn and the order in which the numbers are drawn must be certified by the commission in accordance with the commission's drawing procedures.

(4) The numbers selected in a drawing and the order of the numbers selected in the drawing shall be used to determine all winners for that drawing.

(5) Each drawing shall be witnessed by an independent certified public accountant. All drawing equipment used shall be examined by a commission drawings representative and the independent certified public accountant immediately before each drawing and immediately after each drawing.

(g) Prizes

(1) Prize payments shall be made upon completion of commission validation procedures.

(2) A person may win only one prize per play per drawing. A player who holds a valid ticket for a winning play is entitled to the highest prize for that play.

(3) A Sum It Up play is a separate play from the exact order play, any order play, exact order/any order play, or combo play with which it is connected.

(4) The executive director may temporarily increase any prize set out in this paragraph for promotional or marketing purposes.

(5) A person who holds a valid ticket for a winning exact order play is entitled to a prize as shown.

Figure: 16 TAC §401.307(g)(5)

(6) A person who holds a valid ticket for a winning 3-way any order play is entitled to a prize as shown.

Figure: 16 TAC §401.307(g)(6)

(7) A person who holds a valid ticket for a winning 6-way any order play is entitled to a prize as shown.

Figure: 16 TAC §401.307(g)(7)

(8) A person who holds a valid ticket for a winning exact order/3-way any order play is entitled to a prize as shown.

Figure: 16 TAC §401.307(g)(8)

(9) A person who holds a valid ticket for a winning exact order/6-way any order play is entitled to a prize as shown.

Figure: 16 TAC §401.307(g)(9)

(10) A person who holds a valid ticket for a winning combo play is entitled to a prize as shown.

Figure: 16 TAC §401.307(g)(10)

(11) A person who holds a valid ticket for a winning Sum It Up play is entitled to a prize as shown. A Sum It Up prize is in addition to a prize, if any, for the exact order play, any order play, exact order/any order play, or combo play to which the Sum It Up play is connected.

Figure: 16 TAC §401.307(g)(11)

(h) The executive director may authorize promotions in connection with Pick 3. Current promotions must be posted on the commission's web site.

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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Kimberly L. Kiplin

General Counsel

Texas Lottery Commission

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For further information, please call: (512) 344-5113



16 TAC §401.316

The Texas Lottery Commission (Commission) adopts new 16 TAC §401.316 (relating to "Daily 4" On-Line Game Rule), with changes to the proposed text as published in the April 6, 2007, issue of the *Texas Register* (32 TexReg 1984). The rule as adopted corrects the tense of a verb in subsection (c)(1)(C). In addition, the rule as adopted changes subsection (d)(11) to make clear that a player may purchase up to 12 consecutive day plays or 12 consecutive night plays.

The Commission is committed to generating revenue for the State of Texas through the responsible management and sale of

entertaining lottery products. The adopted new rule will authorize a new on-line lottery game. In August 2004, the commission conducted research regarding a daily four-digit numbers-style lottery game. At that time, the game was called Pick 4 for research purposes. The commission conducted research in two ways: quantitatively through a link on the Commission's web site and qualitatively through moderated focus-group discussions. Slightly more than 40 percent of on-line players indicated that they would be very or somewhat likely to purchase tickets to play the game if the game were offered. The greatest support for the four-digit game came from current players of Pick 3 and Cash 5.

Pick 3 is currently the Commission's best selling on-line game; and the Commission believes that the many choices the game offers players, such as selection of play type and base play amount, in addition to the twelve drawings offered per week, contribute to the game's success. Daily 4 is a similar game, and the commission believes that the addition of the Daily 4 game will be appealing to Pick 3 players as well as others.

A public comment hearing was held on April 20, 2007. There were no members of the public present at the hearing. No written comments were received during the comment period.

The new rule is adopted under Texas Government Code, §466.015, which authorizes the Commission to adopt rules governing the operation of the lottery, including the type of lottery games to be conducted. The section is also adopted under Texas Government Code, §467.102, which authorizes the Commission to adopt rules for the enforcement and administration of the laws under the Commission's jurisdiction.

Texas Government Code, Chapter 466, is affected by this rule.

§401.316. "Daily 4" On-Line Game Rule.

(a) Daily 4. The executive director is authorized to conduct a game known as "Daily 4." The executive director may issue further directives and procedures for the conduct of Daily 4 that are consistent with this rule. In the case of conflict, this rule takes precedence over §401.304 of this title (relating to On-Line Game Rules (General)).

(b) Definitions. When used in this rule, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise.

(1) Play--A play other than a Sum It Up play consists of:

(A) the selection of a play type;

(B) the selection of a Daily 4 base play amount of \$.50, \$1, \$2, \$3, \$4 or \$5;

(C) the selection of a draw date and time;

(D) the selection of numbers in accordance with subsection (d) of this section; and

(E) the purchase of a ticket evidencing those selections.

(2) Sum It Up Play--A Sum It Up play consists of:

(A) the selection of the Sum It Up play type in connection with a straight play, a box play, a straight/box play, a combo play, a front-pair play, a mid-pair play, or a back-pair play;

(B) the selection of a Sum It Up base play amount of \$.50, \$1, \$2, \$3, \$4 or \$5; and

(C) the purchase of a ticket evidencing those selections.

(3) Playboard--A panel on a playslip containing four fields of numbers for use in selecting numbers for a Daily 4 play, with each field of numbers containing the numbers 0, 1, 2, 3, 4, 5, 6, 7, 8 and 9.

(4) Playslip--An optically readable card issued by the commission for use in making selections for one or more Daily 4 plays.

(c) Play types

(1) Daily 4 may include the following play types: straight, box, straight/box, combo, front-pair, mid-pair, back-pair, and Sum It Up.

(A) A "straight" play is a winning play if the player's four single-digit numbers match in exact order the four single-digit numbers drawn in the applicable drawing.

(B) A "box" play is a winning play if the player's four single-digit numbers match in any order the four single-digit numbers drawn in the applicable drawing.

(i) A box play may be a 4-way box play, a 6-way box play, a 12-way box play, or a 24-way box play.

(I) A box play is a 4-way box play when box play is selected as the play type in connection with a set of four single-digit numbers that includes three occurrences of one single-digit number and one occurrence of one other single-digit number. A 4-way box play involves four possible winning combinations.

(II) A box play is a 6-way box play when box play is selected as the play type in connection with a set of four single-digit numbers that includes two occurrences of one single-digit number and two occurrences of another single-digit number. A 6-way box play involves six possible winning combinations.

(III) A box play is a 12-way box play when box play is selected as the play type in connection with a set of four single-digit numbers that includes two occurrences of one single-digit number and one occurrence of two other single-digit numbers. A 12-way box play involves 12 possible winning combinations.

(IV) A box play is a 24-way box play when box play is selected as the play type in connection with a set of four single-digit numbers that includes a single occurrence of four different single-digit numbers. A 24-way box play involves 24 possible winning combinations.

(ii) Box play is not permitted in connection with a set of numbers that includes four occurrences of one single-digit number.

(C) A "straight/box" play is a winning play either if the player's four single-digit numbers match in exact order the numbers drawn in the applicable drawing or if the player's four single-digit numbers match in any order the numbers drawn in the applicable drawing. The prize amount is greater if the player's four single-digit numbers match in exact order the numbers drawn in the applicable drawing.

(i) A straight/box play may be a 4-way straight/box play, a 6-way straight/box play, a 12-way straight/box play, or a 24-way straight/box play.

(I) A straight/box play is a 4-way straight/box play when straight/box play is selected in connection with a set of four single-digit numbers that includes three occurrences of one single-digit number and one occurrence of one other single-digit number. A 4-way straight/box play involves four possible winning combinations.

(II) A straight/box play is a 6-way straight/box play when straight/box play is selected in connection with a set of four single-digit numbers that includes two occurrences of one single-digit

number and two occurrences of another single-digit number. A 6-way straight/box play involves six possible winning combinations.

(III) A straight/box play is a 12-way straight/box play when straight/box play is selected in connection with a set of four single-digit numbers that includes two occurrences of one single-digit number and one occurrence of two other single-digit numbers. A 12-way straight/box play involves 12 possible winning combinations.

(IV) A straight/box play is a 24-way straight/box play when straight/box play is selected in connection with a set of four single-digit numbers that includes a single occurrence of four different single-digit numbers. A 24-way straight/box play involves 24 possible winning combinations.

(ii) Straight/box play is not permitted in connection with a set of numbers that includes four occurrences of one single-digit number.

(D) A "combo" play combines into a single play all of the possible straight plays that can be played with the four single-digit numbers selected for the play.

(i) A combo play may be a 4-way combo play, a 6-way combo play, a 12-way combo play, or a 24-way combo play.

(I) 4-way combo play is combo play in connection with a set of four single-digit numbers that includes three occurrences of one single-digit number and one occurrence of one other single-digit number. A four-way combo play involves four possible winning combinations.

(II) 6-way combo play is combo play in connection with a set of four single-digit numbers that includes two occurrences of one single-digit number and two occurrences of another single-digit number. A six-way combo play involves six possible winning combinations.

(III) 12-way combo play is combo play in connection with a set of four single-digit numbers that includes two occurrences of one single-digit number and one occurrence of two other single-digit numbers. A 12-way combo play involves 12 possible winning combinations.

(IV) 24-way combo play is combo play in connection with a set of four single-digit numbers that includes a single occurrence of four different single-digit numbers. A 24-way combo play involves 24 possible winning combinations.

(ii) Combo play is not permitted in connection with a set of numbers that includes four occurrences of one single-digit number.

(E) Pair play

(i) A "front-pair" play is a winning play if the player's two single-digit numbers match in exact order the first two single-digit numbers drawn in the applicable drawing.

(ii) A "mid-pair" play is a winning play if the player's two single-digit numbers match in exact order the second and third single-digit numbers drawn in the applicable drawing.

(iii) A "back-pair" play is a winning play if the player's two single-digit numbers match in exact order the last two single-digit numbers drawn in the applicable drawing.

(F) A Sum It Up play is a winning play if the sum of the player's two or four single-digit numbers, as applicable, is the same as the sum of the four single-digit numbers drawn in the applicable

drawing. A Sum It Up play must occur in connection with a play of some other play type.

(2) The executive director may allow or disallow any type of play described in this subsection. Currently available play types must be posted on the commission's web site.

(d) Plays and tickets

(1) A ticket may be sold only by an on-line retailer and only at the location listed on the retailer's license. A ticket sold by a person other than an on-line retailer is not valid.

(2) The selection of numbers for a straight play, a box play, a straight/box play, or a combo play involves the selection of four single-digit numbers, with each selected from the numbers 0, 1, 2, 3, 4, 5, 6, 7, 8, and 9.

(3) The selection of numbers for a front-pair play, a mid-pair play, or a back-pair play involves the selection of two single-digit numbers, with each selected from the numbers 0, 1, 2, 3, 4, 5, 6, 7, 8, and 9.

(4) The cost of a play varies according to the play type selected for the play and the base play amount selected for the play.

(A) The cost of a straight play is the same as the base play amount selected for the play.

(B) The cost of a box play is the same as the base play amount selected for the play.

(C) The cost of a straight/box play is:

(i) \$1 if the base play amount selected for the play is \$.50;

(ii) \$2 if the base play amount selected for the play is \$1;

(iii) \$4 if the base play amount selected for the play is \$2;

(iv) \$6 if the base play amount selected for the play is \$3;

(v) \$8 if the base play amount selected for the play is \$4; or

(vi) \$10 if the base play amount selected for the play is \$5.

(D) The cost of a combo play is determined by multiplying the base play amount selected for the play by the number of winning combinations possible with the four single-digit numbers selected for the play.

(E) The cost of a front-pair, mid-pair, or back-pair play is the same as the base play amount selected for the play.

(F) The cost of a Sum It Up play is the same as the Sum It Up base play amount selected for the Sum It Up play. The cost of a Sum It Up play is in addition to the cost of the Daily 4 play with which the Sum It Up play is connected.

(5) The cost of a ticket is determined by the total cost of the plays evidenced by the ticket.

(6) A player may complete up to five playboards on a single playslip.

(7) A person may select numbers for a play by:

(A) using a self-service terminal;

(B) using a playslip;

(C) requesting a retailer to use Quick Pick; or
(D) requesting a retailer to manually enter numbers into an on-line terminal.

(8) A player may select the play type, base play amount, and draw date and time for a play by:

- (A) using a self-service terminal;
- (B) using a playslip; or
- (C) requesting a retailer to manually enter the play type.

(9) Playslips must be completed manually. A ticket generated from a playslip that was not completed manually is not valid.

(10) An on-line retailer may accept a request to manually enter selections or to make quick-pick selections only if the request is made in person.

(11) A player may purchase one or more plays for any one or more of the next 12 drawings after the purchase and may purchase up to 12 consecutive night plays or 12 consecutive day plays.

(12) An on-line retailer shall issue a ticket as evidence of one or more plays. A ticket must show the numbers, play type and base play amount selected for each play; the number of plays, the draw date(s) for which the plays were purchased; and the security and transaction serial numbers. Tickets must be printed on official Texas Lottery paper stock.

(13) A playslip has no monetary value and is not evidence of a play.

(14) The purchaser is responsible for verifying the accuracy of the numbers and other selections shown on a ticket.

(15) The commission shall establish a time period before each drawing during which tickets may not be sold.

(16) An unsigned winning ticket is payable to the holder or bearer of the ticket if the ticket meets all applicable validation requirements.

(e) Cancellation of plays

(1) An on-line retailer may cancel a Daily 4 play only in accordance with the following provisions:

(A) The ticket evidencing the play must have been sold at the retail location at which it is cancelled;

(B) The on-line retailer must have possession of the ticket evidencing the play;

(C) All Daily 4 plays evidenced by a single ticket must be cancelled;

(D) Cancellation may occur no later than 60 minutes after sale of the ticket evidencing the play;

(E) Cancellation must occur before the beginning of the next draw break after the sale of the ticket evidencing the play; and

(F) Cancellation must occur before midnight on the day the ticket evidencing the play was sold.

(2) An on-line retailer must retain the ticket and the cancellation receipt for the play(s) evidenced by that ticket for at least 30 days after the cancellation.

(f) Drawings

(1) Daily 4 drawings shall be held twice a day, Monday through Saturday, at 12:27 p.m. and 10:12 p.m., central time. The executive director may change the drawing schedule, if necessary.

(2) At each Daily 4 drawing, four single-digit numbers shall be drawn. Each single-digit number will be drawn from a set that includes a single occurrence of all ten single-digit numbers (0, 1, 2, 3, 4, 5, 6, 7, 8, and 9).

(3) Numbers drawn and the order in which the numbers are drawn must be certified by the commission in accordance with the commission's drawing procedures.

(4) The numbers selected in a drawing and the order of the numbers selected in the drawing shall be used to determine all winners for that drawing.

(5) Each drawing shall be witnessed by an independent certified public accountant. All drawing equipment used shall be examined by a commission drawings representative and the independent certified public accountant immediately before each drawing and immediately after each drawing.

(g) Prizes

(1) Prize payments shall be made upon completion of commission validation procedures.

(2) A person may win only one prize per play per drawing. A player who holds a valid ticket for a winning play is entitled to the highest prize for that play.

(3) A Sum it Up play is a separate play from the play with which it is connected.

(4) The executive director may temporarily increase any prize set out in this subsection for promotional or marketing purposes.

(5) A person who holds a valid ticket for a winning straight play is entitled to a prize as shown.

Figure: 16 TAC §401.316(g)(5)

(6) A person who holds a valid ticket for a winning 4-way box play is entitled to a prize as shown.

Figure: 16 TAC §401.316(g)(6)

(7) A person who holds a valid ticket for a winning 6-way box play is entitled to a prize as shown.

Figure: 16 TAC §401.316(g)(7)

(8) A person who holds a valid ticket for a winning 12-way box play is entitled to a prize as shown.

Figure: 16 TAC §401.316(g)(8)

(9) A person who holds a valid ticket for a winning 24-way box play is entitled to a prize as shown.

Figure: 16 TAC §401.316(g)(9)

(10) A person who holds a valid ticket for a winning straight/4-way box play is entitled to a prize as shown.

Figure: 16 TAC §401.316(g)(10)

(11) A person who holds a valid ticket for a winning straight/6-way box play is entitled to a prize as shown.

Figure: 16 TAC §401.316(g)(11)

(12) A person who holds a valid ticket for a winning straight/12-way box play is entitled to a prize as shown.

Figure: 16 TAC §401.316(g)(12)

(13) A person who holds a valid ticket for a winning straight/24-way box play is entitled to a prize as shown.

Figure: 16 TAC §401.316(g)(13)

(14) A person who holds a valid ticket for a winning combo play is entitled to a prize as shown.
Figure: 16 TAC §401.316(g)(14)

(15) A person who holds a valid ticket for a winning front-pair, mid-pair, or back-pair play is entitled to a prize as shown.
Figure: 16 TAC §401.316(g)(15)

(16) A person who holds a valid ticket for a winning Sum It Up play is entitled to a prize as shown. A Sum It Up prize is in addition to a prize, if any, for a straight play, a box play, a straight/box play, or a combo play.
Figure: 16 TAC §401.316(g)(16)

(h) Start of Play. The executive director shall determine the start date for Daily 4. The start date shall be no later than August 31, 2008.

(i) The executive director may authorize promotions in connection with Daily 4. Any current promotions must be posted on the commission's web site.

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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Kimberly L. Kiplin
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TITLE 22. EXAMINING BOARDS

PART 6. TEXAS BOARD OF PROFESSIONAL ENGINEERS

CHAPTER 133. LICENSING

SUBCHAPTER F. REFERENCE DOCUMENTATION

22 TAC §133.51

The Texas Board of Professional Engineers adopts an amendment to §133.51, relating to Reference Providers, without changes to the proposed text as published in the March 2, 2007, issue of the *Texas Register* (32 TexReg 1017) and will not be republished.

The adopted rule amendment adds language to differentiate between reference statements and reference providers.

One public comment in favor of the rule amendment was received regarding the Board's adoption of the amended section.

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

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

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Dale Beebe Farrow, P.E.
Executive Director
Texas Board of Professional Engineers
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Proposal publication date: March 2, 2007
For further information, please call: (512) 440-7723



SUBCHAPTER G. EXAMINATIONS

22 TAC §133.69

The Texas Board of Professional Engineers adopts an amendment to §133.69, relating to Waivers of Examinations, without changes to the proposed text as published in the March 2, 2007, issue of the *Texas Register* (32 TexReg 1020) and will not be republished.

The adopted rule amendment adds language to clarify the requirements for a waiver of the Principles and Practice of Engineering examination. Applicants who are currently licensed in another U.S. state or territory will receive a standard license, while those who are currently licensed in Canada or Mexico and are applying via NAFTA must meet all requirements outlined in §133.11 and will receive a temporary license.

Two public comments were received regarding the Board's adoption of the amended section: one was in favor of the amendment and one expressed the need for stricter requirements for NAFTA applicants. The second comment was noted but not related to the content of the rule amendment.

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

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

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Dale Beebe Farrow, P.E.
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Texas Board of Professional Engineers
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CHAPTER 137. COMPLIANCE AND PROFESSIONALISM

SUBCHAPTER C. PROFESSIONAL CONDUCT AND ETHICS

22 TAC §137.53

The Texas Board of Professional Engineers adopts an amendment to §137.53, relating to the Professional Services Procurement Act (PSPA), without changes to the proposed text as published in the April 6, 2007, issue of the *Texas Register* (32 TexReg 1989) and will not be republished.

The adopted rule amendment changes the section title used in the Board rules to Professional Services Procurement Act.

No comments were received regarding the Board's adoption of the amended section.

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

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

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Dale Beebe Farrow, P.E.

Executive Director

Texas Board of Professional Engineers

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



TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 97. COMMUNICABLE DISEASES

SUBCHAPTER A. CONTROL OF COMMUNICABLE DISEASES

The Executive Commissioner of the Health and Human Services Commission (commission), on behalf of the Department of State Health Services (department), adopts amendments to §§97.1 - 97.11, the repeal of §97.12 and §97.13, and new §97.12 and §97.13 concerning control of communicable diseases. The amendments to §§97.3 - 97.5, 97.7, and 97.9 are adopted with changes to the proposed text as published in the November 17, 2006, issue of the *Texas Register* (31 TexReg 9437). The amendments to §§97.1, 97.2, 97.6, 97.8, 97.10 and 97.11, the repeal of §97.12 and §97.13, and new §97.12 and §97.13 are adopted without changes and, therefore, the sections will not be republished.

BACKGROUND AND PURPOSE

The amendments, repeal and new sections are necessary to comply with Health and Safety Code, Chapter 81. The amendments, repeal and new sections will enable the reporting sources to more clearly identify the conditions and diseases that must be reported, define the minimal reportable information on these conditions and diseases, and describe the procedures for report-

ing. The amendments adjust the list of reportable diseases to include diseases and conditions of concern to public health. The amendments also add language on the investigation and control of communicable diseases that are authorized by Health and Safety Code, Chapter 81.

Government Code, §2001.039, requires that each state agency review and consider for re-adoption each rule adopted by that agency pursuant to the Government Code, Chapter 2001 (Administrative Procedure Act). Sections 97.1 - 97.13 have been reviewed and the department has determined that reasons for adopting the sections continue to exist because rules on this subject are needed.

SECTION-BY-SECTION SUMMARY

Amendments to §97.1 update legacy agency references, update definitions by adding, deleting, and revising text as necessary for clarity. Amendments to §97.2 add a reference to the Health Insurance Portability and Accountability Act (HIPAA). Amendments to §97.3 update legacy agency references, add a website for accessing a summary list of notifiable conditions, update legacy agency references, change the scope of hepatitis B and C notifications, add influenza-associated pediatric mortality, leishmaniasis, *Taenia solium*, Vancomycin-intermediate resistant *Staphylococcus aureus* (VISA), Vancomycin resistant *Staphylococcus aureus* (VRSA), and West Nile fever to the notifiable conditions list, update diseases requiring submission of specimens to Department of State Health Services laboratory. Amendments to §97.4 update legacy agency references, and changes reporting time frames for perinatal hepatitis B, pertussis, tularemia and severe acute respiratory syndrome (SARS). Amendments to §97.5 update legacy agency references, where to report a disease or isolate, and where to submit an isolate. Amendments to §97.6 update legacy agency references, provide a toll-free telephone number for reporting diseases to the department by local health authorities and regional directors. Amendments to §97.7 updates guidance for exclusion from child-care facilities and schools. Amendments to §97.8 update legacy agency references. Amendments to §97.9 add language regarding application of control measures to private and common carriers as required by Health and Safety Code, §81.086(b). Amendments to §97.10 update legacy agency references and clarify existing language. Amendments to §97.11 add persons, as required by legislation, who need to or may be notified by hospitals if they may have been exposed to a communicable disease.

New §97.12 is the renumbered §97.13, and new §97.13 is the renumbered §97.12 moved for better flow of the rules and reorganized for clarity. In the new §97.12, the definition of correctional officer is changed to include volunteers and others involved in a facility's operations. New §97.13 adds avian influenza, hantavirus, SARS and smallpox to diseases that require tagging of body upon death. All of Subchapter A includes updates to names, references, and processes to reflect post-consolidation operations.

COMMENTS

The department, on behalf of the commission, has reviewed and prepared responses to the comments received regarding the proposed rules during the comment period, which the commission has reviewed and accepts. The commenters were individuals from the following organizations: Baylor College of Medicine, Centers for Disease Control and Prevention, Harris County Public Health and Environmental Services and other local health

jurisdictions, Harris Methodist Southwest Hospital, Laboratory Corporation of America, Quest Diagnostics and public health laboratories located in various cities. The commenters were not against the rules in their entirety; however, the commenters suggested recommendations for change as discussed in the summary of comments.

Comment: Concerning the readmission criteria of "gastroenteritis" in §97.7(a)(8), one commenter requested that the phrase "without the use of diarrhea suppressing medications" be added.

Response: The commission agrees and the phrase was added to read, "gastroenteritis-exclude until diarrhea subsides without the use of diarrhea suppressing medications."

Comment: Concerning §97.3(a)(4), several commenters requested adding tuberculosis (disease caused by "*Mycobacterium tuberculosis* complex") to the list of diseases requiring submission of cultures. The commenters pointed out the difference in requiring submission of *Mycobacterium tuberculosis* (one particular species of *Mycobacterium* that cause tuberculosis) compared with requiring submission of "*Mycobacterium tuberculosis* complex" (a group of four *Mycobacterium* species that cause human tuberculosis).

Response: The commission agrees and has added "tuberculosis" to the list of diseases requiring submission of cultures in §§97.3(a)(4), 97.4(a)(6), and 97.5(a)(2)(D). Specifically, the wording of the rules will require submission of "*Mycobacterium tuberculosis* complex" to clarify what species of *Mycobacterium* would require submission of cultures.

Comment: Concerning §97.3(a)(2), several commenters expressed confusion with the reporting of encephalitis or meningitis caused by various mosquito-borne viruses and the reporting of febrile illnesses caused by the same viruses. The commenters suggested the addition of arboviral infections caused by five viruses to the list of notifiable conditions. These five viruses include "California serogroup, Eastern equine encephalitis, Powassan, St. Louis encephalitis, and West equine encephalitis." The commenters also suggested deleting "West Nile fever" as a reportable condition but adding "West Nile virus" to the list of arboviral infections to be reported.

Response: The commission agrees and has added arboviral infections caused by "California serogroup, Eastern equine encephalitis, Powassan, St. Louis encephalitis, West equine encephalitis, and West Nile viruses as" reportable conditions.

Comment: Concerning §97.4, two commenters requested changing influenza-associated pediatric mortality from a condition to be reported "within one week" to a condition to be reported "within one working day."

Response: The commission agrees and changed this condition to be reported "within one working day."

Comment: Concerning §97.4(a)(5), one commenter requested changing *Escherichia coli* enterohemorrhagic infection, hemolytic uremic syndrome (HUS) and mumps from conditions reported within one week to conditions reported immediately.

Response: These conditions, and many others, are of public health importance; however, the commission disagrees because the current language for reporting within one week is sufficient to address appropriate disease control measures. No change was made to the rule as a result of this comment.

Comment: Concerning §97.13, one commenter requested requiring a tag to be affixed on the body if the person had avian influenza, hantavirus, SARS or smallpox at the time of death.

Response: The commission disagrees adding these four diseases that require tagging because the language currently exists in §97.13(c). No change was made to the rules as a result of this comment.

Due to comments, various words were added and deleted to improve the sentence structure in §§97.3(a) and 97.9.

LEGAL CERTIFICATION

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

25 TAC §§97.1 - 97.13

STATUTORY AUTHORITY

The amendments and new sections are adopted under the Health and Safety Code, §81.004, which gives the commissioner of the department (commissioner) general statewide responsibility for the administration of the Communicable Disease Act and authorizes the adoption of rules necessary for its effective administration and implementation; §81.041, which requires that the executive commissioner of the Health and Human Services Commission (executive commissioner) identify and maintain a list of reportable diseases; §81.042(c), which requires rules to establish procedures to determine if a child should be reported and excluded from school; §81.042(d), which requires that health facilities report disease diagnoses in accordance with procedures adopted by the executive commissioner; §81.50, which requires that the executive commissioner adopt rules that prescribe the criteria that constitute exposure to reportable diseases; §81.082, which requires that control measures for communicable disease must be established by rules adopted by the executive commissioner; 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 the Health and Safety Code, Chapter 1001.

§97.3. *What Condition to Report and What Isolates to Report or Submit.*

(a) Humans.

(1) Identification of notifiable conditions.

(A) A summary list of notifiable conditions and reporting time frames is published on the Department of State Health Services web site at <http://www.dshs.state.tx.us/idcu/>. Copies are filed in the Infectious Disease Surveillance and Epidemiology Branch, Department of State Health Services, 1100 West 49th Street, Austin, Texas 78756.

(B) Repetitive test results from the same patient do not need to be reported except those for mycobacterial infections.

(2) Notifiable conditions or isolates.

(A) Confirmed and suspected human cases of the following diseases/infections are reportable: acquired immune deficiency syndrome (AIDS); amebiasis; anthrax; arboviral infections caused by California serogroup virus, Eastern equine encephalitis (EEE) virus, Powassan virus, St. Louis encephalitis (SLE) virus, Western equine encephalitis (WEE) virus, and West Nile (WN) virus; botulism-adult

and infant; brucellosis; campylobacteriosis; chancroid; chickenpox (varicella); *Chlamydia trachomatis* infection; Creutzfeldt-Jakob disease (CJD); cryptosporidiosis; cyclosporiasis; dengue; diphtheria; ehrlichiosis; encephalitis (specify etiology); *Escherichia coli*, enterohemorrhagic infection; gonorrhea; Hansen's disease (leprosy); *Haemophilus influenzae* type b infection, invasive; hantavirus infection; hemolytic uremic syndrome (HUS); hepatitis A, B, C, D, E, and unspecified (acute); hepatitis B, (acute and chronic) identified prenatally or at delivery as described in §97.135 of this title (relating to Serologic Testing during Pregnancy and Delivery); perinatal hepatitis B infection; human immunodeficiency virus (HIV) infection; influenza-associated pediatric mortality; legionellosis; leishmaniasis; listeriosis; Lyme disease; malaria; measles (rubeola); meningitis (specify type); meningococcal infection, invasive; mumps; pertussis; plague; poliomyelitis, acute paralytic; Q fever; rabies; relapsing fever; rubella (including congenital); salmonellosis, including typhoid fever; severe acute respiratory syndrome (SARS) as defined by the United States Centers for Disease Control and Prevention; shigellosis; smallpox; spotted fever group rickettsioses (such as Rocky Mountain spotted fever); streptococcal disease: invasive group A, invasive group B, or invasive *Streptococcus pneumoniae*; syphilis; *Taenia solium* and undifferentiated *Taenia* infections, including cysticercosis; tetanus; trichinosis; tuberculosis; tularemia; typhus; *Vibrio* infection, including cholera (specify species); viral hemorrhagic fevers; yellow fever; yersiniosis; and vancomycin-intermediate resistant *Staphylococcus aureus* (VISA), and vancomycin-resistant *Staphylococcus aureus* (VRSA).

(B) In addition to individual case reports, any outbreak, exotic disease, or unusual group expression of disease that may be of public health concern should be reported by the most expeditious means.

(3) Minimal reportable information requirements. The minimal information that shall be reported for each disease is as follows:

(A) AIDS, chancroid, *Chlamydia trachomatis* infection, gonorrhea, HIV infection, and syphilis shall be reported in accordance with §§97.132-97.135 of this title (relating to Sexually Transmitted Diseases, including AIDS and HIV infection);

(B) for tuberculosis disease - complete name, date of birth, physical address and county of residence, information on which diagnosis was based or suspected. In addition, if known, radiographic or diagnostic imaging results and date(s); all information necessary to complete the most recent versions of forms TB 400 A & B (Report of Case and Patient Services), TB 340 (Report of Contacts) and TB 341 (Continuation of Report of Contacts); laboratory results used to guide prescribing, monitoring or modifying antibiotic treatment regimens for tuberculosis to include, but not limited to, liver function studies, renal function studies, and serum drug levels; pathology reports related to diagnostic evaluations of tuberculosis; reports of imaging or radiographic studies; records of hospital or outpatient care to include, but not limited to, histories and physical examinations, discharge summaries and progress notes; records of medication administration to include, but not limited to, directly observed therapy (DOT) records, and drug toxicity and monitoring records; a listing of other patient medications to evaluate the potential for drug-drug interactions; and copies of court documents related to court ordered management of tuberculosis.

(C) for contacts to a known case of tuberculosis - complete name; date of birth; physical address; county of residence; and all information necessary to complete the most recent versions of forms TB 400 A & B (Report of Case and Patient Services), TB 340 (Report of Contacts), and TB 341 (Continuation of Report of Contacts);

(D) for other persons identified with latent TB infection - complete name; date of birth; physical address and county of residence; and diagnostic information;

(E) for hepatitis B, (chronic and acute) identified prenatally or at delivery - mother's name, address, telephone number, age, date of birth, sex, race and ethnicity, preferred language, hepatitis B laboratory test results; estimated delivery date or date and time of birth; name and phone number of delivery hospital or planned delivery hospital; name of infant; name, phone number, and address of medical provider for infant; date, time, formulation, dose, manufacturer, and lot number of hepatitis B vaccine and hepatitis B immune globulin administered to infant;

(F) for hepatitis A, B, C, D, E - name, address, telephone number, age, date of birth, sex, race and ethnicity, disease, diagnostic indicators (diagnostic lab results, including all positive and negative hepatitis panel results, liver function tests, and symptoms), date of onset, pregnancy status, and physician name, address, and telephone number;

(G) for perinatal hepatitis B - name of infant; date of birth; sex; race; ethnicity; name, phone number and address of medical provider for infant; date, time, formulation, dose, manufacturer, and lot number of hepatitis B vaccine and hepatitis B immune globulin administered to infant, hepatitis B laboratory test results;

(H) for chickenpox - name, date of birth, sex, race and ethnicity, address, date of onset, and varicella vaccination history;

(I) for VISA; and VRSA - name, address, telephone number, age, date of birth, sex, race and ethnicity, disease, diagnostic indicators (diagnostic lab results, anatomic site of culture, and clinical indicators), date of onset, and physician name, address, and telephone number;

(J) for Hansen's disease - name; date of birth; sex; race and ethnicity; social security number; disease type; place of birth; address; telephone number; date entered Texas; date entered U.S.; education/employment; insurance status; location and inclusive dates of residence outside U.S.; date of onset and history prior to diagnosis; date of initial biopsy and result; date initial drugs prescribed and name of drugs; name, date of birth and relationship of household contacts; and name, address, and telephone number of physician; and

(K) for all other notifiable conditions listed in paragraph (2)(A) of this subsection - name, address, telephone number, age, date of birth, sex, race and ethnicity, disease, diagnostic indicators (diagnostic lab results and specimen source, and clinical indicators), date of onset, and physician name, address, and telephone number.

(4) Diseases requiring submission of cultures. For all anthrax (*Bacillus anthracis*), botulism-adult and infant (*Clostridium botulinum*), brucellosis (*Brucella* species), *E.coli* O157:H7, isolates or specimens from cases where Shiga-toxin activity is demonstrated, *Listeria monocytogenes*, meningococcal infection, invasive (*Neisseria meningitidis* from normally sterile sites), plague (*Yersinia pestis*), tuberculosis (*Mycobacterium tuberculosis* complex), tularemia (*Francisella tularensis*), all *Staphylococcus aureus* with a vancomycin MIC greater than 2 µg/mL, and *Vibrio* species - pure cultures shall be submitted accompanied by a current department Specimen Submission Form.

(5) Laboratory reports. Reports from laboratories shall include name, patient identification number, address, telephone number, age, date of birth, sex, race and ethnicity, specimen submitter name, address, and phone number, specimen type, date specimen collected, disease test and test result, normal test range, date of test report, and physician name and telephone number.

(b) Animals.

(1) Clinically diagnosed or laboratory-confirmed animal cases of the following diseases are reportable: anthrax, arboviral encephalitis, *Mycobacterium tuberculosis* infection in animals other than those housed in research facilities, plague, and psittacosis. Also, all non-negative rabies tests performed on animals from Texas at laboratories located outside of Texas shall be reported; all non-negative rabies tests performed in Texas will be reported by the laboratory conducting the testing. In addition to individual case reports, any outbreak, exotic disease, or unusual group expression of disease which may be of public health concern should be reported by the most expeditious means.

(2) The minimal information that shall be reported for each disease includes species and number of animals affected, disease or condition, name and phone number of the veterinarian or other person in attendance, and the animal(s) owner's name, address, and phone number. Other information may be required as part of an investigation in accordance with Texas Health and Safety Code, §81.061.

§97.4. When to Report a Condition or Isolate.

(a) Humans.

(1) The following notifiable conditions are public health emergencies and suspect cases shall be reported immediately by phone to the local health authority or the regional director of the Department of State Health Services (department): anthrax; botulism, food-borne; diphtheria; *Haemophilus influenzae* type b infection, invasive; measles (rubeola); meningococcal infection, invasive; poliomyelitis, acute paralytic; plague; rabies; severe acute respiratory syndrome (SARS); smallpox; tularemia; viral hemorrhagic fevers; yellow fever. Vancomycin-intermediate resistant *Staphylococcus aureus* (VISA) and vancomycin-resistant *Staphylococcus aureus* (VRSA) shall be reported immediately by phone to the Infectious Disease Surveillance and Epidemiology Branch, Department of State Health Services, Austin at (800) 252-8239.

(2) The following notifiable conditions shall be reported within one working day of identification as a suspected case: brucellosis, hepatitis A (acute), influenza-associated pediatric mortality perinatal hepatitis B, pertussis, Q fever, rubella (including congenital), tuberculosis, and *Vibrio* infection (including cholera).

(3) AIDS, chancroid, *Chlamydia trachomatis* infection, gonorrhea, HIV infection, and syphilis shall be reported in accordance with §§97.132 - 97.135 of this title (relating to Sexually Transmitted Diseases including AIDS and HIV infection);

(4) Tuberculosis antibiotic susceptibility results should be reported by laboratories no later than one week after they first become available.

(5) For all other notifiable conditions not listed in paragraphs (1)-(3) of this subsection, reports of disease shall be made no later than one week after a case or suspected case is identified.

(6) All anthrax (*Bacillus anthracis*), botulism-adult and infant (*Clostridium botulinum*), brucellosis (*Brucella* species), *E.coli* 0157:H7, isolates or specimens from cases where Shiga-toxin activity is demonstrated, *Listeria monocytogenes*, meningococcal infection, invasive (*Neisseria meningitidis* from normally sterile sites), plague (*Yersinia pestis*), tuberculosis (*Mycobacterium tuberculosis* complex), tularemia (*Francisella tularensis*), VISA, VRSA and *Vibrio* species shall be submitted as pure cultures to the Department of State Health Services, Laboratory Services Section, 1100 West 49th Street, Austin, Texas 78756-3199 as they become available.

(b) Animals. Reportable conditions affecting animals shall be reported within one working day following the diagnosis.

§97.5. Where To Report a Condition or Isolate; Where To Submit an Isolate.

(a) Humans.

(1) A physician, dentist, veterinarian, chiropractor, reporting officer of a hospital, person in charge of a hospital laboratory (if the laboratory reports independently), person permitted by law to attend a pregnant woman during gestation or at the delivery of an infant, or school authority shall report to the local health authority where the office, clinic, hospital, or school is located. If there is no local health authority appointed for the jurisdiction where the office, clinic, hospital, or school is located, the report shall be made to the Department of State Health Services (department) regional director. Public health emergencies shall be reported to the department's central office if the local health authority or the department's regional director is not immediately accessible.

(2) The administrative officer of a clinical laboratory, blood bank, mobile unit, or other facility shall report a condition or submit an isolate as follows.

(A) If the laboratory examination was requested by a physician, notice shall be sent to the local health authority for the jurisdiction where the physician's office is located, to the department's regional director for the jurisdiction where the physician's office is located if no local health authority exists, or to the department's central office when the regional director or local health authority are unknown to the laboratory.

(B) If the laboratory examination was not requested by a physician, notice shall be sent to the local health authority for the jurisdiction where the laboratory is located, to the department's regional director for the jurisdiction where the laboratory is located if no local health authority has been appointed, or to the department's central office when the regional director or local health authority are unknown to the laboratory.

(C) For VISA and VRSA immediately report by phone to the Infectious Disease Surveillance and Epidemiology Branch at 1-800-252-8239.

(D) All anthrax (*Bacillus anthracis*), botulism-adult and infant (*Clostridium botulinum*), brucellosis (*Brucella* species), *E.coli* 0157:H7, isolates or specimens from cases where Shiga-toxin activity is demonstrated, *Listeria monocytogenes*, meningococcal infection, invasive (*Neisseria meningitidis*) from normally sterile sites, plague (*Yersinia pestis*), tuberculosis (*Mycobacterium tuberculosis* complex), tularemia (*Francisella tularensis*), all *Staphylococcus aureus* with a vancomycin MIC greater than 2 µg/mL, and *Vibrio* species shall be submitted as pure cultures to the Department of State Health Services, Laboratory Services Section, 1100 West 49th Street, Austin, Texas 78756-3199.

(3) Sexually transmitted diseases including HIV and AIDS shall be reported in accordance with §§97.132 - 97.135 of this title (relating to Sexually Transmitted Diseases Including Acquired Immune Deficiency Syndrome (AIDS) and Human Immunodeficiency Virus (HIV)).

(b) Animals.

(1) Reportable conditions in animals shall be reported to either the appropriate Department of State Health Services regional zoonosis control office or the Zoonosis Control Branch office in Austin.

(2) Conditions in animals that are reportable to both the Department of State Health Services and the Texas Animal Health Com-

mission can be reported to either one of the agencies, which will forward the information to the other agency.

§97.7. Diseases Requiring Exclusion from Child-care Facilities and Schools.

(a) The owner or operator of a child-care facility, or the school administrator, shall exclude from attendance any child having or suspected of having a communicable condition. Exclusion shall continue until the readmission criteria for the conditions are met. The conditions and readmission criteria are as follows:

- (1) amebiasis--exclude until treatment is initiated;
- (2) campylobacteriosis--exclude until after diarrhea and fever subside;
- (3) chickenpox--exclude until the lesions become dry;
- (4) common cold--exclude until fever subsides;
- (5) conjunctivitis, bacterial and/or viral--exclude until written permission and/or permit is issued by a physician or local health authority;
- (6) fever--exclude until fever subsides without use of fever suppressing medications;
- (7) fifth disease (erythema infectiosum)--exclude until fever subsides;
- (8) gastroenteritis--exclude until diarrhea subsides without the use of diarrhea suppressing medications;
- (9) giardiasis--exclude until diarrhea subsides;
- (10) head lice (pediculosis)--exclude until one medicated shampoo or lotion treatment has been given;
- (11) hepatitis A--exclude until one week after onset of illness;
- (12) impetigo--exclude until treatment has begun;
- (13) infectious mononucleosis--exclude until physician decides or fever subsides;
- (14) influenza--exclude until fever subsides;
- (15) measles (rubeola)--exclude until four days after rash onset or in the case of an outbreak, unimmunized children should also be excluded for at least two weeks after last rash onset occurs;
- (16) meningitis, bacterial--exclude until written permission and/or permit is issued by a physician or local health authority;
- (17) meningitis, viral--exclude until fever subsides;
- (18) mumps--exclude until nine days after the onset of swelling;
- (19) pertussis (whooping cough)--exclude until completion of five days of antibiotic therapy;
- (20) ringworm--exclude until treatment has begun;
- (21) rubella (German measles)--exclude until seven days after rash onset or in the case of an outbreak, unimmunized children should be excluded for at least three weeks after last rash onset occurs;
- (22) salmonellosis--exclude until diarrhea and fever subside;
- (23) scabies--exclude until treatment has begun;
- (24) shigellosis--exclude until diarrhea and fever subside;

(25) streptococcal sore throat and scarlet fever--exclude until 24 hours from time antibiotic treatment was begun and fever subsided; and

(26) tuberculosis, pulmonary--exclude until antibiotic treatment has begun and a physician's certificate or health permit obtained.

(b) The owner or operator of a child-care facility, or the school administrator, shall exclude from attendance any child having or suspected of having a communicable disease designated by the Commissioner of Health (commissioner) as cause for exclusion until one of the criteria listed in subsection (c) of this section is fulfilled.

(c) Any child excluded for reason of communicable disease may be readmitted, as determined by the health authority, by:

(1) submitting a certificate of the attending physician, advanced practice nurse, or physician assistant attesting that the child does not currently have signs or symptoms of a communicable disease or to the disease's non-communicability in a child-care or school setting;

(2) submitting a permit for readmission issued by a local health authority; or

(3) meeting readmission criteria as established by the commissioner.

§97.9. Quarantine of Specific Premises and Application of Control Measures to Private and Common Carriers.

(a) A health authority may declare a house, building, apartment, room, or place within the health authority's jurisdiction to be a place of quarantine whenever a case of communicable disease occurs therein, and, in the health authority's opinion, it is necessary to do so in order to protect the public health. No person shall leave or enter the place during the period of quarantine except with specific permission of the health authority.

(b) The department or health authority may investigate and apply control measures to private and common carriers and private conveyances as authorized in Disease Prevention and Control Act (Act), Health and Safety Code, §81.086, when they have reasonable cause to believe that:

(1) it has departed from or traveled through an area infected or contaminated with a communicable disease;

(2) it is or may be infected or contaminated with a communicable disease;

(3) an individual on board has been exposed to or is the carrier of a communicable disease; or

(4) it has cargo or an object on board that is or may be infected or contaminated with a communicable disease.

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 May 16, 2007.

TRD-200701922

Linda Wiegman

Deputy General Counsel

Department of State Health Services

Effective date: June 5, 2007

Proposal publication date: November 17, 2006

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

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25 TAC §97.12, §97.13

STATUTORY AUTHORITY

The repeals are adopted under the Health and Safety Code, §81.004, which gives the commissioner of the department (commissioner) general statewide responsibility for the administration of the Communicable Disease Act and authorizes the adoption of rules necessary for its effective administration and implementation; §81.041, which requires that the executive commissioner of the Health and Human Services Commission (executive commissioner) identify and maintain a list of reportable diseases; §81.042(c), which requires rules to establish procedures to determine if a child should be reported and excluded from school; §81.042(d), which requires that health facilities report disease diagnoses in accordance with procedures adopted by the executive commissioner; §81.50, which requires that the executive commissioner adopt rules that prescribe the criteria that constitute exposure to reportable diseases; §81.082, which requires that control measures for communicable disease must be established by rules adopted by the executive commissioner; 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 the 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 May 16, 2007.

TRD-200701923

Linda Weigman

Deputy General Counsel

Department of State Health Services

Effective date: June 5, 2007

Proposal publication date: November 17, 2006

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

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 1. TEXAS DEPARTMENT OF PUBLIC SAFETY

CHAPTER 15. DRIVER LICENSE RULES
SUBCHAPTER E. RECIPROCITY IN DRIVER LICENSING

37 TAC §15.92

The Texas Department of Public Safety adopts amendments to §15.92, concerning Reciprocity in Driver Licensing, without changes to the proposed text as published in the March 2, 2007, issue of the *Texas Register* (32 TexReg 1048).

Adoption of the amendments to §15.92 are necessary in order to update the list of NATO member countries adhering to the NATO Status of Forces Agreement.

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 Transportation Code, §521.005.

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 May 21, 2007.

TRD-200701967

Thomas A. Davis, Jr.

Director

Texas Department of Public Safety

Effective date: June 10, 2007

Proposal publication date: March 2, 2007

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

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PART 3. TEXAS YOUTH COMMISSION

CHAPTER 85. ADMISSION, PLACEMENT, AND PROGRAM COMPLETION

The Texas Youth Commission adopts amendments to §§85.45, 85.55, 85.59, 85.61, and 85.69, concerning program completion, without changes to the proposed text as published in the April 13, 2007, issue of the *Texas Register* (32 TexReg 2125).

The justification for amending the sections is the expedited release of youth who otherwise qualify for release on parole and the safe operation of TYC residential facilities.

The amended sections reduce the amount of time a youth must remain free of serious rule violations in order to be eligible for release on parole from 90 days to 30 days. Additionally, §85.45 is amended to establish that operational capacity, rather than budgeted capacity, will be used as the basis for determining when an overpopulation condition exists in a high restriction facility.

No comments were received regarding adoption of the amendments.

SUBCHAPTER C. MOVEMENT WITHOUT PROGRAM COMPLETION

37 TAC §85.45

The amendment is adopted under the Human Resources Code, §61.081, which provides the commission with the authority to release under supervision any child in its custody and place the child in his or her home or in any situation or family approved by the commission.

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 May 15, 2007.

TRD-200701866

Jay Kimbrough
Conservator
Texas Youth Commission
Effective date: June 4, 2007
Proposal publication date: April 13, 2007
For further information, please call: (512) 424-6014



SUBCHAPTER D. PROGRAM COMPLETION

37 TAC §§85.55, 85.59, 85.61, 85.69

The amendments are adopted under the Human Resources Code, §61.081, which provides the commission with the authority to release under supervision any child in its custody and place the child in his or her home or in any situation or family approved by the commission.

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 May 15, 2007.

TRD-200701867
Jay Kimbrough
Conservator
Texas Youth Commission
Effective date: June 4, 2007
Proposal publication date: April 13, 2007
For further information, please call: (512) 424-6014



CHAPTER 87. TREATMENT

SUBCHAPTER B. SPECIAL NEEDS OFFENDER PROGRAMS

37 TAC §87.55

The Texas Youth Commission (commission) adopts an amendment to §87.55, concerning waivers from the requirement to complete certain specialized treatment programs, without changes to the proposed text as published in the April 13, 2007, issue of the *Texas Register* (32 TexReg 2128).

The justification for amending the section is the establishment of a more efficient process for granting timely waivers when a youth's release would be delayed due to the requirement to complete a specialized treatment program.

The amendment gives the Director of Treatment and Case Management the authority to grant waivers for certain youth who would otherwise be required to complete the chemical dependency treatment program, sexual behavior treatment program, or capital and serious violent offender treatment program in order to qualify for release on parole. This approval was previously shared between the Assistant Deputy Executive Director for Juvenile Corrections and the Assistant Deputy Executive Director for Clinical Services.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, §61.075, which provides the commission with the authority to

confine a youth under conditions it believes are best designed for the youth's welfare and §61.034, which provides the commission with the authority to make rules appropriate to the proper accomplishment of its functions.

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 May 15, 2007.

TRD-200701868
Jay Kimbrough
Conservator
Texas Youth Commission
Effective date: June 4, 2007
Proposal publication date: April 13, 2007
For further information, please call: (512) 424-6014



CHAPTER 93. YOUTH RIGHTS AND REMEDIES

37 TAC §93.33

The Texas Youth Commission (TYC or commission) adopts an amendment to §93.33, concerning investigations of alleged abuse, neglect, or exploitation of youth in TYC, without changes to the proposed text as published in the April 13, 2007, issue of the *Texas Register* (32 TexReg 2129).

The justification for amending the section is to provide an additional control to ensure investigations are properly closed. The amendment requires that an officially closed report include: (1) the signatures of the supervisor who was responsible for making the final closure determination and the investigator who was the author of the investigation report; and (2) a statement by the supervisor if he/she disagrees with any portion of the report.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, §61.034, which provides the commission with the authority to make rules appropriate for the proper accomplishment of its function.

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 May 15, 2007.

TRD-200701869
Jay Kimbrough
Conservator
Texas Youth Commission
Effective date: June 4, 2007
Proposal publication date: April 13, 2007
For further information, please call: (512) 424-6014



REVIEW OF AGENCY RULES

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

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

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

Agency Rule Review Plan

Texas Higher Education Coordinating Board

Title 19, Part 1

TRD-200701987

Filed: May 22, 2007



Proposed Rule Reviews

Texas Department of Banking

Title 7, Part 2

On behalf of the Finance Commission of Texas (commission), the Texas Department of Banking (department) files this notice of intention to review and consider for readoption, revision, or repeal, the following chapters of Texas Administrative Code, Title 7 (Department of Banking), in their entirety:

Chapter 15 (Corporate Activities), specifically Subchapter A (Fees and Other Provisions of General Applicability) comprised of §§15.1 - 15.9; Subchapter B (Bank Charters) comprised of §15.23 and §15.24; Subchapter C (Bank Offices) comprised of §15.41 and §15.42; Subchapter E (Change of Control Applications) comprised of §15.81; Subchapter F (Applications for Merger, Conversion, and Purchase or Sale of Assets) comprised of §§15.101 - 15.117; and Subchapter G (Charter Amendments and Certain Changes in Outstanding Stock) comprised of §15.121 and §15.122.

Chapter 21 (Trust Company Corporate Activities), specifically Subchapter A (Fees and Other Provisions of General Applicability) comprised of §§21.1 - 21.9; Subchapter B (Trust Company Chartering and Powers) comprised of §21.23 and §21.24; Subchapter C (Trust Deposits) comprised of §21.31 and §21.32; Subchapter D (Trust Company Offices) comprised of §21.41 and §21.42; Subchapter E (Change of Control) comprised of §21.51; Subchapter F (Application for Merger, Conversion, or Sale of Assets) comprised of §§21.61 - 21.64, 21.67 - 21.70 and 21.72 - 21.76; and Subchapter G (Charter Amendments and Certain Changes in Outstanding Stock) comprised of §21.91 and §21.92.

The review is conducted pursuant to Government Code, §2001.039. Comments regarding the review of these chapters, and whether the reasons for initially adopting the sections under review continue to exist, will be accepted for 30 days following the publication of this notice in the *Texas Register*.

Any questions or written comments pertaining to this notice of intention to review should be directed to Everette D. Jobe, Senior Coun-

sel, Texas Department of Banking, 2601 North Lamar Boulevard, Suite 300, Austin, Texas 78705, or by email to ejobe@banking.state.tx.us.

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

*Do the sections organize the material to suit your needs? If not, how could the material be better organized?

*Do the sections clearly state the requirements? If not, how could any section be more clearly stated?

*Do the sections contain technical language or jargon that is not clear? If so, what language requires clarification?

*Would a different format (grouping and order of sections, use of headings, paragraphing) make the sections easier to understand? If so, what changes to the format would ease understanding?

*Would dividing any section into two or more shorter sections be better? If so, what sections should be changed?

Any proposed changes to these sections as a result of the rule review will be published as proposed rules in the *Texas Register*. Proposed rules are subject to public comment for a reasonable period prior to final adoption by the commission.

TRD-200702003

Sarah J. Shirley
General Counsel

Texas Department of Banking
Filed: May 23, 2007



State Securities Board

Title 7, Part 7

The State Securities Board (Agency), beginning June 2007, will review and consider for readoption, revision, or repeal Chapters 105, Rules of Practice in Contested Cases, and 106, Guidelines for the Assessment of Administrative Fines, in accordance with Texas Government Code, §2001.039. The rules to be reviewed are located in Title 7, Part 7, of the Texas Administrative Code.

The assessment made by the Agency at this time indicates that the reasons for readopting these chapters continue to exist.

The Agency's Board will consider, among other things, whether the reasons for adoption of these rules continue to exist and whether amendments are needed. Any changes to the rules proposed by the Agency's Board after reviewing the rules and considering the comments received in response to this notice will appear in the "Rules

Proposed" section of the *Texas Register* and will be adopted in accordance with the requirements of the Administrative Procedure Act, Texas Government Code Annotated, Chapter 2001. The comment period will last for 30 days beginning with the publication of this notice of intention to review.

Comments or questions regarding this notice of intention to review may be submitted in writing, within 30 days following the publication of this notice in the *Texas Register*, to David Weaver, General Counsel, P.O. Box 13167, Austin, Texas 78711-3167, or sent by facsimile to Mr. Weaver at (512) 305-8310. Comments will be reviewed and discussed in a future Board meeting.

TRD-200701989

Denise Voigt Crawford

Securities Commissioner

State Securities Board

Filed: May 22, 2007



Adopted Rule Review

Comptroller of Public Accounts

Title 34, Part 1

The Comptroller of Public Accounts (comptroller) readopts all sections under Texas Administrative Code, Title 34, Part 1, Chapter 3, Subchapter B (Natural Gas):

- §3.11. Penalty and Interest.
 - §3.12. Purchaser and/or Processor Reporting Requirements.
 - §3.14. Exemption of Certain Interest Owners from Gas Occupation Taxes.
 - §3.16. Reports, Payments, and Due Dates.
 - §3.17. Producer Reporting Requirements.
 - §3.18. Tax Reimbursement.
 - §3.19. Limitation for Collections and Refunds.
 - §3.20. Producer's Gross Cash Receipts.
 - §3.21. Exemption or Tax Reduction for High-Cost Natural Gas.
 - §3.22. Exemption for Hydrocarbons Produced from a Texas Experimental Research and Recovery Activity Well.
 - §3.23. Credits for Qualifying Low Producing Wells.
- The Comptroller of Public Accounts (comptroller) readopts all sections under Texas Administrative Code, Title 34, Part 1, Chapter 3, Subchapter C (Crude Oil Production Tax):
- §3.31. Occupation Tax on Oil Which Is Lost After Having Been Run to Lease Tank.
 - §3.33. Tax Due on Crude Oil Recovered by Reclamation Plants and Other Salvage Operations.
 - §3.34. Exemption of Certain Royalty Interests from Oil Occupation Taxes and Regulation Pipeline Taxes.
 - §3.35. Reporting Requirements for Producers and Purchasers.
 - §3.36. Estimated Tax Payment.
 - §3.37. Enhanced Oil Recovery Projects.
 - §3.38. Exemption for Hydrocarbons Produced from a Texas Experimental Research and Recovery Activity Well.

§3.39. Credits for Qualifying Low Producing Oil Leases.

§3.40. Tax Credit for Enhanced Efficiency Equipment.

The Comptroller of Public Accounts (comptroller) readopts all sections under Texas Administrative Code, Title 34, Part 1, Chapter 3, Subchapter K (Hotel Occupancy Tax):

§3.161. Definitions, Exemptions, and Exemption Certificate.

§3.162. Hotel Occupancy Tax Base and Collection of the Tax.

§3.163. Refund of Hotel Occupancy Tax.

The Comptroller of Public Accounts (comptroller) readopts all sections under Texas Administrative Code, Title 34, Part 1, Chapter 3, Subchapter L (Motor Fuel Tax--Prior to January 1, 2004):

§3.171. Records Required; Information Required.

§3.172. Transit Company Affidavit.

§3.173 Refunds on Gasoline and Diesel Fuel Tax.

§3.174. Incidental Highway Travel by Bonded Users.

§3.175. Liquefied Gas Tax Decal.

§3.176. Metering Devices Used To Claim Refund of Tax on Fuel Used in Power Take-Off and Auxiliary Power Units.

§3.177. Separate Liquefied Gas Tax Permits Required.

§3.178. Trip Permit in Lieu of Interstate Trucker Permit.

§3.180. Signed Statements for Purchasing Diesel Fuel Tax Free.

§3.182. Motor Fuel Transporting Documents.

§3.183. On-Highway Travel of Farm Machinery.

§3.184. Assignment of Refund Claims for Tax-Paid Gasoline Exported from Texas.

§3.185. Diesel Tax Prepaid User Permit.

§3.187. Documentation and Reporting of Imports and Exports, Import Verification Numbers, Export Sales by Distributors and Suppliers, and Diversion Numbers.

§3.189. Proof of Resale.

§3.190. Temperature Adjustment Conversion Table.

§3.193. Bad Debt Deductions.

§3.195. Electronic Filing of Reports and Due Date for Odd-Year Estimated Reports and Payments.

§3.196. Reports, Due Dates, Bonding Requirements, and Qualifications for Annual Filers.

§3.200. Transportation Services for Public School Districts.

§3.202. Common and Contract Carrier Registration, Reports, Due Dates, and Administrative Remedies.

§3.203. Diesel Fuel Tax Exemption for Water, Fuel Ethanol, and Biodiesel Mixtures.

The Comptroller of Public Accounts (comptroller) readopts all sections under Texas Administrative Code, Title 34, Part 1, Chapter 3, Subchapter W (Amusement Machine Regulation and Tax):

§3.601. Definitions, Changes in Ownership, Gross Receipts Regulations, and Record Keeping Requirements.

§3.602. Licenses and Certificates, Renewals and Due Dates, Occupation Tax Permits and Exemptions.

§3.603. Denials; Suspensions; Revocations; Violations; Hearings.

§3.605. Persons Who Repair, Maintain, or Service Amusement Machines.

§3.611. Refund on Licenses, Registration Certificates, or Occupation Tax Permits.

The Comptroller of Public Accounts (comptroller) readopts Texas Administrative Code, Title 34, Part 1, Chapter 3, Subchapter AA (Automotive Oil Sales Fee):

§3.701. Reporting Requirements.

The Comptroller of Public Accounts (comptroller) readopts Texas Administrative Code, Title 34, Part 1, Chapter 3, Subchapter BB (Battery Sales Fee):

§3.711. Collection and Reporting Requirements.

The Comptroller of Public Accounts (comptroller) readopts all sections under Texas Administrative Code, Title 34, Part 1, Chapter 3, Subchapter DD (Oil Field Cleanup Regulatory Fee):

§3.731. Imposition and Collection of the Oil Fee.

§3.732. Reporting Requirements for the Gas Fee.

The Comptroller of Public Accounts (comptroller) readopts Texas Administrative Code, Title 34, Part 1, Chapter 3, Subchapter EE (Boat and Boat Motor Sales and Use Tax):

§3.741. Imposition and Collection of Tax.

The Comptroller of Public Accounts (comptroller) readopts all sections under Texas Administrative Code, Title 34, Part 1, Chapter 3, Subchapter GG (Insurance Tax):

§3.809. Due Dates, Penalty and Interest, and Overpayments.

§3.811. Election by Reciprocal or Interinsurance Exchange Pursuant to the Insurance Code, Article 4.11C.

§3.820. Premium Tax Paid by Certain Purchasing Groups.

§3.822. Basis and Reporting of Surplus Lines Premium Tax, the Allocation of Premium for Surplus Lines and Independently Procured Premium Tax, and Multiple Agent Transactions for Surplus Lines Insurance.

§3.828. Workers' Compensation Insurance Gross Premiums for the Purpose of Maintenance Taxes.

§3.830. Premium Tax Credit for Examination Expenses and Valuation Fees.

§3.831. Gross Premium Definitions for Property and Casualty; Life, Accident, and Health; Health Maintenance Organizations; and Title Insurance Companies; and Clarification of the Taxation on the Distribution of Title Premiums.

§3.832. Assessment for the Office of Public Insurance Counsel (OPIC).

§3.833. Certified Capital Companies and Certified Investor Premium Tax Credits.

§3.834. Volunteer Fire Department Assistance Fund Assessment.

The Comptroller of Public Accounts (comptroller) readopts Texas Administrative Code, Title 34, Part 1, Chapter 3, Subchapter HH (Mixed Beverage Tax):

§3.1001. Mixed Beverage Gross Receipts, Receipts Excluded From Tax, Records Required, and Information Required.

The Comptroller of Public Accounts (comptroller) readopts Texas Administrative Code, Title 34, Part 1, Chapter 3, Subchapter II (Telecommunications Infrastructure Fund Assessment):

§3.1101. Telecommunications Receipts, Assessment Determination, Due Date for Assessment Report and Payment, Auditing, Records, and Assessments.

The Comptroller of Public Accounts (comptroller) readopts all sections under Texas Administrative Code, Title 34, Part 1, Chapter 3, Subchapter JJ (Cigarette and Tobacco Products Regulation):

§3.1201. Fee for Outdoor Advertising of Cigarettes or Tobacco Products.

§3.1202. Warning Notice Signs.

§3.1203. Approved Seller Training Programs.

§3.1204. Administrative Remedies for Violations of Health and Safety Code, Chapter 161, Subchapter H or K.

§3.1205. Delivery Sales of Cigarettes.

The Comptroller of Public Accounts (comptroller) readopts Texas Administrative Code, Title 34, Part 1, Chapter 3, Subchapter LL (Oyster Sales Fee):

§3.1261. Reports, Payments, and Record Keeping Requirements.

The Comptroller of Public Accounts (comptroller) readopts Texas Administrative Code, Title 34, Part 1, Chapter 3, Subchapter NN (Fireworks Tax):

§3.1281. Fireworks Tax.

The comptroller has reviewed Chapter 3, Subchapters B, C, K, L, W, AA, BB, DD, EE, GG, HH, II, JJ, LL, and NN, and determined that the reasons for initially adopting these rules continue to exist.

Notice of any changes to these rules will be published in the *Texas Register* as required under the Administrative Procedures Act, Government Code, Chapter 2001.

This review was conducted in accordance with Government Code, §2001.039. The proposed rule review was published in the March 24, 2006, issue of the *Texas Register* (31 TexReg 2703). No comments were received concerning the readoption of these rules.

TRD-200702018

Martin Cherry

General Counsel

Comptroller of Public Accounts

Filed: May 23, 2007



TABLES & GRAPHICS

Graphic images included in rules are published separately in this tables and graphics section. Graphic images are arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic images are indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word "Figure" followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph, and so on.

Figure: 16 TAC §401.307(g)(5)

Pick 3 Prize Chart Exact Order Play

| Cost of Play | Prize |
|--------------|---------|
| \$.50 | \$250 |
| \$1 | \$500 |
| \$2 | \$1,000 |
| \$3 | \$1,500 |
| \$4 | \$2,000 |
| \$5 | \$2,500 |

Odds: 1:1,000

Figure: 16 TAC §401.307(g)(6)

Pick 3 Prize Chart 3-Way Any Order Play

| Cost of Play | Prize |
|--------------|-------|
| \$.50 | \$80 |
| \$1 | \$160 |
| \$2 | \$320 |
| \$3 | \$480 |
| \$4 | \$640 |
| \$5 | \$800 |

Odds: 1:333

Figure: 16 TAC §401.307(g)(7)

Pick 3 Prize Chart 6-Way Any Order Play

| Cost of Play | Prize |
|--------------|-------|
| \$.50 | \$40 |
| \$1 | \$80 |
| \$2 | \$160 |
| \$3 | \$240 |
| \$4 | \$320 |
| \$5 | \$400 |

Odds: 1:167

Figure: 16 TAC §401.307(g)(8)

**Pick 3 Prize Chart
Exact Order/3-Way Any Order Play**

| Pick 3 Base Play Amount | Cost of Play | Exact Order Match | Match Not in Exact Order |
|-------------------------|--------------|-------------------|--------------------------|
| \$.50 | \$1 | \$330 | \$80 |
| \$1 | \$2 | \$660 | \$160 |
| \$2 | \$4 | \$1,320 | \$320 |
| \$3 | \$6 | \$1,980 | \$480 |
| \$4 | \$8 | \$2,640 | \$640 |
| \$5 | \$10 | \$3,300 | \$800 |

Odds: 1:333

Figure: 16 TAC §401.307(g)(9)

**Pick 3 Prize Chart
Exact Order/6-Way Any Order Play**

| Pick 3 Base Play Amount | Cost of Play | Exact Order Match | Match Not in Exact Order |
|-------------------------|--------------|-------------------|--------------------------|
| \$.50 | \$1 | \$290 | \$40 |
| \$1 | \$2 | \$580 | \$80 |
| \$2 | \$4 | \$1,160 | \$160 |
| \$3 | \$6 | \$1,740 | \$240 |
| \$4 | \$8 | \$2,320 | \$320 |
| \$5 | \$10 | \$2,900 | \$400 |

Odds: 1:167

Figure: 16 TAC §401.307(g)(10)

**Pick 3 Prize Chart
Combo Play**

| Pick 3 Base Play Amount | Cost of 3-Way Combo Play | Cost of 6-Way Combo Play | Prize |
|-------------------------|--------------------------|--------------------------|---------|
| \$.50 | \$1.50 | \$3 | \$250 |
| \$1 | \$3 | \$6 | \$500 |
| \$2 | \$6 | \$12 | \$1,000 |
| \$3 | \$9 | \$18 | \$1,500 |
| \$4 | \$12 | \$24 | \$2,000 |
| \$5 | \$15 | \$30 | \$2,500 |

Odds 3-Way: 1:333

Odds 6-Way: 1:167

Figure: 16 TAC §401.307(g)(11)

**Pick 3 Prize Chart
Sum it Up**

| Sum Picked | Cost of Sum it Up Play = \$.50 | Cost of Sum it Up Play = \$1 | Cost of Sum it Up Play = \$2 | Cost of Sum it Up Play = \$3 | Cost of Sum it Up Play = \$4 | Cost of Sum it Up Play = \$5 | Odds |
|------------|--------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|---------|
| 0 or 27 | \$250 | \$500 | \$1,000 | \$1,500 | \$2,000 | \$2,500 | 1:1,000 |
| 1 or 26 | \$83 | \$166 | \$333 | \$500 | \$666 | \$833 | 1:333 |
| 2 or 25 | \$41 | \$83 | \$166 | \$250 | \$333 | \$416 | 1:167 |
| 3 or 24 | \$25 | \$50 | \$100 | \$150 | \$200 | \$250 | 1:100 |
| 4 or 23 | \$16 | \$33 | \$66 | \$100 | \$133 | \$166 | 1:67 |
| 5 or 22 | \$11 | \$23 | \$47 | \$71 | \$95 | \$119 | 1:48 |
| 6 or 21 | \$8 | \$17 | \$35 | \$53 | \$71 | \$89 | 1:36 |
| 7 or 20 | \$6 | \$13 | \$27 | \$41 | \$55 | \$69 | 1:28 |
| 8 or 19 | \$5 | \$11 | \$22 | \$33 | \$44 | \$55 | 1:22 |
| 9 or 18 | \$4 | \$9 | \$18 | \$27 | \$36 | \$45 | 1:18 |
| 10 or 17 | \$3 | \$7 | \$15 | \$23 | \$31 | \$39 | 1:16 |
| 11 or 16 | \$3 | \$7 | \$14 | \$21 | \$28 | \$36 | 1:14 |
| 12 or 15 | \$3 | \$6 | \$13 | \$20 | \$27 | \$34 | 1:14 |
| 13 or 14 | \$3 | \$6 | \$13 | \$20 | \$26 | \$33 | 1:13 |

Note: The cost of a Sum it Up play is in addition to the cost of the connected play. For example, if a player selects a 3-Way Combo play for a base play amount of \$1, the cost of the combo play would be \$3. If the player chose to play Sum it Up for a base play amount of \$.50, the cost of the two plays together would be \$3.50.

Figure: 16 TAC §401.316(g)(5)

**Daily 4 Prize Chart
Straight Play**

| Cost of Play | Prize |
|--------------|----------|
| \$.50 | \$2,500 |
| \$1 | \$5,000 |
| \$2 | \$10,000 |
| \$3 | \$15,000 |
| \$4 | \$20,000 |
| \$5 | \$25,000 |

Odds: 1:10,000

Figure: 16 TAC §401.316(g)(6)

**Daily 4 Prize Chart
4-Way Box Play**

| Cost of Play | Prize |
|---------------------|--------------|
| \$.50 | \$600 |
| \$1 | \$1,200 |
| \$2 | \$2,400 |
| \$3 | \$3,600 |
| \$4 | \$4,800 |
| \$5 | \$6,000 |

Odds: 1:2,500

Figure: 16 TAC §401.316(g)(7)

**Daily 4 Prize Chart
6-Way Box Play**

| Cost of Play | Prize |
|---------------------|--------------|
| \$.50 | \$400 |
| \$1 | \$800 |
| \$2 | \$1,600 |
| \$3 | \$2,400 |
| \$4 | \$3,200 |
| \$5 | \$4,000 |

Odds: 1:1,667

Figure: 16 TAC §401.316(g)(8)

**Daily 4 Prize Chart
12-Way Box Play**

| Cost of Play | Prize |
|---------------------|--------------|
| \$.50 | \$200 |
| \$1 | \$400 |
| \$2 | \$800 |
| \$3 | \$1,200 |
| \$4 | \$1,600 |
| \$5 | \$2,000 |

Odds: 1:833

Figure: 16 TAC §401.316(g)(9)

**Daily 4 Prize Chart
24-Way Box Play**

| Cost of Play | Prize |
|---------------------|--------------|
| \$.50 | \$100 |
| \$1 | \$200 |
| \$2 | \$400 |
| \$3 | \$600 |
| \$4 | \$800 |
| \$5 | \$1,000 |

Odds: 1:417

Figure: 16 TAC §401.316(g)(10)

**Daily 4 Prize Chart
Straight/4-Way Box Play**

| Daily 4 Base Play Amount | Cost of Play | Exact Order Match | Match Not in Exact Order |
|---------------------------------|---------------------|--------------------------|---------------------------------|
| \$.50 | \$1 | \$3,100 | \$600 |
| \$1 | \$2 | \$6,200 | \$1,200 |
| \$2 | \$4 | \$12,400 | \$2,400 |
| \$3 | \$6 | \$18,600 | \$3,600 |
| \$4 | \$8 | \$24,800 | \$4,800 |
| \$5 | \$10 | \$31,000 | \$6,000 |

Odds: 1:2,500

Figure: 16 TAC §401.316(g)(11)

**Daily 4 Prize Chart
Straight/6-Way Box Play**

| Daily 4 Base Play Amount | Cost of Play | Exact Order Match | Match Not in Exact Order |
|---------------------------------|---------------------|--------------------------|---------------------------------|
| \$.50 | \$1 | \$2,900 | \$400 |
| \$1 | \$2 | \$5,800 | \$800 |
| \$2 | \$4 | \$11,600 | \$1,600 |
| \$3 | \$6 | \$17,400 | \$2,400 |
| \$4 | \$8 | \$23,200 | \$3,200 |
| \$5 | \$10 | \$29,000 | \$4,000 |

Odds: 1:1,667

Figure: 16 TAC §401.316(g)(12)

**Daily 4 Prize Chart
Straight/12-Way Box Play**

| Daily 4 Base Play Amount | Cost of Play | Exact Order Match | Match Not in Exact Order |
|--------------------------|--------------|-------------------|--------------------------|
| \$.50 | \$1 | \$2,700 | \$200 |
| \$1 | \$2 | \$5,400 | \$400 |
| \$2 | \$4 | \$10,800 | \$800 |
| \$3 | \$6 | \$16,200 | \$1,200 |
| \$4 | \$8 | \$21,600 | \$1,600 |
| \$5 | \$10 | \$27,000 | \$2,000 |

Odds: 1:833

Figure: 16 TAC §401.316(g)(13)

**Daily 4 Prize Chart
Straight/24-Way Box Play**

| Daily 4 Base Play Amount | Cost of Play | Exact Order Match | Match Not in Exact Order |
|--------------------------|--------------|-------------------|--------------------------|
| \$.50 | \$1 | \$2,600 | \$100 |
| \$1 | \$2 | \$5,200 | \$200 |
| \$2 | \$4 | \$10,400 | \$400 |
| \$3 | \$6 | \$15,600 | \$600 |
| \$4 | \$8 | \$20,800 | \$800 |
| \$5 | \$10 | \$26,000 | \$1,000 |

Odds: 1:417

Figure: 16 TAC §401.316(g)(14)

**Daily 4 Prize Chart
Combo Play**

| Daily 4 Base Play Amount | Cost of 4-Way Combo Play | Cost of 6-Way Combo Play | Cost of 12-Way Combo Play | Cost of 24-Way Combo Play | Prize |
|--------------------------|--------------------------|--------------------------|---------------------------|---------------------------|----------|
| \$.50 | \$2 | \$3 | \$6 | \$12 | \$2,500 |
| \$1 | \$4 | \$6 | \$12 | \$24 | \$5,000 |
| \$2 | \$8 | \$12 | \$24 | \$48 | \$10,000 |
| \$3 | \$12 | \$18 | \$36 | \$72 | \$15,000 |
| \$4 | \$16 | \$24 | \$48 | \$96 | \$20,000 |
| \$5 | \$20 | \$30 | \$60 | \$120 | \$25,000 |

Odds 4-Way Combo: 1:2,500

Odds 6-Way Combo: 1:1,667

Odds 12-Way Combo: 1:833

Odds 24-Way Combo: 1:417

Figure: 16 TAC §401.316(g)(15)

**Daily 4 Prize Chart
Front-Pair, Mid-Pair, and Back-Pair Play**

| Cost of Play | Prize |
|--------------|-------|
| \$.50 | \$25 |
| \$1 | \$50 |
| \$2 | \$100 |
| \$3 | \$150 |
| \$4 | \$200 |
| \$5 | \$250 |

Odds: 1:100

Figure: 16 TAC §401.316(g)(16)

**Daily 4 Prize Chart
Sum it Up**

| Sum Picked | Cost of Play = \$.50 | Cost of Play = \$1 | Cost of Play = \$2 | Cost of Play = \$3 | Cost of Play = \$4 | Cost of Play = \$5 | Odds |
|------------|----------------------|--------------------|--------------------|--------------------|--------------------|--------------------|----------|
| 0 or 36 | \$2,500 | \$5,000 | \$10,000 | \$15,000 | \$20,000 | \$25,000 | 1:10,000 |
| 1 or 35 | \$625 | \$1,250 | \$2,500 | \$3,750 | \$5,000 | \$6,250 | 1:2,500 |
| 2 or 34 | \$250 | \$500 | \$1,000 | \$1,500 | \$2,000 | \$2,500 | 1:1,000 |
| 3 or 33 | \$125 | \$250 | \$500 | \$750 | \$1,000 | \$1,250 | 1:500 |
| 4 or 32 | \$71 | \$142 | \$285 | \$428 | \$571 | \$714 | 1:286 |
| 5 or 31 | \$44 | \$89 | \$178 | \$267 | \$357 | \$446 | 1:179 |
| 6 or 30 | \$29 | \$59 | \$119 | \$178 | \$238 | \$297 | 1:119 |
| 7 or 29 | \$20 | \$41 | \$83 | \$125 | \$166 | \$208 | 1:83 |
| 8 or 28 | \$15 | \$30 | \$60 | \$90 | \$121 | \$151 | 1:61 |
| 9 or 27 | \$11 | \$22 | \$45 | \$68 | \$90 | \$113 | 1:45 |
| 10 or 26 | \$8 | \$17 | \$35 | \$53 | \$70 | \$88 | 1:35 |
| 11 or 25 | \$7 | \$14 | \$28 | \$43 | \$57 | \$71 | 1:29 |
| 12 or 24 | \$6 | \$12 | \$24 | \$36 | \$48 | \$60 | 1:24 |
| 13 or 23 | \$5 | \$10 | \$20 | \$31 | \$41 | \$52 | 1:21 |
| 14 or 22 | \$4 | \$9 | \$18 | \$27 | \$37 | \$46 | 1:19 |
| 15 or 21 | \$4 | \$8 | \$16 | \$25 | \$33 | \$42 | 1:17 |
| 16 or 20 | \$3 | \$7 | \$15 | \$23 | \$31 | \$39 | 1:16 |
| 17 or 19 | \$3 | \$7 | \$15 | \$22 | \$30 | \$37 | 1:15 |
| 18 | \$3 | \$7 | \$14 | \$22 | \$29 | \$37 | 1:15 |

Note: The cost of an Sum it Up play is in addition to the cost of the connected play. For example, if a player selects a 4-Way Combo play for a base play amount of \$1, the cost of the combo play would be \$4. If the player chose to play Sum it Up for a base play amount of \$.50, the cost of the two plays together would be \$4.50.

Figure: 22 TAC §523.144(c)

| NO. OF COURSE TITLES OFFERED | TOTAL ANNUAL REGISTRATION FEE |
|------------------------------|-------------------------------------|
| 1 - 10 [1—4] | <u>\$400</u> [\$600] |
| [5—10] | [\$1000] |
| 11 - 40 | <u>\$750</u> [\$1500] |
| 41+ | <u>\$1250</u> [\$2500] |
| Exemption 1 | 0 |
| Exemption 2 | 0 |
| Exemption 3 | 0 |
| Exemption 4 | 0 |

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 Building and Procurement Commission

Request for Proposal

The Texas Building and Procurement Commission (TBPC), on behalf of the Department of Assistive and Rehabilitative Services (DARS), announces the issuance of Request for Proposals (RFP) #303-7-11802. TBPC seeks a five (5) year lease of approximately 4,711 square feet of office space in San Antonio, Bexar County, Texas.

The deadline for questions is June 5, 2007; and the deadline for proposals is June 14, 2007 at 3:00 p.m. The award date is July 1, 2007. TBPC reserves the right to accept or reject any or all proposals submitted. TBPC is under no legal or other obligation to execute a lease on the basis of this notice or the distribution of an RFP. Neither this notice nor the RFP commits TBPC to pay for any costs incurred prior to the award of a grant.

Parties interested in submitting a proposal may obtain information by contacting TBPC Purchaser Myra Beer at (512) 463-5773. A copy of the RFP may be downloaded from the *Electronic State Business Daily* at http://esbd.tbpc.state.tx.us/bid_show.cfm?bidid=70718.

TRD-200701929
Susan Maldonado
Acting General Counsel
Texas Building and Procurement Commission
Filed: May 17, 2007



Request for Proposal

The Texas Building and Procurement Commission (TBPC), on behalf of the Railroad Commission of Texas, announces the issuance of a Request for Proposal (RFP) #303-7-11803. TBPC seeks a ten (10) year lease of approximately 4,852 square feet of office space in Wichita Falls, Wichita County, Texas.

The deadline for questions is May 31, 2007 and the deadline for proposals is June 6, 2007 at 3:00 p.m. The award date is June 15, 2007. TBPC reserves the right to accept or reject any or all proposals submitted. TBPC is under no legal or other obligation to execute a lease on the basis of this notice or the distribution of a RFP. Neither this notice nor the RFP commits TBPC to pay for any costs incurred prior to the award of a grant.

Parties interested in submitting a proposal may obtain information by contacting TBPC Purchaser Myra Beer at (512) 463-5773. A copy of the RFP may be downloaded from the *Electronic State Business Daily* at: http://esbd.tbpc.state.tx.us/1380/bid_show.cfm?bidid=70724.

TRD-200701979
Susan Maldonado
Acting General Counsel
Texas Building and Procurement Commission
Filed: May 21, 2007



Request for Proposal

The Texas Building and Procurement Commission (TBPC), on behalf of the Department Assistive and Rehabilitative Services, announces the issuance of Request for Proposals (RFP) #303-7-11704. TBPC seeks a five (5) year lease of approximately 6,319 square feet of office space in Austin, Travis County, Texas.

The deadline for questions is June 1, 2007 and the deadline for proposals is June 8, 2007 at 3:00 p.m.. The award date is June 15, 2007. TBPC reserves the right to accept or reject any or all proposals submitted. TBPC is under no legal or other obligation to execute a lease on the basis of this notice or the distribution of a RFP. Neither this notice nor the RFP commits TBPC to pay for any costs incurred prior to the award of a grant.

Parties interested in submitting a proposal may obtain information by contacting TBPC Purchaser Myra Beer at (512) 463-5773. A copy of the RFP may be downloaded from the *Electronic State Business Daily* at http://esbd.tbpc.state.tx.us/bid_show.cfm?bidid=70578.

TRD-200701980
Susan Maldonado
Acting General Counsel
Texas Building and Procurement Commission
Filed: May 21, 2007



Request for Proposal

The Texas Building and Procurement Commission (TBPC), on behalf of the Department of Criminal Justice, announces the issuance of Request for Proposals (RFP) #303-7-11717. TBPC seeks a five (5) year lease of approximately 2,906 square feet of office space in Liberty County, Texas.

The deadline for questions is June 1, 2007 and the deadline for proposals is June 8, 2007 at 3:00 p.m. The award date is June 15, 2007. TBPC reserves the right to accept or reject any or all proposals submitted. TBPC is under no legal or other obligation to execute a lease on the basis of this notice or the distribution of a RFP. Neither this notice nor the RFP commits TBPC to pay for any costs incurred prior to the award of a grant.

Parties interested in submitting a proposal may obtain information by contacting TBPC Purchaser Myra Beer at (512) 463-5773. A copy of the RFP may be downloaded from the *Electronic State Business Daily* at http://esbd.tbpc.state.tx.us/bid_show.cfm?bidid=70579.

TRD-200701981
Susan Maldonado
Acting General Counsel
Texas Building and Procurement Commission
Filed: May 21, 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 May 11, 2007, through May 17, 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 this activity extends 30 days from the date published on the Coastal Coordination Council web site. The notice was published on the web site on May 23, 2007. The public comment period for this project will close at 5:00 p.m. on June 22, 2007.

FEDERAL AGENCY ACTIONS:

Applicant: Como Lake, Ltd.; Location: The project is located in Lake Como, at 14520 Stewart Road, in Galveston, Galveston County, Texas. The project can be located on the U.S.G.S. quadrangle map titled: Lake Como, Texas. Approximate UTM Coordinates in NAD 27 (meters): Zone 15; Easting: 310263; Northing: 3232407. Project Description: The applicant proposes to construct two separate piers with a T-head and boat slips for four boats per pier. The piers are proposed to be 4 feet wide by 138 feet long with four 25-foot by 4-foot walkways between the slips and a 54-foot by 8-foot T-head on both piers. The eight boat slips are proposed to be 22 feet wide by 25 feet long. CCC Project No.: 07-0181-F1; Type of Application: U.S.A.C.E. permit application #SWG-2007-368 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: Petro-Guard Company, Inc.; Location: The project is located in Espiritu Santo Bay, within State Tract (ST) 223, in Calhoun County, Texas. The project can be located on the U.S.G.S. quadrangle map titled: Port O'Connor, Texas. Approximate UTM Coordinates in NAD 27 (meters): Zone 14; Easting: 747841; Northing: 3139331. Project Description: The applicant proposes to install, operate and maintain structures and equipment necessary for oil and gas drilling, production and transportation activities for the ST 223 Well No.1. Such activities include installation of typical marine barges and keyways, shell and gravel pads, production structures with attendant facilities, and a flowline extending 2,466 linear feet to the existing ST 216 Well No. 16. CCC Project No.: 07-0182-F1; Type of Application: U.S.A.C.E. permit application #SWG-2006-2580 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: City of Corpus Christi; Location: The project is located from the 3700 block of Cimarron Boulevard to Cayo Del Oso between Saratoga Boulevard and Yorktown Avenue, in Corpus Christi, Nueces County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: Oso Creek NE, Texas. Approximate UTM Coordinates in NAD 27 (meters): Zone 14; Easting: 663000; Northing: 3060500. Project Description: The applicant proposes to construct drainage improvements along a natural outfall to alleviate the conveyance of storm water runoff by existing drainage channels, and thus reduce flooding. The improvements consist of construction of a

grass-lined earthen channel with 4:1 side slopes and reinforced concrete box culverts at road crossings. Concrete slope protection would be incorporated at bends and confluences for erosion control. Approximately 0.93 acre of wetlands within the improvement project would be filled with concrete riprap material for erosion control. The proposed main channel would be approximately 10,835 feet long and 200 feet wide. The total volume of channel excavation is estimated to be approximately 194,530 cubic yards. Some of the excavation for the channel would be through non-tidal wetlands. Excavated material would be disposed of by the contractor by placement in an approved offsite landfill or dredged material placement area. Temporary erosion and sedimentation control barriers will be provided during construction to eliminate discharge of sediment into Cayo Del Oso. All exposed channel surfaces would be protected by seeding with approved grass mixtures for permanent erosion control and to maintain water quality. CCC Project No.: 07-0185-F1; Type of Application: U.S.A.C.E. permit application #24328 is being evaluated under §404 of the Clean Water Act (33 U.S.C.A. §1344). Note: The consistency review for this project may be conducted by the Texas Commission on Environmental Quality 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-200701982

Larry L. Laine

Chief Clerk/Deputy Land Commissioner, General Land Office

Coastal Coordination Council

Filed: May 22, 2007

Concho Valley Workforce Development Board

Request for Proposal

The Concho Valley Workforce Development Board (CVWDB) is seeking qualified parties to submit proposals for Electronic Document Management System (EDMS).

Interested parties may obtain a copy of the RFP via our website at <http://www.cvworkforce.org/rfp.asp> or by sending email to rfp@cvworkforce.org with the subject line "RFP for EDMS request".

Proposals will be accepted until 3:00 p.m. CDST, July 20, 2007, at the office of CVWDB, 36 East Twohig, Suite 805, San Angelo, TX 76903. CVWDB reserves the right to accept or reject any or all proposals.

The Concho Valley Workforce Development Board is an equal opportunity employer program. Auxiliary aids and services are available upon request to individuals with disabilities.

TRD-200702015

Johnny Griffin

Executive Director

Concho Valley Workforce Development Board

Filed: May 23, 2007

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 05/28/07 - 06/03/07 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 05/28/07 - 06/03/07 is 18% for Commercial over \$250,000.

The judgment ceiling as prescribed by §304.003 for the period of 06/01/07 - 06/30/07 is 8.25% for Consumer/Agricultural/Commercial/credit through \$250,000.

The judgment ceiling as prescribed by §304.003 for the period of 06/01/07 - 06/30/07 is 8.25% for Commercial over \$250,000.

¹Credit for personal, family or household use.

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

TRD-200701990

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: May 22, 2007



Court Reporters Certification Board

Certification of Court Reporters

Following the examination of applicants on April 27, 2007, the Texas Court Reporters Certification Board certified to the Supreme Court of Texas the following individuals who are qualified in the method indicated to practice shorthand reporting pursuant to Chapter 52 of the Texas Government Code, V.T.C.A.:

MACHINE SHORTHAND: HEATHER GARZA - MERDIAN, MO; KAINEE KELLY - ROBSTOWN, TX; JULIE O'BRIEN - MURPHY, TX; SHARON RODRIGUEZ - MANSFIELD, TX; CHER PERRY - FATE, TX; MELODY BIVENS - DALLAS, TX; and JESSICA HENDRICKS - PEARLAND, TX.

Following the examination of applicants on April 27, 2007, the Texas Court Reporters Certification Board certified to the Supreme Court of Texas the following individuals who are qualified in the method indicated to practice shorthand reporting pursuant to Chapter 52 of the Texas Government Code, V.T.C.A.:

ORAL STENOGRAPHY: JENNIFER REDD - TERRELL, TX.

TRD-200701943

Sheryl Jones

Administrator of Licensing

Court Reporters Certification Board

Filed: May 18, 2007



Deep East Texas Local Workforce Development Board

Release for Public Comment

June 5, 2007 - July 5, 2007

WorkForce Solutions Deep East Texas

Strategic Plan Modification for Fiscal Years 2007-2008

The Deep East Texas Local Workforce Development Board, Inc. dba WorkForce Solutions Deep East Texas issues this public notice that the strategic and operational plan modification summary for Fiscal Years 2007-2008 is available for public review and comment. The plan modification summary is available on the WorkForce Solutions Deep East Texas Internet site <http://www.dework.org>; or may be requested by telephone (936) 639-8898 or in person at 539 South Chestnut, Suite 300, Lufkin, Texas 75901.

WorkForce Solutions Deep East Texas is responsible for the implementation of workforce development programs in the following 12 counties: Angelina, Houston, Jasper, Nacogdoches, Newton, Polk, Sabine, San Augustine, San Jacinto, Shelby, Trinity, and Tyler.

The entire plan includes the Board's mission, goals and objectives; a labor market analysis; plans for employer involvement; elements of system operation including service delivery, partners, structure, and performance; information regarding the alignment to the state workforce plan; public comments; and priority of service. The plan modification summary describes the intended changes to the plan and appendices.

The public comment period begins on June 5, 2007 and the deadline for receipt of comments is 5:00 p.m. on July 5, 2007. Comments must be submitted in writing to the following postal address: 539 South Chestnut, Suite 300, Lufkin, Texas 75901, faxed to the following number: (936) 633-7491, or e-mailed to the following individual: Marilyn Hartsook at marilyn.hartsook@twc.state.tx.us. Comments will be incorporated as part of the Board's plan modification. For more information, call Marilyn Hartsook at (936) 639-8898.

The Deep East Texas Local Workforce Development Board is an equal opportunity organization. Auxiliary aids or services are available upon request to those individuals with disabilities. For extra assistance, please contact us at (936) 639-8898.

TRD-200702002

Marilyn Hartsook

Planner

Deep East Texas Local Workforce Development Board

Filed: May 22, 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 **July 2, 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 July 2, 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: Albemarle Catalysts Company LP; DOCKET NUMBER: 2007-0197-AIR-E; IDENTIFIER: RN100211523; LOCATION: Pasadena, Harris County, Texas; TYPE OF FACILITY: manufacturing plant; RULE VIOLATED: 30 Texas Administrative Code (TAC) §116.115(c), Air Permit Number 9402, Special Condition Number 1, and Texas Health & Safety Code (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 meet reporting requirements; PENALTY: \$5,252; ENFORCEMENT COORDINATOR: Roshondra Lowe, (713) 767-3500; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(2) COMPANY: City of Anahuac and Trinity Bay Conservation District; DOCKET NUMBER: 2007-0153-MWD-E; IDENTIFIER: RN102179652; LOCATION: Anahuac, Chambers County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §305.125(1), Texas Pollutant Discharge Elimination System (TPDES) Permit Number 10396001, Effluent Limitations and Monitoring Requirements Numbers 1 and 2, and the Code, §26.121(a), by failing to comply with the permitted effluent limits; and 30 TAC §305.125(17) and TPDES Permit Number 10396001, Monitoring and Reporting Requirements Number 1, by failing to timely submit discharge monitoring reports (DMRs); PENALTY: \$8,904; ENFORCEMENT COORDINATOR: Heather Brister, (512) 239-1203; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(3) COMPANY: City of Angus; DOCKET NUMBER: 2007-0327-MWD-E; IDENTIFIER: RN102806734; LOCATION: Angus, Navarro County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §305.125(1), TPDES Permit Number 11864001, Effluent Limitations and Monitoring Requirements Number 1, and the Code, §26.121(a), by failing to comply with the permitted effluent limitations; PENALTY: \$1,590; ENFORCEMENT COORDINATOR: Libby Hogue, (512) 239-1165; REGIONAL OFFICE: 2301 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(4) COMPANY: City of Bartlett; DOCKET NUMBER: 2007-0115-MWD-E; IDENTIFIER: RN100835487; LOCATION: Bartlett, Bell County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §305.125(1), TPDES Permit Number 10880001, Final Effluent Limitations and Monitoring Requirements Number 1 for Outfall 001A, and the Code, §26.121(a), by failing to comply with the permitted effluent limits; PENALTY: \$10,280; Supplemental Environmental Project (SEP) offset amount of \$8,224 applied to holding a six-week event for the collection and recycling of waste tires, batteries, electronics, and other recyclable or reusable materials; ENFORCEMENT COORDINATOR: Cari-Michel LaCaille, (512) 239-1387; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(5) COMPANY: Thuc X. Bui dba Cadillac Cleaner; DOCKET NUMBER: 2006-1645-DCL-E; IDENTIFIER: RN104967211; LOCATION: DeSoto, Dallas County, Texas; TYPE OF FACILITY:

dry cleaning drop station; RULE VIOLATED: 30 TAC §337.11(e) and THSC, §374.102, by failing to renew the registration by completing and submitting the required registration form; PENALTY: \$889; ENFORCEMENT COORDINATOR: Libby Hogue, (512) 239-1165; REGIONAL OFFICE: 2301 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(6) COMPANY: Claybar Construction, LLP; DOCKET NUMBER: 2007-0437-WQ-E; IDENTIFIER: RN104858618; LOCATION: Orange, Newton County, Texas; TYPE OF FACILITY: sand pit; RULE VIOLATED: 30 TAC §281.25(a)(4) and 40 Code of Federal Regulations §122.21(a)(1), by failing to obtain a Multi-Sector Industrial General Permit to authorize the discharge of storm water; PENALTY: \$2,100; ENFORCEMENT COORDINATOR: Suzanne Walrath, (512) 239-2134; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(7) COMPANY: Clayton Water Supply Corporation; DOCKET NUMBER: 2007-0065-PWS-E; IDENTIFIER: RN101178846; LOCATION: Panola County, Texas; TYPE OF FACILITY: water supply system; RULE VIOLATED: 30 TAC §290.113(f)(4) and THSC, §341.0315(c), by exceeding the maximum contaminant level (MCL) for total trihalomethanes (TTHM); PENALTY: \$770; ENFORCEMENT COORDINATOR: Tel Croston, (512) 239-5717; REGIONAL OFFICE: 2917 Teague Drive, Tyler, Texas 75701-3756, (903) 535-5100.

(8) COMPANY: City of Commerce; DOCKET NUMBER: 2007-0187-MWD-E; IDENTIFIER: RN102178233; LOCATION: Hunt County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: TPDES Permit Number WQ0010555001, Permit Conditions No. 2(g) and the Code, §26.121(a), by failing to prevent the unauthorized discharge of sewage; PENALTY: \$7,450; Supplemental Environmental Project (SEP) offset amount of \$7,450 applied to establishing a citizen scrap tire disposal and processing facility where citizens may dispose of used tires and shall hold a one-day county-wide used tire collection event at no cost to the residents; ENFORCEMENT COORDINATOR: Laurie Eaves, (512) 239-4495; REGIONAL OFFICE: 2301 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(9) COMPANY: Darling International Inc.; DOCKET NUMBER: 2007-0239-AIR-E; IDENTIFIER: RN100871995; LOCATION: Houston, Harris County, Texas; TYPE OF FACILITY: rendering plant, which produces liquid grease products from animal byproducts; RULE VIOLATED: 30 TAC §101.4 and THSC, §382.085(a) and (b), by failing to take necessary measures to prevent the release of odors; PENALTY: \$1,100; ENFORCEMENT COORDINATOR: Lindsey Jones, (512) 239-4930; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(10) COMPANY: Nico Jaap DeBoer; DOCKET NUMBER: 2007-0196-AGR-E; IDENTIFIER: RN103920385; LOCATION: Henderson County, Texas; TYPE OF FACILITY: dairy; RULE VIOLATED: 30 TAC §321.33(d), by failing to obtain authorization to expand an existing animal feeding operation; 30 TAC §321.47(d)(3), by failing to provide certification from a licensed Texas professional engineer that the design and construction of all retention control structures are in accordance with the technical standards developed by the Natural Resource Conservation Service; and 30 TAC §321.38(b) and §321.47(d)(6), by failing to maintain the minimum well buffer distance requirements from control facilities; PENALTY: \$7,000; ENFORCEMENT COORDINATOR: Lynley Doyen, (512) 239-1364; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3756, (903) 535-5100.

(11) COMPANY: Cody B. Lewis and Anita Lewis dba Deer Springs Water Company; DOCKET NUMBER: 2006-1962-MLM-E; IDENTIFIER: RN100824937; LOCATION: Burnet County, Texas; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §291.90(b), by failing to maintain a record of all service interruptions; 30 TAC §290.46(q)(1), by failing to issue boil water notifications; 30 TAC §290.46(q), by failing to institute special precautions, including collection of a water sample for bacteriological analysis, to ensure that the drinking water supply has not been compromised following the return of service after a water outage; 30 TAC §290.46(f)(2) and (f)(3)(A)(i)(III), by failing to maintain the records of water works operations, including the amount of chemicals used; 30 TAC §290.45(b)(1)(C)(i) and (c)(1)(B)(i) and THSC, §341.0315(c), by failing to provide a minimum well capacity of 0.6 gallons per minute (gpm) per connection; 30 TAC §290.46(v), by failing to install all electrical wiring securely in accordance with a local or national electrical code; 30 TAC §290.46(s)(2)(C)(i), by failing to verify the accuracy of manual disinfectant analyzers in the chlorine residual test kit; 30 TAC §290.43(e), by failing to maintain three strands of barbed wire at the top of the intruder-resistant fence; 30 TAC §290.43(c)(4), by failing to equip the ground storage tank with a water level indicator; 30 TAC §290.45(b)(1)(C)(iii), by failing to provide at least two service pumps at the pump station for the upper pressure plane; 30 TAC §290.45(b)(1)(C)(ii) and (c)(1)(B)(ii) and THSC, §341.0315(c), by failing to provide a total storage capacity of 200 gallons per connection; 30 TAC §290.45(b)(1)(C)(iv) and THSC, §341.0315(c), by failing to provide an elevated storage capacity of 100 gallons per connection in the lower pressure plane; 30 TAC §290.46(m)(1), by failing to conduct an annual inspection of the water system's one ground storage tank; and 30 TAC §290.46(m)(1), by failing to conduct an annual inspection of the water system's two pressure tanks; PENALTY: \$1,700; ENFORCEMENT COORDINATOR: Rebecca Clausewitz, (210) 490-3096; REGIONAL OFFICE: 2800 South IH 35, Suite 100, Austin, Texas 78704-5712, (512) 339-2929.

(12) COMPANY: Equistar Chemicals, LP; DOCKET NUMBER: 2007-0132-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 4634B, Special Condition Number 1, and THSC, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$20,000; Supplemental Environmental Project (SEP) offset amount of \$10,000 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: 2007-0290-AIR-E; IDENTIFIER: RN102212925; LOCATION: Baytown, Harris County, Texas; TYPE OF FACILITY: chemical plant; RULE VIOLATED: 30 TAC §116.715(a), Permit Number 3452, Special Condition Number 1, and THSC, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$8,200; Supplemental Environmental Project (SEP) offset amount of \$3,280 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: City of Garland; DOCKET NUMBER: 2007-0089-AIR-E; IDENTIFIER: RN100221225; LOCATION: Garland, Dallas County, Texas; TYPE OF FACILITY: municipal solid waste landfill; RULE VIOLATED: 30 TAC §122.145(2)(B) and THSC, §382.085(b), by failing to submit a timely deviation report; PENALTY: \$2,550; Supplemental Environmental Project (SEP) offset amount of \$2,040 applied to Texas Association of Resource Conservation and Development

Areas, Inc. "RC&D") - Wastewater Treatment Assistance; ENFORCEMENT COORDINATOR: Jason Kemp, (512) 239-5610; REGIONAL OFFICE: 2301 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(15) COMPANY: City of Holland; DOCKET NUMBER: 2007-0219-MWD-E; IDENTIFIER: RN102075983; LOCATION: Bell County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §305.125(1), TPDES Permit Number WQ0010897001, Effluent Limitations and Monitoring Requirements Number 1, and the Code, §26.121(a), by failing to comply with permit effluent limits; and 30 TAC §305.125(17) and TPDES Permit Number WQ0010897001, Sludge Provisions, by failing to timely submit the annual sludge report; PENALTY: \$9,334; Supplemental Environmental Project (SEP) offset amount of \$7,468 applied to Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D") - Abandoned Tire Clean-Up; ENFORCEMENT COORDINATOR: Heather Brister, (512) 239-1203; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(16) COMPANY: Houston Refining LP; DOCKET NUMBER: 2007-0440-AIR-E; IDENTIFIER: RN100218130; LOCATION: Houston, Harris County, Texas; TYPE OF FACILITY: refinery; RULE VIOLATED: 30 TAC §116.715(a), Permit Number 2167, Special Condition Number 1, THSC, §382.085(b), by failing to prevent unauthorized emissions; 30 TAC §101.201(b)(1)(H) and THSC, §382.085(b), by failing to properly report the amount of ethylene emissions on the final notification; PENALTY: \$50,453; Supplemental Environmental Project (SEP) offset amount of \$25,226 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.

(17) COMPANY: City of Huntington; DOCKET NUMBER: 2007-0329-MWD-E; IDENTIFIER: RN102184355; LOCATION: Angelina County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §305.125(1), TPDES Permit Number WQ0010191001, Effluent Limitations and Monitoring Requirement Number 1, and the Code, §26.121(a), by failing to comply with the permitted effluent limits; PENALTY: \$3,960; Supplemental Environmental Project (SEP) offset amount of \$3,168 applied to Angelina Beautiful Clean; ENFORCEMENT COORDINATOR: Samuel Short, (512) 239-5363; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(18) COMPANY: Marmac LLC dba McDonough Marine Service; DOCKET NUMBER: 2007-0540-IWD-E; IDENTIFIER: RN103897476; LOCATION: Channelview, Harris County, Texas; TYPE OF FACILITY: deck barge leasing and repair; RULE VIOLATED: 30 TAC §305.125(1), TPDES Permit Number WQ0004633000, Effluent Limitations and Monitoring Requirements Number 1, and the Code, §26.121(a), by failing to comply with the permitted effluent limitations; PENALTY: \$1,600; ENFORCEMENT COORDINATOR: Libby Hogue, (512) 239-1165; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(19) COMPANY: City of Megargel; DOCKET NUMBER: 2007-0574-PWS-E; IDENTIFIER: RN101386605; LOCATION: Megargel, Archer County, Texas; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.113(f)(4) and THSC, §341.0315(c), by failing to comply with the MCL for TTHM; and 30 TAC §290.113(f)(5) and THSC, §341.0315(c), by failing to comply with the MCL for haloacetic acids; PENALTY: \$1,300; ENFORCEMENT COORDINATOR: Amy Martin, (512) 239-2540; REGIONAL

OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (915) 698-9674.

(20) COMPANY: Rifat Jaffri dba Pioneer Cleaners; DOCKET NUMBER: 2006-1363-DCL-E; IDENTIFIER: RN105008536; LOCATION: Dallas, Dallas County, Texas; TYPE OF FACILITY: dry cleaning drop station; RULE VIOLATED: 30 TAC §337.10(a) and THSC, §374.102, by failing to complete and submit the required registration form; PENALTY: \$1,185; ENFORCEMENT COORDINATOR: Shontay Wilcher, (512) 239-2136; REGIONAL OFFICE: 2301 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(21) COMPANY: Prairie View A & M University; DOCKET NUMBER: 2007-0615-AIR-E; IDENTIFIER: RN100219666; LOCATION: Prairie View, Waller County, Texas; TYPE OF FACILITY: educational institution; RULE VIOLATED: 30 TAC §122.146(1) and THSC, §382.085(b), by failing to submit a timely Title V annual compliance certification; PENALTY: \$2,500; ENFORCEMENT COORDINATOR: Libby Hogue, (512) 239-1165; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(22) COMPANY: T.A.B. Lone Star Holdings, Inc. dba Super Stop 20; DOCKET NUMBER: 2007-0194-PST-E; IDENTIFIER: RN102408614; LOCATION: Beaumont, Jefferson County, Texas; TYPE OF FACILITY: abandoned convenience store with underground storage tanks (USTs); RULE VIOLATED: 30 TAC §334.47(a)(2) and §334.54(d)(2), by failing to either permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, three USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements, or ensure that any residue from stored regulated substances which remained in a temporarily out-of-service UST shall not exceed 2.5 centimeters at the deepest point and shall not exceed 0.3% by weight of the system at full capacity; 30 TAC §334.54(b), by failing to assure that, with the exception of vent lines, all piping, pumps, manways, and ancillary equipment shall be capped, plugged, locked, and/or otherwise secured to prevent access, tampering, or vandalism by unauthorized persons; and 30 TAC §334.7(d)(3), by failing to provide an amended UST registration to the commission for any change or additional information regarding USTs; PENALTY: \$9,350; ENFORCEMENT COORDINATOR: Judy Kluge, (817) 588-5800; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(23) COMPANY: City of Teague; DOCKET NUMBER: 2007-0178-MWD-E; IDENTIFIER: RN102181716; LOCATION: Freestone County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §305.125(1), TPDES Permit Number 10300001, Effluent Limitations and Monitoring Requirements Numbers 1 and 3, and the Code, §26.121(a), by failing to comply with the permitted effluent limitations; and 30 TAC §305.125(1) and TPDES Permit Number 10300001, Sludge Provisions, by failing to submit the annual sludge report; PENALTY: \$8,280; ENFORCEMENT COORDINATOR: Libby Hogue, (512) 239-1165; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(24) COMPANY: Texas H2O, Inc.; DOCKET NUMBER: 2007-0320-PWS-E; IDENTIFIER: RN101217925; LOCATION: Tarrant County, Texas; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.43(c)(2), by failing to adhere to the American Water Works Association design standards for ground storage tanks; 30 TAC §290.46(n)(3), by failing to maintain copies of well completion data; 30 TAC §290.42(l), by failing to compile a thorough plant operations manual and keep it up-to-date; 30 TAC §290.43(c)(5), by failing to properly locate the inlet and outlet connections so as to prevent short-circuiting or stagnation of water within the ground storage tank; 30 TAC §290.45(b)(1)(B)(i) and THSC, §341.0315(c), by failing to

provide a minimum well capacity of 0.6 gpm per connection; 30 TAC §290.45(b)(1)(C)(iii) and THSC, §341.0315(c), by failing to provide a minimum service pump capacity of two gpm per connection; and 30 TAC §290.46(n)(2), by failing to provide a map of the distribution system; PENALTY: \$1,496; ENFORCEMENT COORDINATOR: Christopher Miller, (512) 239-6580; REGIONAL OFFICE: 2301 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(25) COMPANY: Christopher Milam and Keith John Schoenfelt dba The Preserve at Lost Gold Cave; DOCKET NUMBER: 2006-0074-EAQ-E; IDENTIFIER: RN104792163; LOCATION: Austin, Travis County, Texas; TYPE OF FACILITY: construction activities for single family residential developments; RULE VIOLATED: 30 TAC §213.4(a)(1), by failing to obtain approval of an Edwards Aquifer Protection Plan prior to commencement of construction on the site; PENALTY: \$9,750; ENFORCEMENT COORDINATOR: Colin Barth, (512) 239-0086; REGIONAL OFFICE: 2800 South IH 35, Suite 100, Austin, Texas 78704-5712, (512) 339-2929.

(26) COMPANY: City of Whitney; DOCKET NUMBER: 2007-0198-MWD-E; IDENTIFIER: RN101919421; LOCATION: Hill County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §305.125(1), TPDES Permit Number WQ0011408002, Effluent Limitations and Monitoring Requirements Numbers 1 and 3, and the Code, §26.121(a), by failing to comply with permit effluent limits; PENALTY: \$9,960; ENFORCEMENT COORDINATOR: Heather Brister, (512) 239-1203; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(27) COMPANY: City of Wichita Falls; DOCKET NUMBER: 2007-0376-MWD-E; IDENTIFIER: RN101611275; LOCATION: Wichita Falls, Wichita County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §305.125(1) and TPDES Permit Number 10509001, Other Requirement Number 1, by failing to provide an operator who is licensed not less than one level below the category for the facility for each shift not having on-site supervision of the licensed chief operator; PENALTY: \$4,825; ENFORCEMENT COORDINATOR: Catherine Albrecht, (713) 767-3500; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (915) 698-9674.

(28) COMPANY: Anthony Vaughn dba Wildwood Mobile Home Village; DOCKET NUMBER: 2007-0111-MSW-E; IDENTIFIER: RN101193357; LOCATION: Lubbock, Lubbock County, Texas; TYPE OF FACILITY: mobile home residential neighborhood; RULE VIOLATED: 30 TAC §330.15(c), by failing to prevent the disposal of municipal solid waste at an unauthorized site; PENALTY: \$1,100; ENFORCEMENT COORDINATOR: Alison Echlin, (512) 239-3308; REGIONAL OFFICE: 4630 50th Street, Suite 600, Lubbock, Texas 79414-3520, (806) 796-7092.

(29) COMPANY: Zavala County; DOCKET NUMBER: 2007-0253-MWD-E; IDENTIFIER: RN102075702; LOCATION: Crystal City, Zavala County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §305.125(1), TPDES Permit Number WQ0014006001, Effluent Limitations and Monitoring Requirements Number 1, and the Code, §26.121(a), by failing to comply with the daily average ammonia-nitrogen effluent limit; and 30 TAC §305.125(17) and TPDES Permit Number WQ0014006001, Monitoring and Reporting Requirements Number 1, by failing to report the daily average ammonia-nitrogen loading value on the DMR; PENALTY: \$1,265; ENFORCEMENT COORDINATOR: Merrilee Hupp, (512) 239-4490; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

TRD-200702001

Mary R. Risner
Director, Litigation Division
Texas Commission on Environmental Quality
Filed: May 22, 2007



Enforcement Orders

An agreed order was entered regarding City of Lovelady, Docket No. 2003-1298-MWD-E on May 16, 2007 assessing \$19,550 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Shannon Strong, Staff Attorney, at (512) 239-0972, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of West Tawakoni, Docket No. 2004-0220-PWS-E on May 10, 2007 assessing \$10,098 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Laurie Eaves, Enforcement Coordinator, at (512) 239-4495, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Texas H2O, Inc. dba Canyon Creek Addition, Docket No. 2004-0900-PWS-E on May 10, 2007 assessing \$4,480 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Justin Lannen, Staff Attorney, at (817) 588-5927, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Luis M. Trevino dba Wolf Car Care, Docket No. 2004-1162-PST-E on May 10, 2007 assessing \$9,120 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Laurencia Fasoyiro, Staff Attorney at (713) 422-8914, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Steve Janssen dba Country Convenience, Docket No. 2004-1342-PWS-E on May 10, 2007 assessing \$1,450 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Merrilee Hupp, Enforcement Coordinator, at (512) 239-4490, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Hubbard, Docket No. 2004-1696-MWD-E on May 10, 2007 assessing \$8,400 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Merrilee Hupp, Enforcement Coordinator, at (512) 239-4490, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Michael Conlin, Docket No. 2005-0919-MSW-E on May 10, 2007 assessing \$1,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Kari Gilbreth, Staff Attorney, at (512) 239-1320, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Reddy Energy, Inc. dba Bachman Lake Mobil, Docket No. 2005-1109-PST-E on May 10, 2007 assessing \$19,482 in administrative penalties with \$11,119 deferred.

Information concerning any aspect of this order may be obtained by contacting Judy Kluge, Enforcement Coordinator, at (817) 588-5825, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Kyle Hickam dba Cartwright Bar B Que, Docket No. 2005-1197-PWS-E on May 10, 2007 assessing \$2,840 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Shawn Slack, Staff Attorney, at (512) 239-0063, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding ConocoPhillips Company, Docket No. 2005-1212-AIR-E on May 10, 2007 assessing \$25,662 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Miriam Hall, Enforcement Coordinator, at (512) 239-1044, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Amal Dana dba Rivercrest Service Station, Docket No. 2005-1366-PST-E on May 10, 2007 assessing \$8,832 in administrative penalties with \$2,451 deferred.

Information concerning any aspect of this order may be obtained by contacting Judy Kluge, Enforcement Coordinator, at (817) 588-5825, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Anson, Docket No. 2005-1586-MWD-E on May 10, 2007 assessing \$7,875 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Mark Curmutt, Staff Attorney at (512) 239-0624, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Charles C. Crawford, Docket No. 2005-1735-MSW-E on May 10, 2007 assessing \$5,000 in administrative penalties with \$1,000 deferred.

Information concerning any aspect of this order may be obtained by contacting Alison Echlin, Enforcement Coordinator, at (512) 239-3308, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Flex Tank Systems, LLC, Docket No. 2005-1791-AIR-E on May 10, 2007 assessing \$2,550 in administrative penalties with \$510 deferred.

Information concerning any aspect of this order may be obtained by contacting Daniel Siringi, Enforcement Coordinator, at (409) 899-8799, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding South-Tex Concrete, Inc., Docket No. 2005-1967-AIR-E on May 10, 2007 assessing \$10,500 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Robert Mosley, Staff Attorney, at (512) 239-0627, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Jose Hurtado and Maria Franco, Docket No. 2005-1999-OSS-E on May 10, 2007 assessing \$263 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Robert Mosley, Staff Attorney at (512) 239-0627, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Bosque Basin Water Supply Corporation, Docket No. 2006-0075-MLM-E on May 10, 2007 assessing \$820 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Kari Gilbreth, Staff Attorney, at (512) 239-1320, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding George W. Jackson dba Fort Jackson Mobile Estates, Docket No. 2006-0290-PWS-E on May 10, 2007 assessing \$318 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Shawn Slack, Staff Attorney, at (512) 239-0063, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Gas Mart U.S.A., Inc., Docket No. 2006-0450-PST-E on May 10, 2007 assessing \$5,715 in administrative penalties with \$1,143 deferred.

Information concerning any aspect of this order may be obtained by contacting Tom Greimel, Enforcement Coordinator, at (512) 239-5690, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Jose Cisneros and Edgar Cisneros, Docket No. 2006-0508-MLM-E on May 10, 2007 assessing \$2,100 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Lena Roberts, Staff Attorney, at (512) 239-0019, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Anh Ma dba 1.25 One Price Cleaners, Docket No. 2006-0851-DCL-E on May 10, 2007 assessing \$1,185 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rachael Gaines, Staff Attorney, at (512) 239-0078, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Coleto Creek Power, LP, Docket No. 2006-0887-AIR-E on May 10, 2007 assessing \$2,400 in administrative penalties with \$480 deferred.

Information concerning any aspect of this order may be obtained by contacting Lindsey Jones, Enforcement Coordinator, at (512) 239-4930, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Huntsman Petrochemical Corporation, Docket No. 2006-0902-AIR-E on May 10, 2007 assessing \$5,700 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Daniel Siringi, Enforcement Coordinator, at (409) 899-8799, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding LBC Houston, L.P., Docket No. 2006-0975-AIR-E on May 10, 2007 assessing \$8,800 in administrative penalties with \$1,760 deferred.

Information concerning any aspect of this order may be obtained by contacting Miriam Hall, Enforcement Coordinator, at (512) 239-1044, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Paul H. Krebs dba K Estates Water System, Docket No. 2006-1015-MLM-E on May 10, 2007 assessing \$2,206 in administrative penalties with \$442 deferred.

Information concerning any aspect of this order may be obtained by contacting Rebecca Clausewitz, Enforcement Coordinator, at (210) 403-4012, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding TOTAL Petrochemicals USA, Inc., Docket No. 2006-1095-AIR-E on May 10, 2007 assessing \$63,280 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting John Barry, Enforcement Coordinator, at (409) 899-8781, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Ralls, Docket No. 2006-1111-MSW-E on May 10, 2007 assessing \$2,000 in administrative penalties with \$400 deferred.

Information concerning any aspect of this order may be obtained by contacting Cheryl Thompson, Enforcement Coordinator, at (817) 588-5886, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Sherali Haiderali dba Regency Cleaners, Docket No. 2006-1245-DCL-E on May 10, 2007 assessing \$1,067 in administrative penalties with \$214 deferred.

Information concerning any aspect of this order may be obtained by contacting Richard Croston, Enforcement Coordinator, at (512) 239-5717, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Preston Tiptop Cleaners Inc. dba Tip Top Cleaners 2, Docket No. 2006-1267-DCL-E on May 10, 2007 assessing \$203 in administrative penalties with \$41 deferred.

Information concerning any aspect of this order may be obtained by contacting Audra Ruble, Enforcement Coordinator, at (361) 825-3126, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Tuan Nguyen dba Key Dry Cleaner, Docket No. 2006-1358-DCL-E on May 10, 2007 assessing \$889 in administrative penalties with \$178 deferred.

Information concerning any aspect of this order may be obtained by contacting Deana Holland, Enforcement Coordinator, at (512) 239-2504, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Polynesian, Inc. dba Image Cleaners, Docket No. 2006-1374-DCL-E on May 10, 2007 assessing \$1,185 in administrative penalties with \$237 deferred.

Information concerning any aspect of this order may be obtained by contacting Tom Greimel, Enforcement Coordinator, at (512) 239-5690, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Exxon Mobil Corporation, Docket No. 2006-1398-AIR-E on May 10, 2007 assessing \$20,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting John Muennink, Enforcement Coordinator, at (361) 825-3423, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding United Recyclers Services of Texas, Inc., Docket No. 2006-1411-MLM-E on May 10, 2007 assessing \$5,693 in administrative penalties with \$1,139 deferred.

Information concerning any aspect of this order may be obtained by contacting Mike Meyer, Enforcement Coordinator, at (512) 239-4492, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Protex-Care, L.P. dba Wall Street Cleaners and Saint James Cleaners, Docket No. 2006-1423-DCL-E on May 10, 2007 assessing \$1,070 in administrative penalties with \$214 deferred.

Information concerning any aspect of this order may be obtained by contacting Jorge Ibarra, Enforcement Coordinator, at (817) 588-5890, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Sequa Corporation, Docket No. 2006-1438-AIR-E on May 10, 2007 assessing \$58,225 in administrative penalties with \$11,645 deferred.

Information concerning any aspect of this order may be obtained by contacting Nadia Hameed, Enforcement Coordinator, at (713) 767-3629, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Thomas N. Thomas and Kyung A.E. Thomas dba East Lake Cleaners and dba East Gate Cleaners, Docket No. 2006-1451-DCL-E on May 10, 2007 assessing \$2,370 in administrative penalties with \$474 deferred.

Information concerning any aspect of this order may be obtained by contacting Rajesh Acharya, Enforcement Coordinator, at (512) 239-0577, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Mizmez, Inc. dba Coppell Cleaners, Docket No. 2006-1462-DCL-E on May 10, 2007 assessing \$1,185 in administrative penalties with \$237 deferred.

Information concerning any aspect of this order may be obtained by contacting Cheryl Thompson, Enforcement Coordinator, at (817) 588-5886, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding R. J. Smelley Company, Inc., Docket No. 2006-1541-AGR-E on May 10, 2007 assessing \$7,990 in administrative penalties with \$1,598 deferred.

Information concerning any aspect of this order may be obtained by contacting Lynley Doyen, Enforcement Coordinator, at (512) 239-1364, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Lyondell Chemical Company, Docket No. 2006-1547-AIR-E on May 10, 2007 assessing \$10,000 in administrative penalties with \$2,000 deferred.

Information concerning any aspect of this order may be obtained by contacting Sherronda Martin, Enforcement Coordinator, at (713) 767-

3680, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Super Heimer View, Inc. dba Exclusive Cleaners, Docket No. 2006-1582-DCL-E on May 10, 2007 assessing \$1,185 in administrative penalties with \$237 deferred.

Information concerning any aspect of this order may be obtained by contacting Cari-Michel La Caille, Enforcement Coordinator at (512) 239-1387, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Acton Municipal Utility District, Docket No. 2006-1650-MWD-E on May 10, 2007 assessing \$5,775 in administrative penalties with \$1,155 deferred.

Information concerning any aspect of this order may be obtained by contacting Merrilee Hupp, Enforcement Coordinator, at (512) 239-4490, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Simon Stephen dba KK Food Store, Docket No. 2006-1651-PST-E on May 10, 2007 assessing \$2,250 in administrative penalties with \$450 deferred.

Information concerning any aspect of this order may be obtained by contacting Shontay Wilcher, Enforcement Coordinator, at (512) 239-2136, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Texaco Exploration and Production Inc., Docket No. 2006-1665-AIR-E on May 10, 2007 assessing \$6,750 in administrative penalties with \$1,350 deferred.

Information concerning any aspect of this order may be obtained by contacting Terry Murphy, Enforcement Coordinator, at (512) 239-5025, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Huntsman Petrochemical Corporation, Docket No. 2006-1692-AIR-E on May 10, 2007 assessing \$18,375 in administrative penalties with \$3,675 deferred.

Information concerning any aspect of this order may be obtained by contacting Rebecca Johnson, Enforcement Coordinator, at (713) 422-8931, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Gessner Investments, LLC dba Chevron 108064, Docket No. 2006-1697-PST-E on May 10, 2007 assessing \$16,000 in administrative penalties with \$3,200 deferred.

Information concerning any aspect of this order may be obtained by contacting Tom Greimel, Enforcement Coordinator, at (512) 239-5690, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding ExxonMobil Oil Corporation, Docket No. 2006-1704-AIR-E on May 10, 2007 assessing \$23,175 in administrative penalties with \$4,635 deferred.

Information concerning any aspect of this order may be obtained by contacting Daniel Siringi, Enforcement Coordinator, at (409) 899-8799, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Khanh C. Nguyen and K. Nguyen and Sons Ltd. dba H P Cleaners, Docket No. 2006-1706-DCL-E on May 10, 2007 assessing \$1,185 in administrative penalties with \$237 deferred.

Information concerning any aspect of this order may be obtained by contacting Craig Fleming, Enforcement Coordinator, at (512) 239-5806, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Shintech Incorporated, Docket No. 2006-1718-AIR-E on May 10, 2007 assessing \$18,725 in administrative penalties with \$3,745 deferred.

Information concerning any aspect of this order may be obtained by contacting Sherronda Martin, Enforcement Coordinator, at (713) 767-3680, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding ExxonMobil Oil Corporation, Docket No. 2006-1743-AIR-E on May 10, 2007 assessing \$5,975 in administrative penalties with \$1,195 deferred.

Information concerning any aspect of this order may be obtained by contacting Audra Ruble, Enforcement Coordinator, at (361) 825-3126, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Juan Martin Villarreal dba El Chore Pit, Inc, Docket No. 2006-1747-MSW-E on May 10, 2007 assessing \$6,500 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Sandy VanCleave, Enforcement Coordinator, at (512) 239-2670, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Pleasanton, Docket No. 2006-1766-MSW-E on May 10, 2007 assessing \$1,000 in administrative penalties with \$200 deferred.

Information concerning any aspect of this order may be obtained by contacting Audra Ruble, Enforcement Coordinator, at (361) 825-3126, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Fred Garrison Oil Company dba Chucks Grocery & Grill, Docket No. 2006-1790-PST-E on May 10, 2007 assessing \$7,875 in administrative penalties with \$1,575 deferred.

Information concerning any aspect of this order may be obtained by contacting Rajesh Acharya, Enforcement Coordinator, at (512) 239-0577, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Lower Colorado River Authority, Docket No. 2006-1808-MWD-E on May 10, 2007 assessing \$5,850 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Pam Campbell, Enforcement Coordinator, at (512) 239-4493, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Stonewater Pipeline Company, L.P., Docket No. 2006-1816-AIR-E on May 10, 2007 assessing \$2,875 in administrative penalties with \$575 deferred.

Information concerning any aspect of this order may be obtained by contacting Lindsey Jones, Enforcement Coordinator, at (512) 239-4930, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Angel Brothers Enterprises, Ltd. dba Angels Gas & Grocery, Docket No. 2006-1826-PST-E on May 10, 2007 assessing \$9,450 in administrative penalties with \$1,890 deferred.

Information concerning any aspect of this order may be obtained by contacting Tom Greimel, Enforcement Coordinator, at (512) 239-5690, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding The BOC Group, Inc., Docket No. 2006-1834-AIR-E on May 10, 2007 assessing \$5,320 in administrative penalties with \$1,064 deferred.

Information concerning any aspect of this order may be obtained by contacting Samuel Short, Enforcement Coordinator, at (512) 239-5363, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Haldor Topsoe, Inc., Docket No. 2006-1841-AIR-E on May 10, 2007 assessing \$8,816 in administrative penalties with \$1,763 deferred.

Information concerning any aspect of this order may be obtained by contacting Miriam Hall, Enforcement Coordinator, at (512) 239-1044, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Cougar Stop, Inc. dba Normandy Truckstop, Docket No. 2006-1896-PST-E on May 10, 2007 assessing \$23,625 in administrative penalties with \$4,725 deferred.

Information concerning any aspect of this order may be obtained by contacting Rajesh Acharya, Enforcement Coordinator, at (512) 239-0577, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Air Liquide Large Industries U.S. LP, Docket No. 2006-1908-AIR-E on May 10, 2007 assessing \$38,073 in administrative penalties with \$7,615 deferred.

Information concerning any aspect of this order may be obtained by contacting Rebecca Johnson, Enforcement Coordinator, at (713) 422-8931, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding New Everest Group Corporation dba Lils General Food Store, Docket No. 2006-1918-PST-E on May 10, 2007 assessing \$800 in administrative penalties with \$160 deferred.

Information concerning any aspect of this order may be obtained by contacting Phillip DeFrancesco, Enforcement Coordinator, at (817) 588-5933, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding E. R. Carpenter, L.P., Docket No. 2006-1922-AIR-E on May 10, 2007 assessing \$2,600 in administrative penalties with \$520 deferred.

Information concerning any aspect of this order may be obtained by contacting Daniel Siringi, Enforcement Coordinator, at (409) 899-8799, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Southwestern Bell Telephone, L.P., Docket No. 2006-1954-AIR-E on May 10, 2007 assessing \$1,000 in administrative penalties with \$200 deferred.

Information concerning any aspect of this order may be obtained by contacting Daniel Siringi, Enforcement Coordinator, at (409) 899-8799, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Dialville Oakland Water Supply Corporation, Docket No. 2006-1978-PWS-E on May 10, 2007 assessing \$1,103 in administrative penalties with \$221 deferred.

Information concerning any aspect of this order may be obtained by contacting Epifanio Villareal, Enforcement Coordinator, at (210) 403-4033, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Shelbyville Independent School District, Docket No. 2006-1980-MWD-E on May 10, 2007 assessing \$3,927 in administrative penalties with \$785 deferred.

Information concerning any aspect of this order may be obtained by contacting Lynley Doyen, Enforcement Coordinator, at (512) 239-1364, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Community Water Company dba Rolling Hills Water System, Docket No. 2006-2237-PWS-E on May 10, 2007 assessing \$2,640 in administrative penalties with \$528 deferred.

Information concerning any aspect of this order may be obtained by contacting Andrea Linson-Mgbeoduru, Enforcement Coordinator, at (512) 239-1482, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Jayvik Auto Systems, Inc. dba Speedee Oil Change & Tune Up, Docket No. 2006-2238-PST-E on May 10, 2007 assessing \$1,000 in administrative penalties with \$200 deferred.

Information concerning any aspect of this order may be obtained by contacting Shontay Wilcher, Enforcement Coordinator, at (512) 239-2136, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Kaufman, Docket No. 2007-0022-PWS-E on May 10, 2007 assessing \$6,380 in administrative penalties with \$1,276 deferred.

Information concerning any aspect of this order may be obtained by contacting Christopher Miller, Enforcement Coordinator at (512) 239-6580, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Hi Five Auto Care, Inc. High Five Auto Care, Docket No. 2007-0292-PST-E on May 10, 2007 assessing \$1,750 in administrative penalties.

Information concerning any aspect of this citation may be obtained by contacting Steven Lopez, Enforcement Coordinator, at (512) 239-1896, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Jai Kapish Corporation dba Stop and Shop 1, Docket No. 2007-0293-PST-E on May 10, 2007 assessing \$1,750 in administrative penalties.

Information concerning any aspect of this citation may be obtained by contacting Steven Lopez, Enforcement Coordinator, at (512) 239-1896, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding James Oran Bone, Docket No. 2007-0364-PST-E on May 10, 2007 assessing \$210 in administrative penalties.

Information concerning any aspect of this citation may be obtained by contacting Steven Lopez, Enforcement Coordinator, at (512) 239-1896, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Claude Conner dba Conner Texaco Service Station, Docket No. 2004-0885-PST-E on May 10, 2007 assessing \$9,450 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Justin Lannen, Staff Attorney, at (817) 588-5927, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-200702013

LaDonna Castañuela

Chief Clerk

Texas Commission on Environmental Quality

Filed: May 23, 2007



Notice of Meeting on July 12, 2007, in Houston, Harris County, Texas, Concerning the Former Aluminum Finishing Company Proposed State Superfund Site

The purpose of the meeting is to obtain public input and information concerning the proposal to delete the site from the state Superfund registry.

The executive director (ED) of the Texas Commission on Environmental Quality (TCEQ or commission) is issuing a notice of intent to delete the Aluminum Finishing proposed state Superfund site (the site) from the state Superfund registry. The state Superfund registry is the list of state Superfund sites which may constitute an imminent and substantial endangerment to public health and safety or the environment due to a release or threatened release of hazardous substances into the environment. The commission is proposing this deletion because the site has been accepted into the Voluntary Cleanup Program (VCP).

The site, including all land, structures, appurtenances, and other improvements, is approximately 0.2 acres located at 6006 Ardmore Street in Houston, Harris County, Texas. The site also includes any areas where hazardous substances had come to be located as a result, either directly or indirectly, of releases of hazardous substances from the site.

The facility, formerly known as the Aluminum Finishing Company, is located in a mainly residential area on a corner lot at 6006 Ardmore, Houston, Texas. The description of the site is based on information available in 1997 when the site was evaluated with the Hazard Ranking System (HRS). The Aluminum Finishing Company, Inc. had two buildings on site. One was a single story small office building, and the other was a large corrugated metal storage building. Metal plating operations were conducted from March 1981 through June 1993 where nuts and bolts were electroplated with cadmium and coated with chromium. The cleaning solution was sodium cyanide that was neutralized with sulfuric acid. The plating sludge was stored on-site in metal tanks. The current owner of the property, Mr. Leo Montgomery, is doing business as Riverside Kitchen and Bath Company, LLC., and has converted the former office building into a private residence. The substances generated by the electroplating processes on-site include cadmium, chromium, and cyanide. Data collected in February 1992, November 1994, and January 1997, revealed elevated levels of cadmium, chromium, lead, arsenic, and cyanide in on-site soils. The elevated levels of metals and cyanide are attributable to the former electroplating operations at this site.

In October 2006, Mr. Leo Montgomery, current owner of the property, applied for and was accepted into the Voluntary Cleanup Program to clean up the site. Mr. Montgomery's remedial action plan is to excavate the contaminated soil to residential levels, dispose of the contaminated soil, and backfill the excavated area with clean soil.

Notice has been filed with the deed for the site in the real property records in Harris County that cadmium, chromium, and cyanide contamination remains on site. When the contamination is removed under the Voluntary Cleanup Program, the site will be appropriate for residential use according to State risk reduction regulations applicable to the site; and the deed notice will be removed from the real property records.

The site has been accepted into the TCEQ Voluntary Cleanup Program and is, therefore, eligible for deletion from the state registry as provided by 30 TAC §335.344(c).

In accordance with 30 TAC §335.344(b), the commission will hold a public meeting to receive comment on this proposed deletion. This meeting will not be a contested case hearing within the meaning of Texas Government Code, Chapter 2001. The meeting will be held on July 12, 2007, at 7:00 p.m., at the Emancipation Community Center, located at 3018 Dowling, Houston, Texas 77004.

All persons desiring to make comments regarding the proposed deletion of the site may do so prior to or at the public meeting. All comments submitted prior to the public meeting must be received by 5:00 p.m. on July 11, 2007 and should be sent in writing to Alan Henderson, P.E., Project Manager, TCEQ, Remediation Division, MC 136, P.O. Box 13087, Austin, Texas 78711-3087 (or by facsimile (512) 239-2450). The public comment period for this action will end at the close of the public meeting on July 12, 2007.

A portion of the record for the site including documents pertinent to the ED's proposed deletion is available for review during regular business hours at the Young Branch Library, 5260 Griggs Road, Palm Center, Houston, Texas 77021, (832) 393-2140. The complete public file may be obtained during regular business hours at the commission's Records Management Center, Building E, First Floor, Records Customer Service, MC 199, 12100 Park 35 Circle, Austin, Texas 78753, (800) 633-9363 or (512) 239-2920. Photocopying of file information is subject to payment of a fee. Parking is available for persons with disabilities on the east side of Building D, convenient to access ramps that are between Buildings D and E.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the meeting should contact the agency at (800) 633-9363 or (512) 239-2453. Requests should be made as far in advance as possible.

For further information about the public meeting, please contact Crystal Taylor at (800) 633-9363.

TRD-200701999

Mary R. Risner

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: May 22, 2007



Notice of Water Quality Applications

The following notices were issued during the period of May 10, 2007 through May 17, 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 TCEQ, Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087, WITHIN 30 DAYS OF THE DATE OF NEWSPAPER PUBLICATION OF THE NOTICE.

ARC MEADOW GLEN LP has applied for a renewal of TPDES Permit No. 12768-001, which authorizes the discharge of treated domestic

wastewater at a daily average flow not to exceed 120,000 gallons per day. The facility is located in Meadow Glen Estates along the east side of Old Denton Road approximately 2.5 miles west of U.S. Highway 377 and 0.5 mile north of Keller-Hicks Road in Tarrant County, Texas.

AUC GROUP, L.P. has applied for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014724003, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 980,000 gallons per day. The facility will be located 8,000 feet southeast of the intersection of State Highway 288 and County Road 57 on the east side of the West Fork of Chocolate Bayou in Brazoria County, Texas.

CITY OF CASTROVILLE has applied to the Texas Commission on Environmental Quality (TCEQ) for a major amendment to Texas Land Application Permit (TLAP) Permit No. 10952-001 to change from disposal via irrigation to discharge and to authorize an increase in the discharge of treated domestic wastewater from a daily average flow not to exceed 350,000 gallons per day to a daily average flow not to exceed 900,000 gallons per day. The current permit authorizes the disposal of treated domestic wastewater via irrigation of 26.6 acres of a public access park and 166.8 acres of non-public access pastureland. The facility and disposal site are located approximately 0.9 mile southeast of the intersection of U.S. Highway 90 and Farm-to-Market Road 1343 in Medina County, Texas.

CHILTON WATER SUPPLY AND SEWER SERVICE CORPORATION has applied for a renewal of TPDES Permit No. 10811-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 105,000 gallons per day. The facility is located approximately 0.7 mile east of State Highway 77 and 1 mile south of the City of Chilton, just northeast of the crossing of Deer Creek by Old Highway 77 in Falls County, Texas.

CITY OF DALLAS has applied for a renewal of TPDES Permit No. 10060-001, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 200,000,000 gallons per day. The facility is located on the west bank of the Trinity River at 1020 Sargent Road in the City of Dallas in Dallas County, Texas.

FORT BEND COUNTY WATER CONTROL & IMPROVEMENT DISTRICT NO. 2 has applied for a renewal of TPDES Permit No. WQ0010086002, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 500,000 gallons per day. The facility is located approximately 3,300 feet southeast of the intersection of Cravens Road and U.S. Highway 90 in Fort Bend County, Texas.

NORTHWEST HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 36 has applied for a renewal of TPDES Permit No. WQ0013573001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 500,000 gallons per day. The facility is located at 3640 Louetta Road which is 210 feet north northeast of the intersection of Seals Gully and Louetta Road and approximately 12,600 feet west of the intersection of Interstate Highway 45 and Holzwarth Road in Harris County, Texas.

SOUTHWEST HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 1 has applied for a renewal of TPDES Permit No. 12641-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 400,000 gallons per day. The facility is located adjacent to Willow Waterhole Bayou, approximately 2,000 feet west of the intersection of Fondren Road and U.S. Alternate Highway 90 in Harris County, Texas.

WEST HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 6 has applied for a renewal of TPDES Permit No. 12499-001, which authorizes the discharge of treated domestic wastewater at a daily aver-

age flow not to exceed 500,000 gallons per day. The facility is located approximately 2,000 feet west of Synott Road, 4,300 feet south of Westheimer Road and 5,800 feet east of Highway 6 in Harris County, Texas.

HULL FRESH WATER SUPPLY DISTRICT has applied for a renewal of TPDES Permit No. WQ0013544002, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 150,000 gallons per day. The facility is located approximately 0.75 mile northeast of the intersection of State Highway 770 and the Missouri Pacific Railroad in Liberty County, Texas.

KAMPGROUNDS OF AMERICA, INC. has applied for a renewal of TPDES Permit No. WQ0014210001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 20,000 gallons per day. The facility is located at 19785 State Highway 105 West, approximately 0.35 of a mile southeast of the intersection of State Highway 105 and Keenan Road, 1.8 miles northwest of the intersection of State Highway 105 and River Road, and east of the community of Montgomery in Montgomery County, Texas.

MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 18 has applied for a renewal of TPDES Permit No. 13273-001 which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 900,000 gallons per day. The application also requests to change the method of disinfection from Ultraviolet Light (UV) to chlorination in the final phase of the permit. The facility is located adjacent to Lake Conroe and Rusty Creek; approximately 1.0 mile southwest of the intersection of Farm-to-Market Road 1097 and Bentwater Drive in Montgomery County, Texas.

PULTE HOMES OF TEXAS, L.P., AND HAYS COUNTY MUNICIPAL UTILITY DISTRICT NO. 5 have applied to the Texas Commission on Environmental Quality (TCEQ) for a major amendment to Permit No. 14358-001, to authorize an increase in the daily average flow from 120,000 gallons per day to 300,000 gallons per day and to increase the acreage irrigated from 27.55 acres to 68.87 acres. The current permit authorizes the disposal of treated domestic wastewater at a daily average flow not to exceed 120,000 gallons per day via sub-surface drip irrigation of 27.55 acres of public access land. This permit will not authorize a discharge of pollutants into waters in the State. The facility and disposal site are located approximately 2.3 miles south of U.S. Highway 290 and approximately 6,500 east of Sawyer Ranch Road. The disposal sites are located throughout the Highpointe Subdivision. The entrance to the subdivision is located on the east side of Sawyer Ranch Road, approximately 1.7 miles along Sawyer Ranch Road, south of the intersection of U.S. Highway 290 and Sawyer Ranch Road. Sawyer Ranch Road is located 8.2 miles west of the intersection of U.S. Highway 290 and Texas Highway 71 (the "Y" in Oak Hill), and 5.5 miles east of Dripping Springs in Hays County, Texas.

RENN ROAD MUNICIPAL UTILITY DISTRICT has applied for a renewal of TPDES Permit No. WQ0012078001, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 2,500,000 gallons per day. The facility is located at 9535 Sugarland-Howell Road, immediately northeast of the crossing of Sugarland-Howell Road over Keegans Bayou, in Fort Bend County, Texas.

SOUTHWEST UTILITIES, INC. has applied for a renewal of TPDES Permit No. WQ0011255001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 393,000 gallons per day. The facility is located at 3010 Kowis Street, approximately 1,600 feet north-northwest of the intersection of Little York Road and Foy Street, 3,500 feet west-northwest of the intersection of State Highway 59 and Little York Road in Harris County, Texas.

THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE has applied for a renewal of TPDES Permit No. 10823-001, which authorizes the discharge of treated domestic wastewater at an annual average flow not

to exceed 2,850,000 gallons per day. The facility is located at within the Texas Department of Criminal Justice Coffield Farm Unit at the southwest terminus of Farm-to-Market Road 2054 at a point approximately 4.5 miles southwest of Tennessee Colony in Anderson County, Texas.

TEXAS DEPARTMENT OF CRIMINAL JUSTICE has applied for a renewal of TPDES Permit No. 11915-001, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 1,440,000 gallons per day. The facility is located approximately six miles northwest of the intersection of U.S. Highways 84 and 79 and Farm-to-Market Road 645, and approximately two miles west of the intersection of Farm-to-Market Roads 645 and 3328 in Anderson County, Texas.

TEXAS DEPARTMENT OF CRIMINAL JUSTICE has applied for a renewal of TPDES Permit No. WQ0013804001, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 2,000,000 gallons per day. The facility is located within the Texas Department of Criminal Justice Ramsey Prison Farm, approximately 5.4 miles west of the intersection of Farm-to-Market Road 655 and Farm-to-Market Road 521; on the east bank of Oyster Creek and the southwest corner of the Terrell unit in Brazoria County, Texas.

TIFCO INDUSTRIES, INC. has applied for a renewal of TPDES Permit No. 12465-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 35,000 gallons per day. The facility is located approximately 3,000 feet northwest of the intersection of U.S. Highway 290 and Huffmeister 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-200702012

LaDonna Castañuela

Chief Clerk

Texas Commission on Environmental Quality

Filed: May 23, 2007



Proposal for Decision

The State Office of Administrative Hearings issued a Proposal for Decision and Order to the Texas Commission on Environmental Quality (commission) on May 14, 2007, in the matter of the Executive Director of the Texas Commission on Environmental Quality, Petitioner v. Gilbert Carrillo; SOAH Docket No. 582-07-0103; TCEQ Docket No. 2005-0419-MLM-E. The commission will consider the Administrative Law Judge's Proposal for Decision and Order regarding the enforcement action against Gilbert Carrillo on a date and time to be determined by the Office of the Chief Clerk in Room 201S of Building E, 12100 N. Interstate 35, Austin, Texas. This posting is Notice of Opportunity to Comment on the Proposal for Decision and Order. The comment period will end 30 days from date of this publication. Written public comments should be submitted to TCEQ, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087. If you have any

questions or need assistance, please contact Paul Munguía, Office of the Chief Clerk, (512) 239-3300.

TRD-200702014

LaDonna Castañuela

Chief Clerk

Texas Commission on Environmental Quality

Filed: May 23, 2007

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Department of State Health Services
Licensing Actions for Radioactive Materials

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

NEW LICENSES ISSUED:

| Location | Name | License # | City | Amendment # | Date of Action |
|---------------|--|-----------|----------|-------------|----------------|
| Austin | Daughters of Charity Health Services of Austin DBA Dell Childrens Medical Center of Central Texas | L06065 | Austin | 00 | 05/12/07 |
| Dallas | Landmark Radiation Dallas LP | L06075 | Dallas | 00 | 05/14/07 |
| Dallas | Presbyterian Cancer Center-Dallas LLC | L06056 | Dallas | 00 | 05/11/07 |
| Houston | Radiomedix Inc DBA Radiomedix | L06044 | Houston | 00 | 05/11/07 |
| Pasadena | Patients Medical Center | L06066 | Pasadena | 00 | 05/01/07 |
| Throughout Tx | Jacob & Martin LTD | L06083 | Abilene | 00 | 05/08/07 |

AMENDMENTS TO EXISTING LICENSES ISSUED:

| Location | Name | License # | City | Amendment # | Date of Action |
|-----------------|---|-----------|-----------------|-------------|----------------|
| Alice | Adcock Pipe and Supply Inc | L05491 | Alice | 03 | 05/14/07 |
| Amarillo | Northwest Texas Healthcare System Inc DBA Northwest Texas Hospital | L02054 | Amarillo | 80 | 05/08/07 |
| Aransas Pass | North Bay General Hospital DBA North Bay Hospital | L03446 | Aransas Pass | 33 | 05/02/07 |
| Austin | Daughters of Charity Health Services of Austin DBA Seton Healthcare Network Risk Management Dept | L02896 | Austin | 95 | 05/14/07 |
| Austin | Ambion Inc | L04307 | Austin | 19 | 05/01/07 |
| Bay City | Equistar Chemicals LP Matagorda Plant | L03938 | Bay City | 21 | 05/04/07 |
| Baytown | Sarma Challa MD PA | L05040 | Baytown | 12 | 05/04/07 |
| Beasley | Hudson Products Corporation | L02370 | Beasley | 45 | 05/08/07 |
| Bonham | Attentus Bonham LP DBA Red River Regional Hospital | L03331 | Bonham | 34 | 05/14/07 |
| Brownsville | JRG Equipment DBA Springman Medical Plaza | L05831 | Brownsville | 05 | 05/01/07 |
| College Station | BCS Heart LLP | L04890 | College Station | 15 | 05/10/07 |
| Conroe | CHCA Conroe LP DBA Conroe Regional Medical Center | L01769 | Conroe | 70 | 05/14/07 |
| Conroe | Montgomery County Cardiovascular Associates PA | L05151 | Conroe | 16 | 05/09/07 |
| Corpus Christi | Spohn Hospital | L02495 | Corpus Christi | 89 | 05/14/07 |
| Cypress | North Cypress Medical Center Operating Co LLC DBA North Cypress Medical Center | L06020 | Cypress | 04 | 05/08/07 |
| Dallas | PETNET Solutions Inc | L05193 | Dallas | 27 | 05/10/07 |
| DeSoto | Vishu Lammata MD PA | L05311 | DeSoto | 10 | 05/08/07 |
| Duncanville | Duncanville Medical Center Inc | L05471 | Duncanville | 06 | 05/02/07 |
| El Paso | El Paso Healthcare System LTD DBA Del Sol Medical Center | L02551 | El Paso | 49 | 05/11/07 |
| El Paso | El Paso Cardiology Associates PA | L05162 | El Paso | 06 | 05/09/07 |
| El Paso | E+PET Imaging XXIV LP DBA PET Imaging of El Paso | L05981 | El Paso | 02 | 05/10/07 |
| Fort Worth | Kanti C Gandhi MD | L05756 | Fort Worth | 03 | 05/14/07 |
| Fort Worth | University of North Texas Health Science Center Fort Worth | L02518 | Fort Worth | 33 | 05/08/07 |
| Fort Worth | Naresh H Patel MD PA DBA Texas Cardiology Clinic | L05520 | Fort Worth | 06 | 05/01/07 |

AMENDMENTS TO EXISTING LICENSES ISSUED CONTINUED:

| Location | Name | License # | City | Amendment # | Date of Action |
|--------------|--|-----------|--------------|-------------|----------------|
| Fort Worth | Tarrant County Cardiology | L04659 | Fort Worth | 15 | 05/01/07 |
| Frisco | Tenet Hospital LTD DBA Centennial Medical Center | L05768 | Frisco | 06 | 05/08/07 |
| Galveston | Galveston Laboratories LLC | L02970 | Galveston | 07 | 05/01/07 |
| Grapevine | Baylor Medical Center at Grapevine | L03320 | Grapevine | 25 | 05/10/07 |
| Houston | Bandy & Associates Inc | L05402 | Houston | 02 | 05/14/07 |
| Houston | Valco Instruments Company Inc | L01572 | Houston | 23 | 05/14/07 |
| Houston | Sheldon Rubenfeld MD | L04410 | Houston | 08 | 05/08/07 |
| Houston | PETNET Houston LLC DBA PETNET Houston LLC | L05542 | Houston | 13 | 05/01/07 |
| Houston | Caltex Holdings LP | L01793 | Houston | 30 | 04/30/07 |
| Houston | Cardiology Associates of Houston PA | L05608 | Houston | 03 | 05/02/07 |
| Houston | Rice University | L00104 | Houston | 19 | 05/01/07 |
| Houston | Ben Taub General Hospital | L01303 | Houston | 63 | 05/04/07 |
| Katy | Deteq Services | L05778 | Katy | 05 | 05/03/07 |
| La Porte | J V Industrial Co LTD | L05785 | La Porte | 06 | 05/07/07 |
| Lufkin | Heart and Vascular Diagnostic Clinic | L05850 | Lufkin | 02 | 05/09/07 |
| Mauriceville | S & T International Inc | L03652 | Mauriceville | 36 | 05/01/07 |
| McAllen | McAllen Hospitals LP DBA McAllen Medical Center | L01713 | McAllen | 81 | 05/01/07 |
| Midland | Eddy Merket Inc | L04275 | Midland | 07 | 05/09/07 |
| Mont Belvieu | Belvieu Environmental Fuels | L04679 | Mont Belvieu | 04 | 05/09/07 |
| Odessa | University of Texas of the Permian Basin | L02695 | Odessa | 13 | 05/08/07 |
| Odessa | Ector County Hospital District DBA Medical Center Hospital | L01223 | Odessa | 84 | 05/10/07 |
| Paris | Physician Reliance Network Inc DBA Paris Regional Cancer Center | L04664 | Paris | 14 | 05/04/07 |
| Paris | Advanced Heart Care PA | L05290 | Paris | 20 | 04/30/07 |
| Pasadena | Ethyl Corporation | L05094 | Pasadena | 05 | 05/15/07 |
| Pasadena | Pasadena Refining System Inc | L01344 | Pasadena | 29 | 05/09/07 |
| Plano | Texas Heart Hospital of the Southwest LLP DBA The Heart Hospital Baylor Plano | L06004 | Plano | 04 | 05/02/07 |
| Port Arthur | The Medical Center of Southeast Texas LP | L01707 | Port Arthur | 64 | 05/01/07 |
| Port Arthur | The Medical Center of Southeast Texas LP | L01707 | Port Arthur | 65 | 05/03/07 |
| Richmond | Oakbend Medical Center | L02406 | Richmond | 46 | 05/14/07 |
| Richmond | Worden Gravity Meter Company | L04407 | Richmond | 05 | 05/09/07 |
| Rockdale | TXU Generation Co LP DBA TXU Power | L04075 | Rockdale | 11 | 05/15/07 |
| Rowlett | Lake Pointe Partners LTD DBA Lake Pointe Medical Center | L04060 | Rowlett | 13 | 05/09/07 |
| San Antonio | Metro North Cardiovascular Associates PA DBA Metro North Clinic | L05235 | San Antonio | 14 | 05/08/07 |
| San Antonio | Medi-Physics Inc DBA GE Healthcare | L04764 | San Antonio | 32 | 05/14/07 |
| San Antonio | Jeremy Nyle Wiersig MD PA DBA Concord Imaging | L05915 | San Antonio | 03 | 05/14/07 |
| San Antonio | Radiation Oncology of San Antonio PA DBA Baptist Cancer Center | L05853 | San Antonio | 04 | 05/11/07 |
| San Antonio | PETNET Solutions Inc | L05569 | San Antonio | 16 | 05/10/07 |
| San Antonio | Southwest General Hospital LLP DBA Southwest General Hospital | L02689 | San Antonio | 34 | 05/08/07 |
| San Antonio | Metro North Cardiovascular Associates PA DBA Metro North Clinic | L05235 | San Antonio | 13 | 05/01/07 |
| San Antonio | Medical Center Ophthalmology Associates | L01343 | San Antonio | 19 | 05/01/07 |
| San Antonio | Christus Santa Rosa Health Care | L02237 | San Antonio | 93 | 05/01/07 |
| Sugar Land | Methodist Sugar Land Hospital | L05788 | Sugar Land | 10 | 04/30/07 |

AMENDMENTS TO EXISTING LICENSES ISSUED CONTINUED:

| Location | Name | License # | City | Amendment # | Date of Action |
|---------------|---|-----------|-----------------|-------------|----------------|
| The Woodlands | VGX Pharmaceuticals | L05773 | The Woodlands | 04 | 05/01/07 |
| The Woodlands | Lexicon Pharmaceuticals Inc | L04932 | The Woodlands | 16 | 05/10/07 |
| Throughout Tx | Team Industrial Services Inc | L00087 | Alvin | 163 | 05/04/07 |
| Throughout Tx | Texas Department of State Health Services Community Preparedness Section | L05865 | Austin | 03 | 05/07/07 |
| Throughout Tx | E I Dupont de Nemours & Co Inc | L00517 | Beaumont | 75 | 05/08/07 |
| Throughout Tx | E D Baker Company LTD | L04872 | Borger | 07 | 05/02/07 |
| Throughout Tx | Brazos Valley Inspection Services Inc | L02859 | Bryan | 55 | 05/09/07 |
| Throughout Tx | NDE Solutions LLC | L05879 | Bryan | 11 | 04/30/07 |
| Throughout Tx | NDE Solutions LLC | L05879 | College Station | 12 | 05/08/07 |
| Throughout Tx | CME Testing and Engineering Inc | L05263 | College Station | 07 | 05/08/07 |
| Throughout Tx | Fugro Consultants LP | L01474 | Corpus Christi | 30 | 05/14/07 |
| Throughout Tx | National Inspection Services LLC | L05930 | Crowley | 13 | 05/14/07 |
| Throughout Tx | National Inspection Services LLC | L05930 | Crowley | 12 | 05/03/07 |
| Throughout Tx | TEAM Consultants Inc | L04012 | Dallas | 10 | 05/11/07 |
| Throughout Tx | Terracon Consultants Inc | L05268 | Dallas | 21 | 05/08/07 |
| Throughout Tx | Reed Engineering Group Inc | L04343 | Dallas | 14 | 05/02/07 |
| Throughout Tx | IRISNDT Inc | L04769 | Deer Park | 38 | 05/04/07 |
| Throughout Tx | Millennium Engineers Group Inc | L05388 | Edinburg | 05 | 05/15/07 |
| Throughout Tx | Encon International Inc | L04528 | El Paso | 13 | 05/15/07 |
| Throughout Tx | Asphalt Pavers Inc | L05376 | El Paso | 02 | 05/15/07 |
| Throughout Tx | Speesoil Inc | L05619 | El Paso | 02 | 05/14/07 |
| Throughout Tx | Alliance Engineering & Testing Services Inc | L05889 | Fort Worth | 04 | 05/08/07 |
| Throughout Tx | City of Fort Worth Department of Engineering Soil Laboratory | L01928 | Fort Worth | 20 | 05/01/07 |
| Throughout Tx | A & R Engineering and Testing Inc | L05318 | Houston | 05 | 05/14/07 |
| Throughout Tx | Tolunay Wong Engineers Inc | L04848 | Houston | 10 | 05/08/07 |
| Throughout Tx | QC Laboratories Inc | L04750 | Houston | 20 | 05/01/07 |
| Throughout Tx | El Paso Corporation DBA Tennessee Gas Pipeline | L00180 | Houston | 24 | 05/04/07 |
| Throughout Tx | Petrochem Inspection Services Inc | L04460 | Houston | 78 | 05/03/07 |
| Throughout Tx | AITEC USA Investments Inc DBA AITEC USA Inc and Weldsonix Inc | L05718 | Houston | 29 | 05/08/07 |
| Throughout Tx | E I Du Pont de Nemours & Company | L01753 | Ingleside | 40 | 05/03/07 |
| Throughout Tx | Headwaters Resources Inc | L05281 | Jewett | 04 | 05/15/07 |
| Throughout Tx | Acuren Inspection Inc | L01774 | La Porte | 233 | 05/11/07 |
| Throughout Tx | Acuren Inspection Inc | L01774 | La Porte | 232 | 05/04/07 |
| Throughout Tx | Howland Geoscience Inc | L05543 | Laredo | 04 | 05/08/07 |
| Throughout Tx | Deep Well Tubular Service Inc | L04462 | Midland | 07 | 05/14/07 |
| Throughout Tx | Precision Energy Services Inc | L04405 | Midland | 18 | 05/02/07 |
| Throughout Tx | Desert Industrial X-ray LP | L04590 | Odessa | 62 | 04/30/07 |
| Throughout Tx | Big State X-ray | L02693 | Odessa | 62 | 05/02/07 |
| Throughout Tx | Desert Industrial X-ray LP | L04590 | Odessa | 63 | 05/04/07 |
| Throughout Tx | Permian Nondestructive Testing Inc | L06001 | Odessa | 04 | 05/03/07 |
| Throughout Tx | Techcorr USA LLC | L05972 | Pasadena | 25 | 05/10/07 |
| Throughout Tx | Tracerco A Business Unit of Johnson Matthey Inc | L03096 | Pasadena | 63 | 05/04/07 |
| Throughout Tx | Turner Specialty Services LLC | L05417 | Pasadena | 27 | 05/07/07 |
| Throughout Tx | Conam Inspection & Engineering Inc | L05010 | Pasadena | 124 | 05/04/07 |
| Throughout Tx | Texas Gamma Ray LLC | L05561 | Pasadena | 74 | 05/03/07 |
| Throughout Tx | Isbell Engineering Group Inc | L05355 | Sanger | 16 | 05/02/07 |
| Throughout Tx | Production Logging Inc | L02698 | Snyder | 23 | 05/03/07 |
| Throughout Tx | Schlumberger Technology Corporation | L01833 | Sugar Land | 140 | 05/10/07 |
| Throughout Tx | Jester Brothers Construction | L05057 | Whitewright | 03 | 05/08/07 |
| Throughout Tx | American Eagle Well Logging Inc | L04133 | Wichita Falls | 09 | 05/14/07 |
| Tyler | Nutech Inc | L04274 | Tyler | 60 | 05/15/07 |

AMENDMENTS TO EXISTING LICENSES ISSUED CONTINUED:

| Location | Name | License # | City | Amendment # | Date of Action |
|---------------|--|-----------|---------------|-------------|----------------|
| Tyler | Delek Refining LTD | L02289 | Tyler | 18 | 05/11/07 |
| Webster | Cardiovascular Associates of Clear Lake PA | L05549 | Webster | 09 | 05/09/07 |
| Webster | Cardiovascular Associates of Clear Lake PA | L05549 | Webster | 08 | 04/30/07 |
| Wichita Falls | Howmet Corporation Howmet Wichita Falls | L05106 | Wichita Falls | 10 | 05/01/07 |

RENEWAL OF LICENSES ISSUED:

| Location | Name | License # | City | Amendment # | Date of Action |
|---------------|--|-----------|---------------|-------------|----------------|
| Austin | St Davids Healthcare Partnership LLP DBA North Austin Medical Ctr | L04910 | Austin | 71 | 05/03/07 |
| Brownsville | Columbia Valley Healthcare System LP DBA Valley Regional Medical Center | L02274 | Brownsville | 38 | 05/14/07 |
| Friendswood | ISO Tex Diagnostics Inc | L02999 | Friendswood | 44 | 05/10/07 |
| Greenville | Mohiudin A Zeb MD | L04154 | Greenville | 05 | 05/03/07 |
| Hallettsville | Lavaca Medical Center | L04397 | Hallettsville | 11 | 05/03/07 |
| Houston | Rice University | L00631 | Houston | 26 | 05/03/07 |
| Kosse | U S Silica Company | L03150 | Kosse | 11 | 05/07/07 |
| Lufkin | The Heart Institute of East Texas PA | L04147 | Lufkin | 16 | 05/04/07 |
| Snyder | Scurry County DBA DM Cogdell Memorial Hospital | L02409 | Snyder | 29 | 05/03/07 |
| Three Rivers | Diamond Shamrock Refining Company LP DBA Valero Three Rivers Refinery | L03699 | Three Rivers | 18 | 05/01/07 |
| Tyler | The University of Texas Health Center at Tyler | L01796 | Tyler | 63 | 05/02/07 |

TERMINATIONS OF LICENSES ISSUED:

| Location | Name | License # | City | Amendment # | Date of Action |
|---------------|--|-----------|-------------|-------------|----------------|
| Brownsville | Los Ebanos PET Imaging Limited DBA Los Ebanos PET Imaging | L05857 | Brownsville | 02 | 05/01/07 |
| Edinburg | Radiology Associates-Edinburg DBA Radiology Associates-Edinburg | L04512 | Edinburg | 13 | 05/03/07 |
| Throughout Tx | Multatech Engineering Inc | L05781 | Fort Worth | 01 | 05/04/07 |

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

This notice affords the opportunity for a hearing on written request of a person affected within 30 days of the date of publication of this notice. A person affected is defined as a person who demonstrates that the person has suffered or will suffer actual injury or economic damage and, if the person is not a local government, is (a) a resident of a county, or a county adjacent to the county, in which radioactive material is or will be located, or (b) doing business or has a legal interest in land in the county or adjacent county. A person affected may request a hearing by writing Richard A. Ratliff, Radiation Program Officer, Department of State Health Services, 1100 West 49th Street, Austin, Texas 78756-3189. For information call (512) 834-6688.

Lisa Hernandez
Deputy General Counsel
Department of State Health Services
Filed: May 23, 2007

TRD-200702005

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Texas Health and Human Services Commission

Correction Notice

The Texas Health and Human Services Commission published a rate hearing notice in the May 25, 2007, issue of the *Texas Register* (32 TexReg 2910). The purpose of the hearing, which will be held on June

7, 2007, is to receive public comment on the proposed Medicaid payment rates for specific procedure codes for radiology services.

Due to an error in the Proposal section of the notice, the proposed Medicaid Rate for Procedure Code 75998 reads:

| *Type of Service Code (TOS) | Procedure Code | Current Medicaid Rate | Proposed Medicaid Rate |
|-----------------------------|----------------|-----------------------|------------------------|
| 4 | 75998 | \$0.00 | \$69.01 |
| I | 75998 | \$0.00 | \$14.73 |
| T | 75998 | \$0.00 | \$54.28 |

*Type of Service Code Key: 4 = radiology (total component); I = professional component for radiology, laboratory, or radiation therapy; T = technical component for radiology, laboratory, or radiation therapy.

As corrected, Procedure Code 75998 should be removed from the notice. It is a discontinued procedure code that was replaced with Procedure Code 77001. Procedure Code 77001 became a benefit of the Texas Medicaid Program on January 1, 2007, and will not be discussed during the June 7, 2007 rate hearing.

Steve Aragón
 Chief Counsel
 Texas Health and Human Services Commission
 Filed: May 23, 2007

The briefing package describing the proposed payment rates with the correction will be available on or after May 23, 2007. Interested parties may obtain a copy of the briefing package prior to the hearing by contacting Kimbra Rawlings by telephone at (512) 491-1174; by fax at (512) 491-1998; or by e-mail at Kimbra.Rawlings@hhsc.state.tx.us. The briefing package also will be available at the public hearing.



Notice of Public Hearing on Proposed Medicaid Payment Rates

*** Required Notice:** *The five character codes included in this notice are obtained from the Current Procedural Terminology (CPT®), copyright 2006 by the American Medical Association (AMA). CPT is developed by the AMA as a listing of descriptive terms and five character identifying codes and modifiers for reporting medical services and procedures performed by physicians. The responsibility for the content of this notice is with HHSC and no endorsement by the AMA is intended or should be implied. The AMA disclaims responsibility for any consequences or liability attributable or related to any use, nonuse or interpretation of information contained in this notice. Fee schedules, relative value units, conversion factors and/or related components are not assigned by the AMA, are not part of CPT, and the AMA is not recommending their use. The AMA does not directly or indirectly practice medicine or dispense medical services. The AMA assumes no liability for data contained or not contained herein. Any use of CPT outside of this notice should refer to the most recent Current Procedural Terminology, which contains the complete and most current listing of CPT codes and descriptive terms. Applicable FARS/DFARS apply. CPT is a registered trademark of the American Medical Association.*

Hearing. The Texas Health and Human Services Commission will conduct a public hearing on June 18, 2007, at 1:00 p.m. to receive public comment on the proposed Medicaid payment rates for the specific procedure codes for physician-administered drugs and biologicals listed below. The public hearing will be held in the Big Bend Conference Room of the Health and Human Services Commission, Braker Center, Building H, located at 11209 Metric Blvd, Austin, Texas. Entry is through Security at the main entrance of the building, which faces Metric Boulevard. The hearing will be held in compliance with Human Resources Code §32.0282 and Texas Administrative Code (TAC) Title 1, §355.201(e) - (f), which require public notice and hearings on proposed Medicaid reimbursements. Persons requiring Americans with Disability Act (ADA) accommodation or auxiliary aids or services should contact Kimbra Rawlings by calling (512) 491-1174, at least 72 hours prior to the hearing so appropriate arrangements can be made.

Proposal. The proposed payment rates for the physician-administered drugs and biologicals procedure codes are included in the table that follows this notice. The proposed payment rates will be effective September 1, 2007, except where noted.

Methodology and justification. The proposed payment rates are calculated in accordance with 1 TAC §355.8085, which addresses the Reimbursement Rates for Physicians and Certain Other Practitioners; 1 TAC §355.8441 (9) - (10), which addresses reimbursement for Texas Health Steps (THSteps) providers; and the specific fee guidelines published in Section 2.2.1.2 of the 2007 Texas Medicaid Provider Proce-

TRD-200702010

dures Manual. Rule §355.8085 requires HHSC to review the fees for individual services at least every two years.

Briefing Package. A briefing package describing the proposed payment rates will be available on or after June 4, 2007. The package date or the hearing date needs to be changed. Interested parties may obtain a copy of the briefing package prior to the hearing by contacting Kimbra Rawlings by telephone at (512) 491-1174; by fax at (512) 491-1998; or by e-mail at Kimbra.Rawlings@hhsc.state.tx.us. The briefing package also will be available at the public hearing.

Written Comments. Written comments regarding the proposed payment rates may be submitted in lieu of, or in addition to, oral testimony until 5 p.m. the day of the hearing. Written comments may be sent by U.S. mail to the attention of Kimbra Rawlings, Health and Human Services Commission, Rate Analysis, Mail Code H-400, P.O. Box 85200, Austin, Texas 78708-5200; by fax to Kimbra Rawlings at (512) 491-1998; or by e-mail to Kimbra.Rawlings@hhsc.state.tx.us. In addition, written comments may be sent by overnight mail or hand delivered to Kimbra Rawlings, HHSC, Rate Analysis, Mail Code H-400, Braker Center, Building H, 11209 Metric Boulevard, Austin, Texas 78758-4021.

*** Required Notice:** *The five character codes included in this notice are obtained from the Current Procedural Terminology (CPT®),*

copyright 2006 by the American Medical Association (AMA). CPT is developed by the AMA as a listing of descriptive terms and five character identifying codes and modifiers for reporting medical services and procedures performed by physicians. The responsibility for the content of this notice is with HHSC and no endorsement by the AMA is intended or should be implied. The AMA disclaims responsibility for any consequences or liability attributable or related to any use, nonuse or interpretation of information contained in this notice. Fee schedules, relative value units, conversion factors and/or related components are not assigned by the AMA, are not part of CPT, and the AMA is not recommending their use. The AMA does not directly or indirectly practice medicine or dispense medical services. The AMA assumes no liability for data contained or not contained herein. Any use of CPT outside of this notice should refer to the most recent Current Procedural Terminology, which contains the complete and most current listing of CPT codes and descriptive terms. Applicable FARS/DFARS apply. CPT is a registered trademark of the American Medical Association.

Procedure Codes and Proposed Payment Rates

| Procedure Code | Current Medicaid Fee | Proposed Medicaid Fee |
|-----------------------|-----------------------------|------------------------------|
| 90291* | \$0 | \$16.05 |
| 90371 | \$64.98 | \$126.89 |
| 90378 | \$14.82 | \$14.82 |
| 90386* | \$0 | \$89.76 |
| 90585 | \$143.48 | \$115.64 |
| 90586 | \$143.74 | \$114.16 |
| 90632 | \$56.53 | \$43.59 |
| 90636 | \$80.24 | \$79.22 |
| 90649 | \$128.88 | \$128.88 |
| 90655 | \$14.49 | \$13.76 |
| 90656 | \$15.61 | \$14.83 |
| 90657 | \$5.94 | \$5.65 |
| 90658 | \$11.89 | \$11.30 |
| 90669 | \$70.70 | \$74.24 |
| 90703 | \$3.21 | \$19.39 |
| 90732 | \$25.46 | \$24.19 |
| 90733 | \$56.08 | \$84.46 |
| 90734 | \$71.13 | \$87.82 |
| 90740 | \$176.95 | \$114.52 |
| 90746 | \$57.99 | \$57.26 |
| 90747 | \$98.63 | \$114.52 |
| J0128 | \$80.24 | \$68.62 |
| J0130 | \$483.32 | \$414.09 |
| J0132 | \$1.92 | \$1.95 |
| J0133 | \$0.20 | \$0.03 |
| J0150 | \$31.33 | \$23.48 |
| J0152 | \$46.43 | \$69.31 |
| J0170 | \$0.69 | \$0.80 |
| J0180 | \$116.48 | \$127.20 |
| J0205 | \$35.36 | \$39.22 |
| J0207 | \$434.06 | \$463.58 |
| J0210 | \$9.06 | \$10.08 |
| J0215 | \$25.50 | \$26.30 |
| J0256 | \$1.97 | \$3.41 |
| J0278 | \$1.33 | \$1.10 |
| J0280 | \$0.98 | \$0.39 |
| J0282 | \$14.98 | \$0.27 |
| J0285 | \$15.96 | \$9.20 |
| J0287 | \$19.56 | \$19.56 |
| J0288 | \$13.60 | \$13.60 |
| J0289 | \$32.04 | \$32.04 |
| J0290 | \$0.93 | \$2.36 |
| J0295 | \$6.87 | \$6.09 |
| J0300 | \$2.07 | \$2.61 |

| | | |
|-------|------------|------------|
| J0330 | \$0.09 | \$0.18 |
| J0360 | \$7.83 | \$6.51 |
| J0380 | \$1.15 | \$1.22 |
| J0456 | \$21.94 | \$36.22 |
| J0460 | \$0.46 | \$0.63 |
| J0470 | \$22.30 | \$25.52 |
| J0475 | \$209.43 | \$192.59 |
| J0476 | \$70.02 | \$71.42 |
| J0480 | \$1,445.31 | \$1,377.97 |
| J0500 | \$1.71 | \$15.27 |
| J0515 | \$3.37 | \$17.09 |
| J0530 | \$3.91 | \$13.16 |
| J0540 | \$13.56 | \$28.37 |
| J0550 | \$29.04 | \$30.49 |
| J0560 | \$8.65 | \$21.34 |
| J0570 | \$10.68 | \$36.44 |
| J0580 | \$30.90 | \$43.11 |
| J0583 | \$1.56 | \$1.76 |
| J0585 | \$4.85 | \$5.10 |
| J0587 | \$8.27 | \$8.27 |
| J0592 | \$0.29 | \$0.76 |
| J0595 | \$3.43 | \$0.72 |
| J0600 | \$37.77 | \$40.19 |
| J0610 | \$1.23 | \$0.59 |
| J0620 | \$3.44 | \$11.08 |
| J0636 | \$1.23 | \$0.56 |
| J0637 | \$28.17 | \$31.21 |
| J0640 | \$16.50 | \$0.96 |
| J0670 | \$2.20 | \$1.51 |
| J0690 | \$2.55 | \$1.46 |
| J0692 | \$7.16 | \$6.96 |
| J0694 | \$9.98 | \$7.09 |
| J0696 | \$12.58 | \$1.76 |
| J0697 | \$8.38 | \$3.95 |
| J0698 | \$12.88 | \$4.43 |
| J0702 | \$4.50 | \$5.18 |
| J0704 | \$2.45 | \$1.33 |
| J0706 | \$3.02 | \$3.48 |
| J0713 | \$6.36 | \$4.01 |
| J0715 | \$5.79 | \$2.98 |
| J0720 | \$5.74 | \$11.23 |
| J0725 | \$3.27 | \$3.79 |
| J0735 | \$50.37 | \$65.84 |
| J0740 | \$757.17 | \$761.49 |
| J0743 | \$14.41 | \$13.66 |

| | | |
|-------|----------|----------|
| J0744 | \$13.97 | \$5.07 |
| J0745 | \$1.06 | \$1.05 |
| J0760 | \$4.51 | \$4.57 |
| J0770 | \$37.71 | \$24.45 |
| J0780 | \$2.79 | \$2.04 |
| J0795 | \$4.39 | \$4.48 |
| J0800 | \$87.55 | \$114.53 |
| J0835 | \$14.50 | \$63.92 |
| J0850 | \$349.05 | \$866.58 |
| J0878 | \$0.29 | \$0.33 |
| J0881 | \$4.24 | \$3.09 |
| J0882 | \$4.24 | \$3.09 |
| J0885 | \$11.44 | \$9.33 |
| J0886 | \$11.44 | \$9.57 |
| J0895 | \$11.33 | \$13.99 |
| J0945 | \$0.73 | \$0.80 |
| J0970 | \$1.71 | \$34.23 |
| J1000 | \$0.81 | \$5.62 |
| J1020 | \$2.23 | \$2.18 |
| J1030 | \$1.50 | \$5.11 |
| J1040 | \$2.68 | \$9.45 |
| J1051 | \$4.46 | \$5.53 |
| J1055 | \$48.10 | \$53.48 |
| J1060 | \$3.57 | \$4.14 |
| J1070 | \$1.20 | \$5.48 |
| J1080 | \$1.93 | \$12.82 |
| J1094 | \$0.26 | \$0.23 |
| J1100 | \$0.91 | \$0.11 |
| J1110 | \$13.74 | \$22.68 |
| J1120 | \$35.69 | \$16.10 |
| J1160 | \$1.69 | \$3.36 |
| J1162 | \$510.00 | \$527.78 |
| J1165 | \$0.65 | \$0.73 |
| J1170 | \$1.09 | \$1.33 |
| J1190 | \$183.27 | \$175.19 |
| J1200 | \$0.19 | \$0.80 |
| J1205 | \$9.24 | \$123.84 |
| J1212 | \$32.67 | \$41.55 |
| J1230 | \$0.71 | \$0.67 |
| J1240 | \$0.63 | \$2.93 |
| J1245 | \$20.61 | \$1.47 |
| J1250 | \$8.72 | \$4.24 |
| J1260 | \$15.50 | \$6.33 |
| J1265 | \$0.58 | \$0.82 |
| J1270 | \$4.95 | \$2.89 |

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| J1325 | \$15.57 | \$11.31 |
| J1327 | \$10.40 | \$15.87 |
| J1330 | \$4.24 | \$4.56 |
| J1335 | \$21.00 | \$24.30 |
| J1364 | \$5.60 | \$5.99 |
| J1380 | \$0.59 | \$12.52 |
| J1390 | \$1.17 | \$17.12 |
| J1410 | \$51.91 | \$60.78 |
| J1430 | \$70.98 | \$69.72 |
| J1435 | \$0.17 | \$0.14 |
| J1438 | \$126.64 | \$162.39 |
| J1440 | \$177.03 | \$188.29 |
| J1441 | \$309.31 | \$299.09 |
| J1450 | \$81.52 | \$10.62 |
| J1451 | \$11.29 | \$12.26 |
| J1455 | \$11.47 | \$11.70 |
| J1457 | \$1.22 | \$1.24 |
| J1458 | \$303.22 | \$302.80 |
| J1460 | \$1.50 | \$11.83 |
| J1470 | \$3.01 | \$23.66 |
| J1480 | \$4.52 | \$35.47 |
| J1490 | \$6.03 | \$47.31 |
| J1500 | \$7.54 | \$59.14 |
| J1510 | \$9.04 | \$71.02 |
| J1520 | \$10.55 | \$82.72 |
| J1530 | \$12.06 | \$94.62 |
| J1540 | \$13.57 | \$106.54 |
| J1550 | \$15.07 | \$118.27 |
| J1560 | \$114.68 | \$118.24 |
| J1566 | \$35.07 | \$25.61 |
| J1567 | \$41.31 | \$30.44 |
| J1570 | \$31.93 | \$31.55 |
| J1580 | \$2.31 | \$1.07 |
| J1590 | \$0.81 | \$0.84 |
| J1595 | \$35.73 | \$46.82 |
| J1600 | \$12.73 | \$5.41 |
| J1610 | \$42.96 | \$68.04 |
| J1620 | \$181.23 | \$180.30 |
| J1626 | \$17.47 | \$7.64 |
| J1630 | \$6.71 | \$2.12 |
| J1631 | \$20.85 | \$5.25 |
| J1642 | \$0.13 | \$0.05 |
| J1644 | \$0.74 | \$0.23 |
| J1645 | \$13.74 | \$11.16 |
| J1650 | \$5.77 | \$5.64 |

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| J1652 | \$7.40 | \$5.85 |
| J1670 | \$96.66 | \$95.91 |
| J1720 | \$2.09 | \$1.99 |
| J1730 | \$106.31 | \$111.85 |
| J1742 | \$208.00 | \$267.82 |
| J1745 | \$59.57 | \$53.73 |
| J1751 | \$16.02 | \$11.69 |
| J1752 | \$16.02 | \$10.40 |
| J1756 | \$0.59 | \$0.36 |
| J1785 | \$3.53 | \$3.92 |
| J1790 | \$3.08 | \$1.13 |
| J1800 | \$10.95 | \$3.80 |
| J1825 | \$212.17 | \$355.34 |
| J1840 | \$3.74 | \$4.07 |
| J1850 | \$2.85 | \$0.61 |
| J1885 | \$3.35 | \$0.49 |
| J1931 | \$19.87 | \$23.87 |
| J1940 | \$0.83 | \$0.29 |
| J1945 | \$147.29 | \$154.66 |
| J1950 | \$394.36 | \$431.95 |
| J1955 | \$36.00 | \$9.36 |
| J1956 | \$17.72 | \$7.55 |
| J1980 | \$6.62 | \$9.65 |
| J1990 | \$23.54 | \$21.05 |
| J2010 | \$1.36 | \$3.84 |
| J2060 | \$9.13 | \$1.22 |
| J2150 | \$2.03 | \$0.86 |
| J2175 | \$0.98 | \$0.50 |
| J2180 | \$4.08 | \$3.79 |
| J2185 | \$4.67 | \$3.76 |
| J2210 | \$3.34 | \$4.60 |
| J2260 | \$38.59 | \$46.16 |
| J2270 | \$1.04 | \$0.64 |
| J2271 | \$18.50 | \$9.91 |
| J2275 | \$10.57 | \$3.93 |
| J2278 | \$6.21 | \$6.48 |
| J2300 | \$1.22 | \$0.58 |
| J2310 | \$3.05 | \$1.84 |
| J2320 | \$4.90 | \$3.20 |
| J2321 | \$6.75 | \$6.42 |
| J2322 | \$24.33 | \$12.79 |
| J2325 | \$30.03 | \$31.68 |
| J2353 | \$85.98 | \$95.39 |
| J2354 | \$4.07 | \$3.06 |
| J2355 | \$222.63 | \$246.07 |

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| J2357 | \$17.25 | \$16.68 |
| J2360 | \$2.32 | \$11.13 |
| J2370 | \$2.75 | \$0.73 |
| J2400 | \$8.93 | \$15.20 |
| J2405 | \$5.74 | \$3.71 |
| J2410 | \$2.64 | \$2.36 |
| J2425 | \$11.22 | \$11.29 |
| J2430 | \$239.28 | \$33.95 |
| J2440 | \$4.80 | \$0.60 |
| J2460 | \$0.87 | \$0.94 |
| J2469 | \$27.54 | \$17.46 |
| J2501 | \$4.49 | \$3.77 |
| J2503 | \$1,014.90 | \$1,054.70 |
| J2504 | \$166.60 | \$177.83 |
| J2505 | \$2,507.50 | \$2,152.34 |
| J2510 | \$5.89 | \$8.89 |
| J2515 | \$0.64 | \$5.50 |
| J2540 | \$1.28 | \$0.96 |
| J2543 | \$4.91 | \$4.87 |
| J2545 | \$88.38 | \$44.73 |
| J2550 | \$0.76 | \$1.85 |
| J2560 | \$4.37 | \$3.19 |
| J2590 | \$0.92 | \$2.18 |
| J2597 | \$5.39 | \$2.66 |
| J2650 | \$0.32 | \$0.44 |
| J2670 | \$3.52 | \$2.17 |
| J2675 | \$3.47 | \$1.69 |
| J2680 | \$12.94 | \$1.49 |
| J2690 | \$10.39 | \$2.24 |
| J2700 | \$0.79 | \$1.54 |
| J2710 | \$0.60 | \$0.08 |
| J2720 | \$0.53 | \$0.43 |
| J2730 | \$74.61 | \$66.49 |
| J2760 | \$30.69 | \$23.97 |
| J2765 | \$0.89 | \$0.44 |
| J2770 | \$96.13 | \$115.48 |
| J2780 | \$1.35 | \$0.67 |
| J2788 | \$32.14 | \$26.17 |
| J2790 | \$126.14 | \$81.59 |
| J2792 | \$20.59 | \$16.52 |
| J2794 | \$4.96 | \$4.80 |
| J2795 | \$0.14 | \$0.07 |
| J2800 | \$3.58 | \$12.28 |
| J2810 | \$0.90 | \$0.03 |
| J2820 | \$27.38 | \$24.89 |

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| J2912** | \$0.74 | \$0.00 |
| J2916 | \$7.31 | \$4.77 |
| J2920 | \$1.56 | \$1.95 |
| J2930 | \$1.79 | \$2.48 |
| J2950 | \$0.42 | \$0.38 |
| J2993 | \$1,230.63 | \$901.36 |
| J2997 | \$24.61 | \$32.76 |
| J3000 | \$6.28 | \$6.79 |
| J3010 | \$1.16 | \$0.63 |
| J3030 | \$26.74 | \$58.49 |
| J3070 | \$1.33 | \$5.80 |
| J3105 | \$2.00 | \$3.86 |
| J3110 | \$6.79 | \$8.28 |
| J3120 | \$0.57 | \$5.18 |
| J3130 | \$1.07 | \$10.35 |
| J3140 | \$0.75 | \$0.72 |
| J3150 | \$0.89 | \$0.71 |
| J3230 | \$2.15 | \$3.95 |
| J3240 | \$465.40 | \$765.20 |
| J3246 | \$8.44 | \$8.66 |
| J3250 | \$1.67 | \$4.03 |
| J3260 | \$6.95 | \$1.97 |
| J3265 | \$2.07 | \$2.35 |
| J3280 | \$4.58 | \$5.06 |
| J3285 | \$58.18 | \$55.89 |
| J3301 | \$1.50 | \$1.48 |
| J3302 | \$0.81 | \$0.28 |
| J3303 | \$2.38 | \$3.42 |
| J3305 | \$73.84 | \$145.06 |
| J3315 | \$371.64 | \$178.14 |
| J3320 | \$25.25 | \$18.30 |
| J3360 | \$2.36 | \$0.78 |
| J3364 | \$53.33 | \$9.16 |
| J3365 | \$439.17 | \$457.73 |
| J3370 | \$12.31 | \$3.44 |
| J3396 | \$9.16 | \$8.89 |
| J3410 | \$0.79 | \$0.21 |
| J3411 | \$0.81 | \$2.01 |
| J3415 | \$0.47 | \$3.47 |
| J3420 | \$0.22 | \$0.34 |
| J3430 | \$2.46 | \$2.89 |
| J3465 | \$4.46 | \$4.80 |
| J3470 | \$19.39 | \$16.71 |
| J3471 | \$0.13 | \$0.11 |
| J3472 | \$130.00 | \$135.36 |

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| J3475 | \$3.45 | \$0.15 |
| J3480 | \$0.09 | \$0.02 |
| J3485 | \$0.90 | \$1.06 |
| J3487 | \$194.60 | \$2.05 |
| J3490 | \$5.01 | \$5.01 |
| J3520 | \$3.15 | \$0.43 |
| J3535 | \$0.00 | \$0.00 |
| J7187 | \$0.85 | \$0.89 |
| J7189 | \$1.26 | \$1.21 |
| J7190 | \$0.90 | \$0.70 |
| J7191 | \$1.67 | \$1.25 |
| J7192 | \$0.92 | \$1.07 |
| J7193 | \$1.06 | \$0.90 |
| J7194 | \$0.40 | \$0.74 |
| J7195 | \$1.06 | \$0.99 |
| J7197 | \$0.98 | \$1.64 |
| J7198 | \$1.35 | \$1.36 |
| J7300 | \$387.60 | \$403.75 |
| J7302 | \$487.76 | \$487.75 |
| J7311 | \$19,345.00 | \$19,345.00 |
| J7319 | \$127.33 | \$127.33 |
| J7340 | \$26.32 | \$28.75 |
| J7341 | \$26.32 | \$1.82 |
| J7501 | \$53.54 | \$49.59 |
| J7504 | \$253.47 | \$317.57 |
| J7505 | \$698.10 | \$876.83 |
| J7511 | \$237.18 | \$331.07 |
| J7513 | \$374.29 | \$314.59 |
| J7516 | \$26.10 | \$20.64 |
| J7525 | \$106.59 | \$140.39 |
| J7611 | \$0.13 | \$0.10 |
| J7612 | \$0.13 | \$0.99 |
| J7613 | \$0.18 | \$0.07 |
| J7614 | \$0.18 | \$1.39 |
| J7620 | \$0.80 | \$1.05 |
| J7674 | \$0.41 | \$0.42 |
| J9000 | \$48.01 | \$6.24 |
| J9001 | \$338.16 | \$352.16 |
| J9010 | \$457.54 | \$541.30 |
| J9015 | \$604.13 | \$739.52 |
| J9020 | \$56.24 | \$54.77 |
| J9025 | \$4.05 | \$4.22 |
| J9027 | \$116.62 | \$116.58 |
| J9031 | \$143.74 | \$114.16 |
| J9035 | \$61.53 | \$57.48 |

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| J9040 | \$272.62 | \$258.99 |
| J9041 | \$27.89 | \$32.68 |
| J9045 | \$104.68 | \$8.94 |
| J9050 | \$121.83 | \$139.78 |
| J9055 | \$51.73 | \$49.83 |
| J9060 | \$39.86 | \$2.45 |
| J9062 | \$199.30 | \$12.26 |
| J9065 | \$50.36 | \$55.24 |
| J9070 | \$5.77 | \$1.92 |
| J9080 | \$10.96 | \$3.83 |
| J9090 | \$23.01 | \$15.75 |
| J9091 | \$46.02 | \$19.17 |
| J9092 | \$92.08 | \$38.34 |
| J9093 | \$5.77 | \$1.99 |
| J9094 | \$10.96 | \$3.97 |
| J9095 | \$23.01 | \$9.93 |
| J9096 | \$46.02 | \$17.09 |
| J9097 | \$92.08 | \$39.71 |
| J9100 | \$6.06 | \$7.33 |
| J9110 | \$22.38 | \$7.65 |
| J9120 | \$12.46 | \$493.43 |
| J9130 | \$9.94 | \$4.67 |
| J9140 | \$24.82 | \$9.34 |
| J9150 | \$70.56 | \$22.78 |
| J9151 | \$60.86 | \$55.92 |
| J9160 | \$941.98 | \$1,390.51 |
| J9170 | \$294.62 | \$306.13 |
| J9178 | \$23.49 | \$24.60 |
| J9181 | \$9.85 | \$0.51 |
| J9182 | \$98.45 | \$5.13 |
| J9185 | \$268.89 | \$244.05 |
| J9190 | \$2.54 | \$1.85 |
| J9200 | \$122.06 | \$122.44 |
| J9201 | \$100.54 | \$124.55 |
| J9202 | \$420.64 | \$200.43 |
| J9206 | \$118.21 | \$126.67 |
| J9208 | \$147.57 | \$134.59 |
| J9209 | \$34.37 | \$8.89 |
| J9211 | \$337.69 | \$285.38 |
| J9212 | \$3.85 | \$4.65 |
| J9213 | \$32.86 | \$37.29 |
| J9214 | \$12.71 | \$13.82 |
| J9215 | \$7.40 | \$7.31 |
| J9216 | \$179.89 | \$289.87 |
| J9217 | \$558.29 | \$230.38 |

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| J9218 | \$19.79 | \$7.23 |
| J9219 | \$5,087.18 | \$1,717.04 |
| J9225 | \$5,100.00 | \$5,370.00 |
| J9230 | \$10.79 | \$141.61 |
| J9245 | \$359.55 | \$1,197.78 |
| J9250 | \$0.41 | \$0.25 |
| J9260 | \$3.35 | \$2.59 |
| J9263 | \$8.45 | \$8.92 |
| J9264 | \$8.46 | \$8.67 |
| J9265 | \$154.58 | \$12.36 |
| J9266 | \$1,245.13 | \$1,687.85 |
| J9268 | \$1,558.37 | \$1,490.13 |
| J9280 | \$114.61 | \$114.02 |
| J9290 | \$389.32 | \$68.52 |
| J9291 | \$802.65 | \$137.03 |
| J9293 | \$230.05 | \$162.37 |
| J9300 | \$1,817.97 | \$2,357.42 |
| J9305 | \$43.68 | \$43.68 |
| J9310 | \$428.22 | \$486.55 |
| J9320 | \$110.83 | \$151.74 |
| J9340 | \$110.19 | \$40.61 |
| J9350 | \$595.93 | \$820.56 |
| J9355 | \$52.38 | \$52.03 |
| J9357 | \$398.72 | \$471.24 |
| J9360 | \$2.96 | \$3.67 |
| J9370 | \$32.01 | \$30.41 |
| J9375 | \$60.05 | \$60.82 |
| J9380 | \$145.63 | \$152.07 |
| J9390 | \$85.47 | \$18.37 |
| J9395 | \$80.27 | \$80.47 |
| J9600 | \$2,460.47 | \$2,505.40 |
| P9041 | \$77.33 | \$19.00 |
| P9043 | \$77.33 | \$14.55 |
| Q2009 | \$8.06 | \$5.55 |
| Q2017 | \$183.98 | \$264.17 |
| Q3025 | \$70.72 | \$105.61 |
| Q3026 | \$70.72 | \$118.45 |
| Q4079 | 0.00* | \$7.72 |
| S0020 | \$6.36 | \$1.89 |
| S0021 | \$15.13 | \$16.38 |
| S0023 | \$3.02 | \$3.26 |
| S0142 | \$0.17 | \$0.16 |
| S0145 | \$343.60 | \$382.44 |
| S0146 | \$60.24 | \$67.05 |
| S0162 | \$291.55 | \$343.94 |

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| S0164 | \$24.48 | \$24.48 |
| S0167 | \$0.35 | \$2.93 |
| S4993 | \$2.80 | \$20.88 |
| J0129*** | New Code | \$16.74 |
| S0147*** | New Code | \$537.00 |
| C9232**** | New Code | \$470.45 |

Key:

*This item is presently Manually Priced.

**This item has been discontinued.

***These proposed payment rates will be effective January 1, 2007.

****This proposed payment rate will be effective July 1, 2007.

All other proposed payment rates will be effective September 1, 2007.

TRD-200702017
 Steve Aragón
 Chief Counsel
 Texas Health and Human Services Commission
 Filed: May 23, 2007

TRD-200701949
 Michael Gerber
 Executive Director
 Texas Department of Housing and Community Affairs
 Filed: May 21, 2007



Texas Department of Housing and Community Affairs

Request for Proposals

Notice of Approval of Factors To Be Used in Assessing a Penalty Pursuant to 10 TAC §1.20 Concerning Asset Resolution and Enforcement

The Texas Department of Housing and Community announces the issuance of a Request for Proposals (RFP) #332-RFP7-7005 for a program management firm to administer the CDBG Homeowner Assistance Program (HAP) and Sabine Pass Restoration Program (SPRP).

The governing board ("Board") of the Texas Department of Housing and Community Affairs ("Department") has approved a list of factors that the Department shall use when assessing the amount of any penalty pursuant to 10 TAC §1.20, concerning Asset Resolution and Enforcement.

This RFP for Management Services is solicited under Texas Government Code, Chapter 2156, Subchapter C.

Background

In developing these factors, the Board considered the following: (1) the compliance penalties in 10 TAC §1.20 are not primarily intended to have a punitive effect but rather are based on "additional staff time and record keeping requirements associated with non-compliance. . ." as stated in the rule (See 10 TAC §1.20(d)(3)(A)); (2) compliance or regulatory penalties are generally considered strict liability violations not requiring proof of a particular state of mind (negligence, knowledge, recklessness, or intent); and (3) because the purpose of the penalties is to offset the additional costs to the Department of investigating and correcting rule violations, the factors should not significantly increase the burden of production on the Department. The Department's burden of proof, however, does not change or shift.

On April 13, 2007, the U.S. Department of Housing and Urban Development ("HUD") approved the State of Texas Partial Action Plan for Disaster Recovery to Use Community Development Block Grant ("CDBG") funding to Assist with the Recovery of Distressed Areas Related to the Consequences of Hurricanes Katrina, Rita, and Wilma in the Gulf of Mexico in 2005, hereinafter referred to as the Plan or Action Plan. The Plan may be found at <http://www.tdhca.state.tx.us/cdbg/index.htm>. All respondents must review the Plan in its entirety prior to submitting a response to this Request for Proposals (RFP). In the submission letter with respondent's proposal in response to this RFP, each respondent must represent and warrant that it has reviewed the Plan in its entirety and understands the responsibilities of administering the Programs and distributing CDBG funding in accordance with the Plan and applicable laws, regulations, procedures, and guidelines as they now exist and as revised throughout the term of any agreement resulting from this RFP. Pursuant to the Plan, a Program Management Firm ("PM") shall be engaged by the Texas Department of Housing and Community Affairs ("TDHCA" or "the Department") to administer the \$210,371,273 set-aside for the Homeowner Assistance Program ("HAP") and the \$12,000,000 set-aside for the Sabine Pass Restoration Program ("SPRP") (collectively known as the "Programs" or "Program").

Accordingly, at the May 10, 2007 open meeting, the Board approved the use of the following factors in assessing the amount of penalty:

Objective

1. Seriousness of the violation relative to health and safety of tenants.
2. Deviation from LURA and intended benefits to Texans.
3. Time and effort expended by Staff in notifying owner of the violation and in monitoring the correction of the violation.
4. Promptness in responding to Staff's communications and correcting the violation.
5. History of previous violations of the owner or property.

The primary objective of this RFP is for the TDHCA to obtain a turnkey solution managed by one PM to administer the Programs and to distribute CDBG funding in accordance with the Plan and applicable laws,

This notice will also be placed on the Department's website.

regulations, procedures, and guidelines as they now exist and as revised throughout the term of any agreement resulting from this RFP.

Description of Set-Aside for the Homeowner Assistance Program ("HAP")

The Governor has identified destruction done to an individual's home as one of the most persistent and difficult issues to address in the aftermath of Hurricane Rita. To deal with this real need of Texans who have no other place to turn, the largest share of the CDBG funding priorities is provided for the HAP. Funding in the amount of approximately \$210 million shall be made available in the form of a grant to homeowners of LMI ("Low and Moderate Income") income whose homes were damaged by Hurricane Rita. Assistance provided in a special flood hazard area (defined as zone "A", "V", "M", and "E" series (44 CFR 64.3)) as shown on a current Flood Insurance Rate Map ("FIRM"), as amended by Letters of Map Amendment ("LOMA") or Letters of Map Revision ("LOMR"), will be in the form of a deferred forgivable loan. All other assistance will be in the form of a grant. This assistance will be made available for both homeowners who had insurance in an insufficient amount to cover the storm damage as well as those who did not have homeowner's insurance. All grant amounts will be based on the physical condition of the dwelling and do not include its contents or other personal property. Assistance shall be provided on a first-come, first-served basis until all of the funds are utilized.

Part of this funding priority, \$42 million (20 percent of the HAP funds) will be targeted specifically for persons with special needs. According to HUD, in addition to the homeless, special needs populations include persons with disabilities, the elderly, persons with alcohol and/or drug addictions, persons with HIV/AIDS, and public housing residents. The targeted amount is based on the percentage of elderly households in the 22 counties eligible for this funding. If after 120 days from the date the PM makes funding available there are not sufficient applications received for this "special needs" target, then these funds will be rolled back into the general HAP funding priority.

Description of Set-Aside for the Sabine Pass Restoration Program ("SPRP")

While many communities in South East Texas were substantially impacted by Rita, the coastal community of Sabine Pass was nearly destroyed by the storm. To help address this need, funding in the amount of \$12 million shall be made available to homeowners whose homes were damaged by Hurricane Rita. Because all of Sabine Pass is located within a special flood hazard area, such assistance shall be in the form of a deferred forgivable loan unless the funds are being used to move out of the flood zone.

Administrative Fee

Up to 10 percent of the \$210,371,273 available under the HAP and \$12,000,000 available under the SPRP may be used for administrative expenses related to planning and/or project delivery costs under this RFP. Therefore, up to \$21,037,127 is allowable for HAP planning and/or project delivery costs; and \$1,200,000 is allowable for SPRP planning and/or project delivery costs.

Separately, if all milestones identified in the submission are met, a maximum of \$9,466,707 is allowable for eligible HAP program administrative costs; and a maximum of \$540,000 is available for eligible SPRP program administrative costs. These program administrative costs are separate from the \$210,371,273 available under HAP and \$12,000,000 available under the SPRP. Therefore, the total funds available for HAP is \$219,837,980; and the total funds available for SPRP is \$12,540,000. Specifically, program administrative costs are defined as those services that are being completed on behalf of TDHCA primarily that are not specifically linked to housing activities.

Registration with the Texas Secretary of State as a domestic corporation or a foreign corporation doing business in Texas is required to perform the contract. It is expected that the PM will establish an office for the public to come to at a location within the impacted region.

General Requirements

To be considered for award, offerors must submit a written proposal (**no faxed or electronic offers will be accepted**) which satisfies the requirements outlined in Part III of the RFP to the office specified in the RFP.

Bidder's Conference

TDHCA invites all potential offerors to attend a Bidder's Conference at TDHCA headquarters in accordance with the Department's "**RFP Timeline Requirements**" (to be published to the Department's website with the release of the RFP at <http://www.tdhca.state.tx.us/cdbg/index.htm>). TDHCA encourages all potential offerors to submit any questions regarding this RFP to **Jennifer Joyce** (jennifer.joyce@tdhca.state.tx.us) **no later than 5:00 p.m., Central Daylight Time by the deadline published in the "RFP Timeline Requirements"** to ensure that responses to these questions are addressed during the Bidder's Conference.

Request for Clarification

Throughout the procurement process, all questions relating to this RFP must be submitted to TDHCA in writing to Jennifer Joyce (jennifer.joyce@tdhca.state.tx.us). All responses will be made in writing and posted on a continual basis to the Department's website or in direct electronic mail.

Proposal Deadline

Proposals must be submitted in accordance with the Department's "**RFP Timeline Requirements**" (to be posted on the Department's website with the release of the RFP at <http://www.tdhca.state.tx.us/cdbg/index.htm>). All submitted proposals must be complete and signed by the party or parties authorized to execute any contract awarded on behalf of the offeror. No incomplete, unsigned, or late proposals will be accepted after the Proposal Deadline, unless TDHCA determines, in its sole discretion, that it is in the best interest of TDHCA to do so.

Place and Method of Proposal Delivery

Proposals shall be delivered to: Kelly Crawford, Deputy Executive Director for Disaster Recovery, at:

Physical Address for Overnight Carriers

221 East 11th Street

Austin, Texas 78701-2410

Mailing Address:

P.O. BOX 13941

Austin, TX 78711-3941

(512) 475-3800

Additional delivery and deadline information will be published on the Department's website upon Board approval in the Department's "RFP Timeline Requirements" (to be published to the Department's website with the release of the RFP at <http://www.tdhca.state.tx.us/cdbg/index.htm>). It is incumbent upon the offeror to ensure that any hand carried proposals in response to this RFP be delivered before the date and time and to the office and contact point specified in the RFP.

TRD-200702004

Michael Gerber
Executive Director
Texas Department of Housing and Community Affairs
Filed: May 22, 2007

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University of Houston System

Consultant Contract Award Notice

In compliance with the provision of Chapter 2254, Subchapter B, Texas Government Code, The University of Houston System, for and in behalf of the University of Houston - Victoria, furnishes this notice of consultant contract award. The consultant will recommend organizational structure for optimal operation of the communications, marketing and web functions; to assist the university in developing, implementing, and conducting ongoing evaluation of an integrated marketing and communication plan; to help develop a marketing campaign for UHV's new athletic program consistent with university goals. Requests for proposals were filed in the March 23, 2007, issue of the *Texas Register* (32 TexReg 1803).

The contract was awarded to Pogge Marketing Group, 3801 Kirby Suite 740, Houston, Texas 77498, for a total amount of \$46,000 plus reimbursable expenses.

The beginning date of the contract is May 23, 2007 and the ending date is May 22, 2008.

For further information, please call (361) 570-4810.

TRD-200701942

Brian S. Nelson

Executive Director and Associate General Counsel

University of Houston System

Filed: May 18, 2007
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Texas Lottery Commission

Instant Game Number 777 "7-7-07"

1.0 Name and Style of Game.

A. The name of Instant Game No. 777 is "7-7-07". The play style for GAME 1 is "three in a line with doubler". The play style for GAME 2 is "key number match with doubler". The play style for GAME 3 is "key number match with doubler".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 777 shall be \$7.00 per ticket.

1.2 Definitions in Instant Game No. 777.

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: 7 SYMBOL, X SYMBOL, O SYMBOL, 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 7 SYMBOL, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, \$7.00, \$10.00, \$11.00, \$27.00, \$77.00, \$100, \$1,000, \$7,000, and \$70,707.

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. 777 - 1.2D

| PLAY SYMBOL | CAPTION |
|--------------------|----------------|
| 7 SYMBOL | |
| X SYMBOL | |
| O SYMBOL | |
| 1 | ONE |
| 2 | TWO |
| 3 | THR |
| 4 | FOR |
| 5 | FIV |
| 6 | SIX |
| 8 | EGT |
| 9 | NIN |
| 10 | TEN |
| 11 | ELV |
| 12 | TLV |
| 7 SYMBOL | DBL |
| 13 | TRN |
| 14 | FTN |
| 15 | FFN |
| 16 | SXN |
| 18 | ETN |
| 19 | NTN |
| 20 | TWY |
| 21 | TWON |
| 22 | TWTO |
| 23 | TWTH |
| 24 | TWFR |
| 25 | TWV |
| \$7.00 | SEVEN\$ |
| \$10.00 | TEN\$ |
| \$11.00 | ELEVEN |
| \$27.00 | TWY SVN |
| \$77.00 | SVY SVN |
| \$100 | ONE HUND |
| \$1,000 | ONE THOU |
| \$7,000 | SVN THOU |
| \$70,707 | 70 THOU 707 |

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. 777 - 1.2E

| CODE | PRIZE |
|-------------|----------------|
| SVN | \$7.00 |
| ELV | \$11.00 |
| FRN | \$14.00 |

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 \$7.00, \$11.00, or \$14.00.

H. Mid-Tier Prize--A prize of \$27.00, \$47.00, \$77.00, \$177, or \$577.

I. High-Tier Prize--A prize of \$7,000 or \$70,707.

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 (777), a seven (7) digit pack number, and a three (3) digit ticket number. Ticket numbers start with 001 and end with 075 within each pack. The format will be: 777-0000001-001.

L. Pack--A pack of "7-7-07" Instant Game tickets contains 075 tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). The packs will alternate. One will show the front of ticket 001 and back of 075, while the other fold will show the back of ticket 001 and front of 075.

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 "7-7-07" Instant Game No. 777 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 "7-7-07" Instant Game is determined once the latex on the ticket is scratched off to expose 41 (forty-one) Play Symbols. For Game 1, if a player reveals three (3) X's or three (3) O's play symbols in any one row, column, or diagonal, the player wins PRIZE shown in PRIZE BOX. If a player reveals three (3) seven "7" play symbols in any one row, column or diagonal, the player wins DOUBLE that

PRIZE instantly. For Game 2, if a player matches any of YOUR NUMBERS play symbols to the LUCKY NUMBER play symbol, the player wins PRIZE shown for that number. If a player reveals a seven "7" play symbol, the player wins DOUBLE that PRIZE instantly. For Game 3, if a player matches any of YOUR NUMBERS play symbols to either WINNING NUMBER play symbol, the player wins PRIZE shown for that number. If a player reveals a seven "7" play symbol, the player wins DOUBLE that PRIZE instantly. No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly 41 (forty-one) 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 41 (forty-one) 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 41 (forty-one) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 41 (forty-one) Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The ticket must have been received by the Texas Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. Consecutive non-winning tickets will not have identical play data, spot for spot.

B. The \$70,707 prize symbol will appear on every ticket unless otherwise restricted by the prize structure.

C. Game 1: There will only be one occurrence of 3 matching play symbols appearing in a row, column or diagonal.

D. Game 1: The "7" (doubler) play symbol will only appear in a row, column, or diagonal as dictated by the prize structure.

E. Game 1: All three play symbols will be used on every ticket.

F. Game 2: A non-winning prize symbol will never be the same as a winning prize symbol in this game.

G. Game 2: No prize amount in a non-winning spot will correspond with the YOUR NUMBER play symbol (i.e., 5 and \$5).

H. Game 1: The "7" (doubler) play symbol will only appear as dictated by the prize structure.

I. Game 2: No YOUR NUMBER play symbol in this game will match a WINNING NUMBER play symbol in Game 3.

J. Game 2: No duplicate non-winning play symbols in this game.

K. Game 2: No duplicate non-winning prize symbols in this game.

L. Game 3: No prize amount in a non-winning spot will correspond with the YOUR NUMBER play symbol (i.e., 5 and \$5).

M. Game 3: A non-winning prize symbol will never be the same as a winning prize symbol in this game.

N. Game 3: The "7" (doubler) play symbol will only appear as dictated by the prize structure.

O. Game 3: No YOUR NUMBER play symbol in this game will match the LUCKY NUMBER play symbol in Game 2.

P. Game 3: No three or more matching non-winning prize symbols in this game.

2.3 Procedure for Claiming Prizes.

A. To claim a "7-7-07" Instant Game prize of \$7.00, \$11.00, \$14.00, \$27.00, \$47.00, \$77.00, \$177, or \$577 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 \$27.00, \$47.00, \$77.00, \$177, or \$577 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 "7-7-07" Instant Game prize of \$7,000 or \$70,707, 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 "7-7-07" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller of Public Accounts, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;

2. delinquent in making child support payments administered or collected by the Office of the Attorney General;

3. delinquent in reimbursing the Texas Health and Human Services Commission for a benefit granted in error under the food stamp program or the program of financial assistance under Chapter 31, Human Resources Code;

4. in default on a loan made under Chapter 52, Education Code; or

5. in default on a loan guaranteed under Chapter 57, Education Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

- A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;
- B. if there is any question regarding the identity of the claimant;
- C. if there is any question regarding the validity of the ticket presented for payment; or
- D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "7-7-07" 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 "7-7-07" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code, §466.408. Any prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales, and number of prizes claimed. An Instant Game ticket may continue to be sold even when all the top prizes have been claimed.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 4,080,000 tickets in the Instant Game No. 777. The approximate number and value of prizes in the game are as follows:

Figure 3: GAME NO. 777 - 4.0

| Prize Amount | Approximate Number of Winners* | Approximate Odds are 1 in** |
|--------------|--------------------------------|-----------------------------|
| \$7 | 598,400 | 6.82 |
| \$11 | 244,800 | 16.67 |
| \$14 | 190,400 | 21.43 |
| \$27 | 54,400 | 75.00 |
| \$47 | 54,400 | 75.00 |
| \$77 | 34,272 | 119.05 |
| \$177 | 9,792 | 416.67 |
| \$577 | 1,224 | 3,333.33 |
| \$7,000 | 29 | 140,689.66 |
| \$70,707 | 8 | 510,000.00 |

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 3.44. 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. 777 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. 777; 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-200701985
 Kimberly L. Kiplin
 General Counsel
 Texas Lottery Commission
 Filed: May 22, 2007



Instant Game Number 812 "Bonus Blackjack"

1.0 Name and Style of Game.

A. The name of Instant Game No. 812 is "BONUS BLACKJACK". The play style is "beat score with doubler, auto win, and bonus area".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 812 shall be \$2.00 per ticket.

1.2 Definitions in Instant Game No. 812.

A. Display Printing--That area of the instant game ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint--The removable scratch-off covering over the Play Symbols on the front of the ticket.

C. Play Symbol--The printed data under the latex on the front of the instant ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black play symbols are: 2, 3, 4, 5, 6, 7, 8, 9, 10, J, Q, K, A, BUST SYMBOL, \$2.00, \$5.00, \$10.00, \$20.00, \$50.00, \$100, \$1,000, and \$25,000.

D. Play Symbol Caption--The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 812 - 1.2D

| PLAY SYMBOL | CAPTION |
|-------------|----------|
| 2 | TWO |
| 3 | THR |
| 4 | FOR |
| 5 | FIV |
| 6 | SIX |
| 7 | SVN |
| 8 | EGT |
| 9 | NIN |
| 10 | TEN |
| J | JCK |
| Q | QUN |
| K | KING |
| A | ACE |
| BUST SYMBOL | BUST |
| \$2.00 | TWO\$ |
| \$5.00 | FIVE\$ |
| \$10.00 | TEN\$ |
| \$20.00 | TWENTY |
| \$50.00 | FIFTY |
| \$100 | ONE HUN |
| \$1,000 | ONE THOU |
| \$25,000 | 25 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. 812 - 1.2E

| CODE | PRIZE |
|------|---------|
| TWO | \$2.00 |
| 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 \$2.00, \$5.00, \$10.00, or \$20.00.

H. Mid-Tier Prize--A prize of \$30.00, \$50.00, or \$100.

I. High-Tier Prize--A prize of \$1,000 or \$25,000.

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 (812), a seven (7) digit pack number, and a three (3) digit ticket number. Ticket numbers start with 001 and end with 250 within each pack. The format will be: 812-0000001-001.

L. Pack--A pack of "BONUS BLACKJACK" Instant Game tickets contains 250 tickets, packed in plastic shrink-wrapping and fanfolded in pages of two (2). Ticket 001 and 002 will be on the front of the pack; the backs of ticket 249 and 250 will show. Every other book will be opposite. All packs will be tightly shrink-wrapped. There will be no breaks between tickets in a pack.

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 "BONUS BLACKJACK" Instant Game No. 812 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 "BONUS BLACKJACK" Instant Game is determined once the latex on the ticket is scratched off to expose 15 (fifteen) Play Symbols. If a player's total in any HAND is greater than the total of the DEALER'S HAND, the player wins prize shown for that HAND. If the total of any HAND is "21", the player wins DOUBLE the prize shown for that HAND. If the DEALER'S HAND BUSTS (Dealer's

Hand totals more than 21), the player wins all four (4) prizes shown. J, Q, K = 10, A = 11. 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 within a pack will not have identical patterns.

B. Players can win up to five (5) times in this game.

C. There will be no ties between the total values of the DEALER'S HAND and any of the player's HANDS.

D. A total value of twenty-one (21) will never appear in the DEALER'S HAND.

E. A total value of "21" in a player's HAND wins double the PRIZE shown and will win as per the prize structure.

F. A total value of "21" will never appear within any player's HAND on a non-winning ticket.

G. On all tickets there will never be more than two (2) matching play symbols, except as required for multiple wins.

H. On all tickets, all prize amounts will be unique, except when required by multiple wins.

I. If the DEALER'S HAND busts, the DEALER'S HAND on the uncovered ticket front will be replaced by the DEALER'S HAND play symbol "BUST".

J. When the play symbol for the DEALER'S HAND is "BUST", the ticket will win all four (4) prize amounts shown and will win as per the prize structure.

K. On non-winning tickets, the total value of each player's HAND will never be greater than or equal to the total value of the DEALER'S HAND.

L. Non-winning tickets and tickets that win when the DEALER'S HAND is "BUST" will never contain the value twenty-one (21) in the entire play area.

M. Non-winning tickets will never contain the word BUST over the entire play area.

N. On winning and non-winning tickets, the top prize will appear at least once, except for the four (4) times and five (5) times wins.

O. Bonus Play Area: A player can only win once in this play area.

P. Bonus Play Area: If a player reveals an "Ace" symbol, they win \$10 instantly.

2.3 Procedure for Claiming Prizes.

A. To claim a "BONUS BLACKJACK" Instant Game prize of \$2.00, \$5.00, \$10.00, \$20.00, \$30.00, \$50.00, or \$100, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid and upon presentation of proper identification, 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 \$30.00, \$50.00, or \$100 ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "BONUS BLACKJACK" Instant Game prize of \$1,000 or \$25,000, the claimant must sign the winning ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS, if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "BONUS BLACKJACK" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller of Public Accounts, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;

2. delinquent in making child support payments administered or collected by the Office of the Attorney General;

3. delinquent in reimbursing the Texas Health and Human Services Commission for a benefit granted in error under the food stamp program or the program of financial assistance under Chapter 31, Human Resources Code;

4. in default on a loan made under Chapter 52, Education Code; or

5. in default on a loan guaranteed under Chapter 57, Education Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

- A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;
- B. if there is any question regarding the identity of the claimant;
- C. if there is any question regarding the validity of the ticket presented for payment; or
- D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "BONUS BLACKJACK" 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 "BONUS BLACKJACK" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code, §466.408. Any prize not

claimed within that period and in the manner specified in these Game Procedures and on the back of each ticket shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales, and number of prizes claimed. An Instant Game ticket may continue to be sold even when all the top prizes have been claimed.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 7,200,000 tickets in the Instant Game No. 812. The approximate number and value of prizes in the game are as follows:

Figure 3: GAME NO. 812 - 4.0

| Prize Amount | Approximate Number of Winners* | Approximate Odds are 1 in** |
|--------------|--------------------------------|-----------------------------|
| \$2 | 993,600 | 7.25 |
| \$5 | 489,600 | 14.71 |
| \$10 | 172,800 | 41.67 |
| \$20 | 57,600 | 125.00 |
| \$30 | 25,830 | 278.75 |
| \$50 | 15,150 | 475.25 |
| \$100 | 2,970 | 2,424.24 |
| \$1,000 | 15 | 480,000.00 |
| \$25,000 | 8 | 900,000.00 |

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 4.10. 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. 812 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. 812; 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-200701924

Kimberly L. Kiplin
General Counsel
Texas Lottery Commission
Filed: May 17, 2007



Instant Game Number 834 "Money Mania"

1.0 Name and Style of Game.

A. The name of Instant Game No. 834 is "MONEY MANIA". The play style for this game is "key number match with auto win."

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 834 shall be \$10.00 per ticket.

1.2 Definitions in Instant Game No. 834.

A. Display Printing--That area of the instant game ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint--The removable scratch-off covering over the Play Symbols on the front of the ticket.

C. Play Symbol--The printed data under the latex on the front of the instant ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black play symbols are: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, MANIA SYMBOL, \$10.00, \$15.00, \$20.00, \$50.00, \$100, \$250, \$500, \$1,000, \$10,000, \$25,000, and \$100,000.

D. Play Symbol Caption--The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 834 - 1.2D

| PLAY SYMBOL | CAPTION |
|---------------------|----------------|
| 1 | ONE |
| 2 | TWO |
| 3 | THR |
| 4 | FOR |
| 5 | FIV |
| 6 | SIX |
| 7 | SVN |
| 8 | EGT |
| 9 | NIN |
| 10 | TEN |
| 11 | ELV |
| 12 | TLV |
| 13 | TRN |
| 14 | FTN |
| 15 | FFN |
| 16 | SXN |
| 17 | SVT |
| 18 | ETN |
| 19 | NTN |
| 20 | TWY |
| 21 | TWON |
| 22 | TWTO |
| 23 | TWTH |
| 24 | TWFR |
| 25 | TWV |
| 26 | TWSX |
| 27 | TWSV |
| 28 | TWET |
| 29 | TWNI |
| 30 | TRTY |
| 31 | TRON |
| 32 | TRTO |
| 33 | TRTH |
| 34 | TRFR |
| 35 | TRFV |
| 36 | TRSX |
| 37 | TRSV |
| 38 | TRET |
| 39 | TRNI |
| 40 | FRTY |
| 41 | FRON |
| 42 | FRTO |
| 43 | FRTH |
| 44 | FRFR |
| 45 | FRFV |
| MANIA SYMBOL | AUTO |

| | |
|-----------|----------|
| \$10.00 | TEN\$ |
| \$15.00 | FIFTN |
| \$20.00 | TWENTY |
| \$50.00 | FIFTY |
| \$100 | ONE HUND |
| \$250 | TWO FTY |
| \$500 | FIV HUND |
| \$1,000 | ONE THOU |
| \$10,000 | 10 THOU |
| \$25,000 | 25 THOU |
| \$100,000 | 100 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 val-

idation purposes and cannot be used to play the game. The possible validation codes are:

Figure 2: GAME NO. 834 - 1.2E

| CODE | PRIZE |
|------|---------|
| TEN | \$10.00 |
| FTN | \$15.00 |
| 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 \$10.00, \$15.00, or \$20.00.

H. Mid-Tier Prize--A prize of \$50.00, \$100, \$250, or \$500.

I. High-Tier Prize--A prize of \$1,000, \$10,000, \$25,000, or \$100,000.

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 (834), a seven (7) digit pack number, and a three (3) digit ticket number. Ticket numbers start with 001 and end with 050 within each pack. The format will be: 834-0000001-001.

L. Pack--A pack of "MONEY MANIA" Instant Game tickets contains 50 tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). Ticket back 050 will be exposed on one side of the pack and ticket 001 on the other side.

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 "MONEY MANIA" Instant Game No. 834 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 "MONEY MANIA" Instant Game is determined once the latex on the ticket is scratched off to expose 55 (fifty-five) Play Symbols. If a player matches any of YOUR NUMBERS play symbols to any of the WINNING NUMBERS play symbols, the player wins the PRIZE shown for that number. If a player reveals a "MANIA" play symbol, the player wins the PRIZE shown instantly. No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly 55 (fifty-five) Play Symbols must appear under the latex overprint on the front portion of the ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified; and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The ticket shall be intact;

6. The Serial Number, Retailer Validation Code, and Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;
8. The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted, or tampered with in any manner;
9. The ticket must not be counterfeit in whole or in part;
10. The ticket must have been issued by the Texas Lottery in an authorized manner;
11. The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number, Retailer Validation Code, and Pack-Ticket Number must be right side up and not reversed in any manner;
13. The ticket must be complete and not miscut and have exactly 55 (fifty-five) Play Symbols under the latex overprint on the front portion of the ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;
14. The Serial Number of an apparent winning ticket shall correspond with the Texas Lottery's Serial Numbers for winning tickets, and a ticket with that Serial Number shall not have been paid previously;
15. The ticket must not be blank or partially blank, misregistered, defective, or printed or produced in error;
16. Each of the 55 (fifty-five) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;
17. Each of the 55 (fifty-five) Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;
18. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and
19. The ticket must have been received by the Texas Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

- A. Consecutive non-winning tickets will not have identical play data, spot for spot.
- B. No four or more matching non-winning prize symbols on a ticket.

C. The "MANIA" (auto win) play symbol will only appear as dictated by the prize structure.

D. No duplicate WINNING NUMBERS play symbols on a ticket.

E. No duplicate non-winning YOUR NUMBERS play symbols on a ticket.

F. The \$100,000, \$25,000, and \$10,000 prize symbols will each appear at least once on all tickets unless otherwise restricted by the prize structure. If so restricted, the \$100,000 prize symbol will take precedence whenever possible.

G. Non-winning prize symbols will never be the same as the winning prize symbol(s).

H. No prize amount in a non-winning spot will correspond with the YOUR NUMBERS play symbol (i.e., 5 and \$5).

2.3 Procedure for Claiming Prizes.

A. To claim a "MONEY MANIA" Instant Game prize of \$10.00, \$15.00, \$20.00, \$50.00, \$100, \$250, or \$500, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid and upon presentation of proper identification, 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 \$50.00, \$100, \$250, or \$500 ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "MONEY MANIA" Instant Game prize of \$1,000, \$10,000, \$25,000, or \$100,000, the claimant must sign the winning ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "MONEY MANIA" Instant Game prize, the claimant must sign the winning ticket; thoroughly complete a claim form; and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller of Public Accounts, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;
2. delinquent in making child support payments administered or collected by the Office of the Attorney General;

3. delinquent in reimbursing the Texas Health and Human Services Commission for a benefit granted in error under the food stamp program or the program of financial assistance under Chapter 31, Human Resources Code;

4. in default on a loan made under Chapter 52, Education Code; or

5. in default on a loan guaranteed under Chapter 57, Education Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "MONEY MANIA" 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 "MONEY MANIA" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code, §466.408. Any prize not claimed within that period and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales, and number of prizes claimed. An Instant Game ticket may continue to be sold even when all the top prizes have been claimed.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 4,080,000 tickets in the Instant Game No. 834. The approximate number and value of prizes in the game are as follows:

Figure 3: GAME NO. 834 - 4.0

| Prize Amount | Approximate Number of Winners* | Approximate Odds are 1 in** |
|--------------|--------------------------------|-----------------------------|
| \$10 | 489,600 | 8.33 |
| \$15 | 326,400 | 12.50 |
| \$20 | 285,600 | 14.29 |
| \$50 | 68,000 | 60.00 |
| \$100 | 33,218 | 122.82 |
| \$250 | 10,200 | 400.00 |
| \$500 | 3,740 | 1,090.91 |
| \$1,000 | 238 | 17,142.86 |
| \$10,000 | 30 | 136,000.00 |
| \$25,000 | 7 | 582,857.14 |
| \$100,000 | 12 | 340,000.00 |

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 3.35. 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. 834 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. 834; 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-200701938
Kimberly L. Kiplin
General Counsel
Texas Lottery Commission
Filed: May 18, 2007



Instant Game Number 837 "High Roller"

1.0 Name and Style of Game.

A. The name of Instant Game No. 837 is "HIGH ROLLER". The play style is "multiple games".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 837 shall be \$10.00 per ticket.

1.2 Definitions in Instant Game No. 837.

A. Display Printing--That area of the instant game ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint--The removable scratch-off covering over the Play Symbols on the front of the ticket.

C. Play Symbol--The printed data under the latex on the front of the instant ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black play symbols are: 2, 3, 4, 5, 6, 7, 8, 9, 10, J SYMBOL, Q SYMBOL, K SYMBOL, A SYMBOL, LEMON SYMBOL, STACK OF BILLS SYMBOL, CROWN SYMBOL, HORSESHOE SYMBOL, SHAMROCK SYMBOL, POT OF GOLD SYMBOL, GOLD BAR SYMBOL, BELL SYMBOL, 01, 02, 03, 04, 05, 06, \$10.00, \$20.00, \$30.00, \$50.00, \$100, \$300, \$1,000, \$10,000, and \$100,00.

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. 837 - 1.2D

| PLAY SYMBOL | CAPTION |
|-----------------------|----------|
| 2 | TWO |
| 3 | THR |
| 4 | FOR |
| 5 | FIV |
| 6 | SIX |
| 7 | SVN |
| 8 | EGT |
| 9 | NIN |
| 10 | TEN |
| J SYMBOL | JCK |
| Q SYMBOL | QUN |
| K SYMBOL | KNG |
| A SYMBOL | ACE |
| LEMON SYMBOL | LEMON |
| STACK OF BILLS SYMBOL | BILLS |
| CROWN SYMBOL | CROWN |
| HOSRESHOE SYMBOL | HRSHOE |
| SHAMROCK SYMBOL | SHMRCK |
| POT OF GOLD SYMBOL | GOLD |
| GOLD BAR SYMBOL | BAR |
| BELL SYMBOL | BELL |
| 01 | ONE |
| 02 | TWO |
| 03 | THR |
| 04 | FOR |
| 05 | FIV |
| 06 | SIX |
| \$10.00 | TEN\$ |
| \$20.00 | TWENTY |
| \$30.00 | THIRTY |
| \$50.00 | FIFTY |
| \$100 | ONE HUN |
| \$300 | THR HUN |
| \$1,000 | ONE THOU |
| \$10,000 | 10 THOU |
| \$100,000 | 100 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 val-

idation purposes and cannot be used to play the game. The possible validation codes are:

Figure 2: GAME NO. 837 - 1.2E

| CODE | PRIZE |
|------|---------|
| 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 \$10.00 or \$20.00.

H. Mid-Tier Prize--A prize of \$30.00, \$50.00, \$100, or \$300.

I. High-Tier Prize--A prize of \$1,000, \$10,000, or \$100,000.

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 (837), a seven (7) digit pack number, and a three (3) digit ticket number. Ticket numbers start with 001 and end with 050 within each pack. The format will be: 837-0000001-001.

L. Pack--A pack of "HIGH ROLLER" Instant Game tickets contains 050 tickets, packed in plastic shrink-wrapping, and fanfolded in pages of one (1). The back of ticket 001 will be shown on the front of the pack; the back of ticket 050 will be revealed on the back of the pack. All packs will be tightly shrinkwrapped. There will be no breaks between the tickets in a pack.

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 "HIGH ROLLER" Instant Game No. 837 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 "HIGH ROLLER" Instant Game is determined once the latex on the ticket is scratched off to expose 60 (sixty) Play Symbols. In Game 1, if the total of YOUR HAND is higher than the total of the DEALER'S HAND in the same HAND, the player wins PRIZE shown for that HAND. J, Q, K=10; A=11. In Game 2, if a player reveals three identical symbols in the same PULL, the player wins PRIZE shown for that PULL. In Game 3, if YOUR DICE total 7 or 11 in the same ROLL, the player wins PRIZE shown for that ROLL. 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 60 (sixty) 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 60 (sixty) 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 60 (sixty) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 60 (sixty) 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 un-

played 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 within a book will not have identical patterns.

B. GAME 1: Players can win up to five (5) times in this play area.

C. GAME 1: The "Ace" is considered high.

D. GAME 1: There will be no ties between the YOUR HAND amount and the DEALER'S HAND amount in a game.

E. GAME 1: A range of totals from twelve (12) to twenty-one (21) will be used for YOUR HANDS.

F. GAME 1: A range of totals from thirteen (13) to twenty (20) will be used for the DEALER'S HAND.

G. GAME 1: There will be no duplicate non-winning prize symbols.

H. GAME 1: The same card will never appear more than four (4) times on a ticket.

I. GAME 1: On winning and non-winning tickets, no more than two (2) YOUR HAND totals will add to the same value.

J. GAME 1: On winning and non-winning tickets, no more than two (2) DEALER'S HAND totals will add to the same value.

K. GAME 1: No ticket will contain two (2) or more adjacent identical cards in the same column.

L. GAME 2: The Play area consists of fifteen (15) play symbols and five (5) PRIZE symbols.

M. GAME 2: The play symbols will be used randomly over the fifteen (15) play positions and across all tickets, with the exception of winning tickets, which will require positions to repeat. This restriction is with respect to other restrictions.

N. GAME 2: There will never be three (3) consecutive identical symbols in a vertical or diagonal line.

O. GAME 2: No prize amount will appear more than two (2) times in this play area except as required on multiple win tickets.

P. GAME 2: Non-winning tickets will never contain more than three (3) of the same play symbols over the entire play area.

Q. GAME 2: Consecutive non-winning tickets within a book will not have identical PULLS. For instance, if the first ticket contains LEMON, CROWN, POT OF GOLD, in any PULL, then the next ticket may not contain LEMON, CROWN, and POT OF GOLD in any row in any order.

R. GAME 2: Non-winning tickets will not have identical games. For example, if PULL 1 is LEMON, CROWN, and POT OF GOLD, then PULL 2 through PULL 5 will not contain LEMON, CROWN, and POT OF GOLD in any order.

S. GAME 2: Winning tickets will contain three (3) like Play Symbols in a horizontal row.

T. GAME 2: Players can win up to five (5) times in this play area.

U. GAME 2: On winning tickets, non-winning games will have different prize amounts from the winning prize amounts in this play area.

V. GAME 3: Players can win up to five (5) times in this play area.

W. GAME 3: On winning and non-winning tickets, all non-winning PRIZE AMOUNTS will be unique.

X. GAME 3: Non-winning tickets will never have a total of seven (7) or eleven (11) within the same GAME.

Y. GAME 3: No two vertically adjacent play symbols will ever total 7 or 11.

Z. GAME 3: No ticket will contain three identical dice numbers in any column (i.e., 06, 06, 06).

AA. GAME 3: The six (6) dice numbers (01 through 06) will appear randomly over the available positions on both winning and non-winning tickets.

2.3 Procedure for Claiming Prizes.

A. To claim a "HIGH ROLLER" Instant Game prize of \$10.00, \$20.00, \$30.00, \$50.00, \$100, or \$300, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid and upon presentation of proper identification, 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 \$30.00, \$50.00, \$100, or \$300 ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "HIGH ROLLER" Instant Game prize of \$1,000, \$10,000, or \$100,000, the claimant must sign the winning ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS, if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "HIGH ROLLER" Instant Game prize, the claimant must sign the winning ticket; thoroughly complete a claim form; and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller of Public Accounts, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;
2. delinquent in making child support payments administered or collected by the Office of the Attorney General;
3. delinquent in reimbursing the Texas Health and Human Services Commission for a benefit granted in error under the food stamp program or the program of financial assistance under Chapter 31, Human Resources Code;
4. in default on a loan made under Chapter 52, Education Code; or

5. in default on a loan guaranteed under Chapter 57, Education Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "HIGH ROLLER" 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 "HIGH ROLLER" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code, §466.408. Any prize not

claimed within that period and in the manner specified in these Game Procedures and on the back of each ticket shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales, and number of prizes claimed. An Instant Game ticket may continue to be sold even when all the top prizes have been claimed.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 4,080,000 tickets in the Instant Game No. 837. The approximate number and value of prizes in the game are as follows:

Figure 3: GAME NO. 837 - 4.0

| Prize Amount | Approximate Number of Winners* | Approximate Odds are 1 in** |
|---------------------|---------------------------------------|------------------------------------|
| \$10 | 571,200 | 7.14 |
| \$20 | 408,000 | 10.00 |
| \$30 | 103,700 | 39.34 |
| \$50 | 61,200 | 66.67 |
| \$100 | 73,780 | 55.30 |
| \$300 | 200 | 20,400.00 |
| \$1,000 | 17 | 240,000.00 |
| \$10,000 | 16 | 255,000.00 |
| \$100,000 | 9 | 453,333.33 |

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 3.35. 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. 837 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. 837; 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-200701939
Kimberly L. Kiplin
General Counsel
Texas Lottery Commission
Filed: May 18, 2007

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North Central Texas Council of Governments

Announcing a Competitive Call for Projects to Award Federal Transit Administration Job Access/Reverse Commute (49 U.S.C. §5316) and New Freedom (49 U.S.C. §5317) Program Funds

The North Central Texas Council of Governments (NCTCOG) is issuing a competitive call for projects to award Federal Transit Administration Job Access/Reverse Commute (49 U.S.C. §5316) and New Freedom (49 U.S.C. §5317) Program funds. Approximately \$4.0 million in Job Access/Reverse Commute and \$2.0 million in New Freedom funding is available for eligible projects selected in the Dallas-Fort Worth Metropolitan Area. The Job Access/Reverse Commute Program provides funding for local projects designed to transport low-income individuals to and from employment and employment related services, and to develop transportation services for residents of urban centers and rural and suburban areas to suburban employment opportunities. The New Freedom Program supports services and facility improvements to address the transportation needs of individuals with disabilities that go beyond those required by the Americans with Disabilities Act. Private non-profit organizations, State or local governmental authorities, and operators of public transportation services, including private operators of public transportation services are encouraged to submit projects for consideration. Detailed information on the call for projects can be obtained online at www.nctcog.org/jarc or by contacting Therese Bergeon at tbergeon@nctcog.org or (817) 695-2967.

Due Date:

Project submittals are due at the NCTCOG offices no later than 5 p.m. Central Daylight Time on Friday, July 6, 2007. No late submittals will be accepted.

TRD-200702006
R. Michael Eastland
Executive Director
North Central Texas Council of Governments
Filed: May 23, 2007

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Texas Department of Public Safety

Hazard Mitigation Grant Program (HMGP) FEMA-1697-DR

As a result of severe storms and tornados during the incident period of April 21st through 24th, 2007, a major disaster (FEMA-1697-DR) was declared by the President. Due to this declaration, Texas is authorized federal funds through the Hazard Mitigation Grant Program (HMGP). This program is a 75/25 federal to local cost-share program by the Federal Emergency Management Agency (FEMA), and administered by the State of Texas. The HMGP is a mitigation grant with a single mission to provide a means to:

prevent or reduce future losses to lives and property through the identification and funding of cost-effective mitigation measures;

minimize the costs of future disaster response and recovery.

The HMGP can fund mitigation measures that protect both public and private property, so long as the measures fit within the overall mitigation strategy for the disaster area, are cost effective, and comply with all Federal and State program guidelines.

All eligible applicants, which include local governments, state agencies, certain non-profit organizations and institutions, and Indian tribes or authorized tribal organizations are invited and encouraged to take advantage of this opportunity and apply for HMGP funds. These funds will be allocated to applicants based on a competitive application process.

If your organization is interested in participating in the HMGP process, you are invited to submit a Notice of Interest to be postmarked by midnight on June 15th, 2007 to the Texas Hazard Mitigation Officer, Texas Department of Public Safety, Division of Emergency Management, P.O. Box 4087, Austin, Texas 78773-0226, or fax to (512) 424-5647. The HMGP application deadline for this disaster will be midnight on July 27th, 2007. Detailed information including an HMGP Fact Sheet and the forms to use for development and submission of both a notice of interest (NOI), and HMGP application are available on the Texas Department of Public Safety/Governor's Division of Emergency Management website located at the following address: <http://www.txdps.state.tx.us/dem/pages/downloadable-forms.htm#hmgpgrants>.

If you have questions or need assistance please contact state Mitigation Grants Officer Hildy Soper at (512) 424-2454 or by email to hildy.soper@txdps.state.tx.us.

TRD-200702000
Thomas A. Davis, Jr.
Director
Texas Department of Public Safety
Filed: May 22, 2007

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Public Utility Commission of Texas

Notice of Application for a Waiver of P.U.C. Substantive Rule §25.101(b)(3)

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) of an application filed on May 15, 2007, for a waiver of P.U.C. Substantive Rule §25.101(b)(3).

Docket Style and Number: Application of Texas-New Mexico Company for a Waiver of P.U.C. Substantive Rule §25.101(b)(3). Docket Number 34294.

The Application: Texas New-Mexico Power Company (TNMP) is requesting permission from the commission to construct a 138-kV transmission line approximately 1.23 miles in length to serve Enterprise GC, L.P. (Enterprise) at its existing gas processing and treating plant facility known as Waha Plant near Coyoanosa, Reeves County, Texas, and

is seeking a waiver of P.U.C. Substantive Rule §25.101(b)(3) so it can construct the line without obtaining a Certificate of Convenience and Necessity (CCN).

Persons wishing to comment on the action sought or intervene 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. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or use Relay Texas (toll-free) 1-800-735-2989. All comments should reference Docket Number 34294.

TRD-200701936
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: May 18, 2007



Notice of Application for an Electric Service Area Exception Within Wheeler County, Texas

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) of an application on May 17, 2007, for an amendment to certificated service area boundaries within Wheeler County, Texas.

Docket Style and Number: Application of Greenbelt Electric Cooperative, Inc. to Amend a Certificate of Convenience and Necessity for a Service Area Exception within Wheeler County. Docket Number 34303.

The Application: Greenbelt Electric Cooperative, Inc. (GEC) requests a service area exception to provide service to a specific customer located within the certificated service area of Southwestern Public Service (SPS). GEC seeks an exception to provide electric service to Pogo Producing Company for a salt water disposal well totaling approximately 200 hp. GEC is able to serve the consumer without large financial input from the consumer or large construction cost by SPS. SPS is in full agreement with the exception.

Persons wishing to comment on the action sought or intervene should contact the Public Utility Commission of Texas no later than June 8, 2007, 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 use Relay Texas (toll-free) 1-800-735-2989. All comments should reference Docket Number 34303.

TRD-200701991
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: May 22, 2007



Notice of Application for Designation as an Eligible Telecommunications Carrier

Notice is given to the public of an application filed with the Public Utility Commission of Texas (commission) on May 17, 2007, for designation as an eligible telecommunications carrier (ETC) pursuant to P.U.C. Substantive Rule §26.418.

Docket Title and Number: Application of Global Connection, Inc. of America Inc. for Designation as an Eligible Telecommunications Car-

rier (ETC) Pursuant to P.U.C. Substantive Rule §26.418. Docket Number 34308.

The Application: The company is requesting ETC designation in order to be eligible to receive federal and state universal service funding to assist it in providing universal service in Texas. Pursuant to 47 U.S.C. §214(e), the commission, either upon its own motion or upon request, shall designate qualifying common carriers as ETCs for service areas set forth by the commission. Global Connection, Inc. of America Inc. seeks ETC designation in the non-rural telephone company wire centers and rural telephone company study areas set forth in Exhibit B to the application.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas by June 21, 2007. Requests for further information should be mailed to the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326; or you may call the Public Utility Commission's Customer Protection Division at (512) 936-7120 or (888) 782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or use Relay Texas (800) 735-2989 to reach the commission's toll free number (888) 782-8477. All comments should reference Docket Number 34308.

TRD-200701992
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: May 22, 2007



Notice of Application for Waiver of Denial of Request for NXX Code

Notice is given to the public of the filing with the Public Utility Commission of Texas an application on May 15, 2007, for waiver of denial by the Pooling Administrator (PA) of SBC Internet Services, Inc.'s (SBCIS) request for one block for its location routing number.

Docket Title and Number: Application of SBC Internet Services, Inc. for Waiver of Denial of Numbering Resources in the San Antonio rate center; Docket Number 34296.

The Application: SBCIS submitted a Part 1A and Months-to-Exhaust (MTE) and Utilization Certification Worksheet. One code was requested for the San Antonio rate center. The PA indicated that the required utilization level was not met. The PA denied SBCIS's request based on the grounds that SBCIS did not meet the utilization threshold or months-to-exhaust utilization criteria to qualify for obtaining a growth code in the San Antonio rate center.

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 June 6, 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 34296.

TRD-200701937
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: May 18, 2007



Notice of Application to Amend Certificated Service Area Boundaries in Williamson County, Texas

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) of an application on May 17, 2007, for an amendment to certificated service area boundaries within Williamson County, Texas.

Docket Style and Number: Joint Application of Pedernales Electric Cooperative, Inc. and Bartlett Electric Cooperative, Inc. to Amend a Certificate of Convenience and Necessity for Service Area Boundaries in Williamson County. Docket Number 34309.

The Application: Pedernales Electric Cooperative, Inc. (PEC) and Bartlett Electric Cooperative, Inc. (BEC) filed a joint application for a service area boundary change within Williamson County to allow BEC to provide electric service to Mr. Clint Moerbe's property currently located in PEC's service area. PEC and BEC are agreeable to changing the service area boundaries to allow BEC to serve Mr. Moerbe's property. The amount of money expected to be expended on new facilities if the application is granted is approximately \$3500.

Persons wishing to comment on the action sought or intervene should contact the Public Utility Commission of Texas no later than June 9, 2007, 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 use Relay Texas (toll-free) 1-800-735-2989. All comments should reference Docket Number 34309.

TRD-200701993
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: May 22, 2007



Notice of Filing for Approval of the Provision of Non-Emergency 311 Service

Notice is given to the public of the filing, on May 18, 2007, with the Public Utility Commission of Texas (commission) of an application for Administrative Approval to Provide Non-Emergency 311 Service for the City of Schertz.

Docket Style and Number: Application of Southwestern Bell Telephone, L.P. dba AT&T Texas for Administrative Approval to Provide Non-Emergency 311 Service for City of Schertz; Docket Number 34322.

The Application: Southwestern Bell Telephone, L.P. d/b/a AT&T Texas (AT&T Texas) filed an application with the commission for approval of the provision of Non-Emergency 311 Service, pursuant to P.U.C. Substantive Rule §26.127, and AT&T Texas' existing General Exchange Tariff, Section 47.

As a certified telecommunications utility (CTU), AT&T Texas seeks approval on behalf of the City of Schertz to provide Non-Emergency 311 (NE311) service to its residents within the city limits of Schertz, Texas and surrounding communities. 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 implement 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 July 2, 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-200701997
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: May 22, 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 May 17, 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 May 29, 2007.

Docket Title and Number: Application of CenturyTel of San Marcos, Inc. for Approval of LRIC Study for Directory Service Request and Expedite Charge Services Pursuant to P.U.C. Substantive Rule §26.214, Docket Number 34307.

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 34307. 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 34307.

TRD-200701969
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: May 21, 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 May 18, 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 May 25, 2007.

Docket Title and Number: Application of Windstream Communications Southwest, Inc. for Approval of LRIC Study for Business Connect SB Bundle Pursuant to P.U.C. Substantive Rule §26.214, Docket Number 34317.

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 34317. 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 34317.

TRD-200701970
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: May 21, 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 May 17, 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 May 29, 2007.

Docket Title and Number: Application of CenturyTel of Port Aransas, Inc. for Approval of LRIC Study for Directory Service Request and Expedite Charge Services Pursuant to P.U.C. Substantive Rule §26.214, Docket Number 34304.

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 34304. 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 34304.

TRD-200701971
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: May 21, 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 May 17, 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 May 29, 2007.

Docket Title and Number: Application of CenturyTel of Northwest Louisiana, Inc. for Approval of LRIC Study for Directory Service Request and Expedite Charge Services Pursuant to P.U.C. Substantive Rule §26.214, Docket Number 34305.

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 34305. 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 34305.

TRD-200701972
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: May 21, 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 May 17, 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 May 29, 2007.

Docket Title and Number: Application of CenturyTel of Lake Dallas, Inc. for Approval of LRIC Study for Directory Service Request and Expedite Charge Services Pursuant to P.U.C. Substantive Rule §26.214, Docket Number 34306.

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 34306. 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 34306.

TRD-200701973
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: May 21, 2007



Request for Proposals to Provide Assistance in Reviewing the Acquisition of TXU Corporation

The Public Utility Commission of Texas (commission or PUCT) is issuing a Request for Proposals (RFP) for major consulting services. The consultant will assist the PUCT in its review of the acquisition of TXU Corporation by Texas Energy Future Holdings Limited Partnership (TEF). This RFP is being undertaken pursuant to the commission's statutory responsibility as provided in Public Utility Regulatory Act (PURA) §14.101.

To be considered the proposals must arrive at the PUCT on or before the deadline stated on the RFP. This deadline is available on the PUCT website (www.puc.state.tx.us). The selected contractor must be prepared to begin providing services on or around Monday, June 25, 2007.

Entities that are Historically Underutilized Business (HUB), as defined in Chapter 2161, Texas Government Code, §2161.001, are encouraged to submit a proposal or to submit a proposal jointly with a non-HUB entity.

Project Description. The Contractor will provide a review and evaluation of the terms of the proposed acquisition. The Contractor will undertake, but is not limited to, the following tasks:

- review and evaluate the proposed financing;

- review and evaluate the proposed organization of the resulting company;
- review and evaluate TEF's commitments concerning, among others, financing and reorganization;
- prepare a report of findings and recommendations concerning the matters reviewed; and
- participate as necessary in a contested case proceeding, including preparing direct testimony, responding to discovery requests, and testifying.

Selection Criteria. The PUCT shall make the selection and award on the basis of the proposer's demonstrated knowledge, competence, and qualifications to provide the services outlined in the RFP's Statement of Work as evidenced by:

- proposer's description of its plan to provide the services, understanding of the issues related to this engagement, and understanding of the scope of this engagement;
- proposer's previous history, if any, working with the PUCT;
- whether proposer is a HUB or a business affiliation that includes a HUB; and
- issues related to conflicts of interest, if any; and
- on the reasonableness of the proposed fee.

All other factors being equal, preference will be given to a proposer whose principal place of business is in the state or who will manage the consulting contract wholly from an office in the state.

Requesting the Proposal. A complete copy of the RFP may be obtained by written request to Ben Delamater, Purchaser, Public Utility Commission of Texas, William B. Travis Building, 1701 North Congress Avenue, Austin, TX 78701, by fax at (512) 936-7058, or by e-mail at ben.delamater@puc.state.tx.us. You may also download the RFP from the PUC website www.puc.state.tx.us by choosing "Procurement/HUB" from the menu on the right and from the Electronic State Business Daily website at <http://esbd.tbpc.state.tx.us>.

Deadline for Receipt of Proposals. Proposals must be received on or before the deadline stated on the RFP in the PUCT Central Records Division. Proposals may be received in Central Records between 9:00 a.m. and 5:00 p.m., Monday through Friday, except on holidays. In determining the time and date of receipt, the commission will rely solely on the time/date stamp of Central Records. The commission will not consider proposals received after the deadline.

TRD-200701935
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: May 18, 2007

Texas Residential Construction Commission

Notice of Applications for Designation as a "Texas Star Builder"

The Texas Residential Construction Commission (commission or TRCC) adopted rules regarding the procedures for designation as a "Texas Star Builder" at 10 TAC §303.300. The rules were adopted pursuant to §416.011, Property Code (Act effective September 1, 2003), which provides that the commission shall establish rules and procedures through which a builder can be designated as a "Texas Star

Builder." The commission rules for application for designation can be found on the commission's website at www.trcc.state.tx.us.

10 TAC §303.300(i)(2) requires the commission to publish in the *Texas Register* notice of the application of each person seeking to become designated as a "Texas Star Builder" registered under this subchapter. The commission will accept public comment on each application for 21 days after the date of publication of the notice. Information provided in response to this notice will be utilized in evaluating the applicants for approval. The Texas Star Builder designation requires that a builder or remodeler demonstrate that its education, experience and commitment to professionalism sets the builder or remodeler apart from its peers and offers some assurance to its customers that its quality of service and construction will be above average.

Pursuant to 10 TAC §303.300(i)(2) the commission hereby notices the applications for designation as a "Texas Star Builder" of:

Golden G Building, Inc., 37825 Spur 149, Magnolia, Texas 77354; TRCC builder registration certificate # 1869; and the registered agent is Gene Guthrie; and

Bobby Newton Custom Homes, Inc., 305 Malabar, Austin, Texas 78734; TRCC builder registration certificate # 13744; and the registered agent is Bobby Newton.

Interested persons may send written comments regarding the applications to Susan K. Durso, General Counsel, Texas Residential Construction Commission, P.O. Box 13144, Austin, Texas 78711-3144. Comments regarding the applications will be accepted for 21 days following the date of publication of this notice in the *Texas Register*. Thereafter, the comments will not be considered as timely filed.

TRD-200701933
Susan K. Durso
General Counsel
Texas Residential Construction Commission
Filed: May 17, 2007

San Antonio-Bexar County Metropolitan Planning Organization

Request for Proposal: Regional Transportation Attitude Survey II

The San Antonio-Bexar County Metropolitan Planning Organization (MPO) is seeking proposals from qualified firms for the conduct of the Regional Transportation Attitude Survey II for the MPO Study Area.

A copy of the Request for Proposals (RFP) may be requested by calling Jeanne Geiger, Deputy Director, at (210) 230-6904 or by downloading the RFP and attachments from the MPO's website at www.sametroplan.org. Anyone wishing to submit a proposal must do so by 12:00 p.m. (CDT), Tuesday, July 3, 2007 at the MPO office to:

Jeanne Geiger
Deputy Director
San Antonio-Bexar County MPO
1021 San Pedro, Suite 2200
San Antonio, Texas 78212

The Selection/Oversight committee will review the proposals based on the evaluation criteria listed in the RFP. The contract award will be made by the MPO's Transportation Policy Board based on the recommendation of the project's Selection/Oversight Committee.

Funding for this project, in the amount of \$100,000, is contingent upon the availability of Federal transportation planning funds.

TRD-200702007

Jeanne Geiger
Office and Grants Manager/HR Generalist
San Antonio-Bexar County Metropolitan Planning Organization
Filed: May 23, 2007



Request for Proposal: Transit Projects - Job Access Reverse Commute Grant Program

The San Antonio-Bexar County Metropolitan Planning Organization (MPO) is seeking proposals from qualified entities for eligible transit projects to be funded under the Federal Transit Administration's Job Access Reverse Commute (JARC) grant program.

A copy of the Request for Proposal (RFP) may be requested by calling Jeanne Geiger, Deputy Director, at (210) 230-6904 or by downloading the RFP from the MPO's website at www.sametroplan.org. Anyone wishing to submit a proposal must do so by 12:00 p.m. (CDT), Tuesday, July 3, 2007 at the MPO office to:

Jeanne Geiger
Deputy Director
San Antonio-Bexar County MPO
1021 San Pedro, Suite 2200
San Antonio, Texas 78212

The MPO's Technical Advisory Committee will review the proposals based on the evaluation criteria listed in the RFP. Projects will be awarded by the VIA Metropolitan Transit Board of Trustees.

Funding for projects is contingent upon the availability of federal transportation funds.

TRD-200702009
Jeanne Geiger
Office and Grants Manager/HR Generalist
San Antonio-Bexar County Metropolitan Planning Organization
Filed: May 23, 2007



Request for Proposal: Transit Projects - New Freedom Grant Program

The San Antonio-Bexar County Metropolitan Planning Organization (MPO) is seeking proposals from qualified entities for eligible transit projects to be funded under the Federal Transit Administration's New Freedom (NF) grant program.

A copy of the Request for Proposal (RFP) may be requested by calling Jeanne Geiger, Deputy Director, at (210) 230-6904 or by downloading the RFP from the MPO's website at www.sametroplan.org. Anyone wishing to submit a proposal must do so by 12:00 p.m. (CDT), Tuesday, July 3, 2007 at the MPO office to:

Jeanne Geiger
Deputy Director
San Antonio-Bexar County MPO
1021 San Pedro, Suite 2200
San Antonio, Texas 78212

The MPO's Technical Advisory Committee will review the proposals based on the evaluation criteria listed in the RFP. Projects will be awarded by the VIA Metropolitan Transit Board of Trustees.

Funding for projects is contingent upon the availability of federal transportation funds.

TRD-200702008
Jeanne Geiger
Office and Grants Manager/HR Generalist
San Antonio-Bexar County Metropolitan Planning Organization
Filed: May 23, 2007



Texas Department of Transportation

Aviation Division - Request for Proposal for Aviation Engineering Services

Rusk County, through its agent the Texas Department of Transportation (TxDOT), intends to engage an aviation professional engineering firm for services pursuant to Government Code, Chapter 2254, Subchapter A. TxDOT Aviation Division will solicit and receive proposals for professional aviation engineering design services described below:

Airport Sponsor: Rusk County, Rusk County Airport. TxDOT CSJ No.:0610HEDSN. Scope: Rehabilitate taxiway to runway 12 end, rehabilitate partial parallel taxiway to runway 16 end, rehabilitate apron, rehabilitate and mark runway 16-34, rehabilitate and mark runway 12-30, and clear obstructions to runway 16, runway 34, runway 12, and runway 30.

The DBE goal is set at **5%**. TxDOT Project Manager is Stephanie Kleiber, P.E.

To assist in your proposal preparation the most recent Airport Layout Plan, 5010 drawing, and project narrative are available online at www.dot.state.tx.us/avn/avninfo/notice/consult/index.htm by selecting "Rusk County Airport."

Interested firms shall utilize the latest version of Form AVN-550, titled "Aviation Engineering Services Proposal". The form may be requested from TxDOT Aviation Division, 125 East 11th Street, Austin, Texas 78701-2483, phone number, 1-800-68-PILOT (74568). The form may be emailed by request or downloaded from the TxDOT web site, at www.dot.state.tx.us/services/aviation/consultant.htm. The form may not be altered in any way. All printing must be in black on white paper, except for the optional illustration page. Firms must carefully follow the instructions provided on each page of the form. Proposals may not exceed the number of pages in the proposal format. The proposal format consists of seven pages of data plus two optional pages consisting of an illustration page and a proposal summary page. Proposals shall be stapled but not bound in any other fashion. **PROPOSALS WILL NOT BE ACCEPTED IN ANY OTHER FORMAT. ATTENTION:** To ensure utilization of the latest version of Form AVN-550, firms are encouraged to download Form AVN-550 from the TxDOT website as addressed above. Utilization of Form AVN-550 from a previous download may not be the exact same format. Form AVN-550 is an MS Word Template.

Please note:

Four completed, unfolded copies of Form AVN-550 **must be received** by TxDOT Aviation Division at 150 East Riverside Drive, 5th Floor, South Tower, Austin, Texas 78704 no later than June 28, 2007, 4:00 p.m. Electronic facsimiles or forms sent by email will not be accepted. Please mark the envelope of the forms to the attention of Amy Slaughter.

The consultant selection committee will be composed of TxDOT members. The final selection by the committee will generally be made following the completion of review of proposals. The committee will review all proposals and rate and rank each. The criteria for evaluating engineering proposals can be found at <http://www.dot.state.tx.us/services/aviation/consultant.htm>. All firms will be notified and the top rated firm will be contacted to begin fee negotiations. The selection committee does, however, reserve the right to conduct interviews for the top rated firms if the committee deems it necessary. If interviews are conducted, selection will be made following interviews.

If there are any procedural questions, please contact Amy Slaughter, Grant Manager, or Stephanie Kleiber, Project Manager for technical questions at 1-800-68-PILOT (74568).

TRD-200701984
Bob Jackson
General Counsel
Texas Department of Transportation
Filed: May 22, 2007



Public Notice - Aviation

Pursuant to Transportation Code, §21.111, and Title 43, Texas Administrative Code, §30.209, the Texas Department of Transportation conducts public hearings to receive comments from interested parties concerning proposed approval of various aviation projects.

For information regarding actions and times for aviation public hearings, please go to the following web site:

www.txdot.gov/about_us/public_hearings_and_meetings/aviation.htm

Or visit www.txdot.gov, click on Citizen, click on Public Hearings, and then click on Aviation.

Or contact Joyce Moulton, Aviation Division, 150 East Riverside, Austin, Texas 78704, (512) 416-4501 or 1-800-68-PILOT.

TRD-200701983
Bob Jackson
General Counsel
Texas Department of Transportation
Filed: May 22, 2007



Public Notice of Draft Environmental Impact Statement

Pursuant to Title 43, Texas Administrative Code, §2.5(e)(5), the Texas Department of Transportation (department or TxDOT) is announcing to the public the availability of the Draft Environmental Impact Statement (DEIS), dated May 2007, for the proposed construction of transportation improvements in the US 290 Corridor extending northwest from Houston in Harris County, Texas. The proposed US 290 Corridor project includes roadway improvements along a portion of US 290, Hempstead Road, and associated connections to IH 610 and IH 10 in Harris County, Texas. The US 290 study corridor extends approximately 38 miles from the US 290/IH 610/IH 10 Interchange in Houston northwestward to Farm-to-Market (FM) 2920 near the community of Waller. Comments regarding the DEIS can be mailed to TxDOT Houston District, Attention: Mr. Pat Henry, Director of Project Development, P.O. Box 1386, Houston, Texas 77251-1386. All written comments must be postmarked on or before August 8, 2007. Comments will be accepted by e-mail to hou-piowebmail@dot.state.tx.us until 5:00 p.m. on August 8, 2007.

Transportation improvements are needed in the US 290 Corridor study area because (1) US 290 and Hempstead Road are severely congested, primarily during peak travel times; (2) the roadway congestion causes undesirable operational levels of service and mobility; (3) unsafe driving conditions exist; (4) portions of the US 290 roadway do not meet current roadway design standards; and (5) the roadway does not provide adequate capacity for future traffic demands.

The study process included consideration of a full range of alternatives. The study team considered the No Build Alternative, various transportation modes, and various Build Alternatives. Transportation System Management, Travel Demand Management, and modal transportation improvements such as bus transit, high-occupancy vehicle lanes, and rail feasibility were considered. Alternatives determined not to meet the need for and purpose of the project were eliminated from further consideration, while other reasonable alternatives were identified and carried forward for detailed study. In general, the Build Alternatives evaluated in the DEIS include the following transportation improvements: (1) additional general-purpose lanes on US 290 and reconstruction of US 290 frontage roads; (2) managed lane (toll) facility along Hempstead Road from IH 610 to Beltway (BW) 8 and continuing along US 290 from BW 8 to the future Grand Parkway/SH 99; (3) frontage roads (Hempstead Road) adjacent to managed lanes from IH 610 to BW 8; (4) direct connectors from US 290 to IH 610 and dedicated lanes to IH 10; and (5) reserved high-capacity transit corridor along Hempstead Road from IH 610 to BW 8 and along US 290 from BW 8 to the future Grand Parkway/SH 99. The proposed project was developed to accommodate identified existing and future transportation needs in the US 290 Corridor study area in Harris County, Texas.

Four Build Alternatives were developed for the US 290 portion of the corridor: (1) 290-A (widen on both sides of the existing facility); (2) 290-B (widen to the north only); (3) 290-C (widen to the south only); and (4) 290-D (widen on both sides of the existing facility with an emphasis on minimizing impacts).

Five Build Alternatives were developed for the Hempstead Road portion of the corridor: (1) HR-A: managed lanes north of existing Hempstead Road (at grade) and an Advanced High-Capacity Transit (AHCT) corridor south of the railroad tracks with no change to existing Hempstead Road; (2) HR-B: elevated managed lanes and AHCT corridor south of the railroad tracks, with no change to existing Hempstead Road; (3) HR-C: managed lanes north of existing Hempstead Road (at grade), AHCT corridor south of the railroad tracks, with reconstruction and realignment of Hempstead Road; (4) HR-D: elevated managed lanes north of existing Hempstead Road, AHCT corridor south of the railroad tracks, with reconstruction and realignment of Hempstead Road; and (5) HR-E: reconstruction and realignment of Hempstead Road, managed lanes north of existing Hempstead Road (at grade), AHCT corridor north of the managed lanes and railroad tracks.

Three alternatives were developed for the IH 610 interchange, ranging from a constrained geometry with a minimal area of additional right of way (ROW), to larger areas of ROW that would promote traffic flow through improved geometry. The IH 610 alternatives include: (1) 610-A which is constrained to existing ROW; (2) 610-B which would require some additional ROW; and (3) 610-C which would provide the most capacity and require more additional ROW than 610-B.

The Recommended Alternative that was developed from the study is a combination of US 290, Hempstead Road, and IH 610 - interchange alternatives (alternatives 290-D, HR-E, and 610-C). The Recommended Alternative best balances the expected project benefits with the overall effects. The Recommended Alternative for the US 290 Corridor would require the acquisition of right-of-way, adjustment of utility lines, and potential fill of aquatic resources. Residential and commercial displacements would occur.

Although a Recommended Alternative is presented in the DEIS, identification of the final Preferred Alternative will not occur until after the public comment period is completed, a public hearing is held, comments on the DEIS are received and considered, and the environmental effects are fully evaluated. The Preferred alternative will be identified in the Final Environmental Impact Statement.

The Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (Uniform Act) requires that comparable, decent, safe, and sanitary replacement housing within a person's financial means be made available to all affected residents. The State's Relocation Assistance Program would be available to all individuals, families, businesses, farmers, ranchers, and nonprofit organizations displaced as a result of the proposed project. Acquisitions of businesses and residences would be conducted in accordance with the Uniform Act, as amended in 1987. Relocation assistance would be made available to all businesses and residences without discrimination, consistent with the requirements of the Civil Rights Act of 1964 and the Housing and Urban Development Amendment of 1974.

Representatives from the department will be available at a public hearing to answer questions and provide information concerning the property acquisition process and benefits offered by relocation assistance. The property acquisition process for this proposed project would not begin until after a public hearing is held, an FEIS is written, and a Record of Decision (ROD) is signed, which could be as early as Spring 2008. Construction could begin as early as 2011, depending upon the date the ROD is signed, completion of property acquisition, and the availability of funds.

TxDOT, in association with the Federal Highway Administration, will hold three public hearings over three nights to solicit comments relating to environmental issues presented in the DEIS. Identical information will be presented at all hearings; it will not be necessary to attend each hearing. Informational displays and individuals knowledgeable about the DEIS will be available at 6:00 p.m., with the public hearings starting promptly at 7:00 p.m. The public hearings will be held at the following locations: (1) Monday, July 16, 2007 at Sheraton Brookhollow, 3000 North Loop West, Houston, Texas 77092; (2) Tuesday, July 17, 2007 at Dean Middle School, 14104 Reo Street, Houston, Texas 77040; and (3) Tuesday, July 24, 2007 at The Berry Center, 8877 Barker Cypress, Houston, Texas 77433.

Copies of the DEIS (both electronic and paper, at cost of reproduction) and other information about the project may be obtained by contacting Mr. Pat Henry of the TxDOT Houston District at (713) 802-5241. Paper copies of the DEIS may also be reviewed at the following locations: (1) TxDOT District Office, 7721 Washington Avenue, Houston, TX 77007, (713) 802-5000; (2) TxDOT Area Office, 14838 Northwest Freeway, Houston, TX 77040, (713) 934-5900; (3) US 290 Program Office, 2950 North Loop West, Suite 1150, Houston, TX 77092, (866) 958-7290; (4) Oak Forest Library, 1349 W. 43rd St. Houston, TX 77018, (832) 393-1960; (5) Spring Branch Library, 930 Corbindale, Houston, TX 77027, (713) 464-1633; (6) Fairbanks Library, 7122 North Gessner, Houston, TX 77040, (713) 466-4438; (7) Cy-Fair Library, 9191 Barker-Cypress Road, Cypress, TX 77433, (281) 290-3210; (8) Collier Regional Library, 6200 Pinemont Drive, Houston, TX 77092, (832) 393-1740; (9) Hillendale Library, 2436 Gessner Drive, Houston, TX 77080, (832) 393-1940; (10) M. Smith Memorial Library, 2103 Main Street, Waller, TX 77484, (936) 372-3961; (11) Spring Branch/Ring Library, 8835 Longpoint, Houston, TX 77055, (832) 393-2000; (12) Northwest Library, 11355 Regency Green Drive, Houston, TX 77429, (281) 890-2665; (13) Hockley Community Center, 28515 Old Washington Road, Hockley, TX 77447, (936) 931-5029; and (14) Houston Library Central Branch, 500 McKinney, Houston, TX 77002, (832) 393-1313. A digital version of the DEIS may be

downloaded from the department website at www.dot.state.tx.us and at the US 290 Program website at www.my290.com.

TRD-200702016

Bob Jackson

General Counsel

Texas Department of Transportation

Filed: May 23, 2007

Texas Water Development Board

Request for Qualifications for Bond Counsel

The Texas Water Development Board (Board) and Texas Water Resources Finance Authority (Authority) are requesting proposals for bond counsel services. The deadline for proposal submission is 1:00 p.m., June 20, 2007.

The Board and Authority will make their selection based upon demonstrated competence, experience, knowledge, and qualifications. The Board and Authority will then negotiate a contract at a fair and reasonable price with the firm(s) selected. By the Request for Qualifications, the Board and Authority have not committed themselves to employ bond counsel nor does the suggested scope of service or term of agreement therein require that the bond counsel be employed for any or all of those purposes. The Board and Authority reserve the right to make those decisions after receipt of proposals and the Board's and Authority's decisions on these matters is final. The Board and Authority reserve the right to negotiate individual elements of the proposal and to reject any and all proposals.

Copies of the Request for Qualifications may be obtained by contacting Jim Bateman at (512) 475-3065; fax (512) 463-5580; by E-mail to: jim.bateman@twdb.state.tx.us; or by mail at Office of General Counsel, Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711-3231.

TRD-200702011

J. Kevin Ward

Executive Administrator

Texas Water Development Board

Filed: May 23, 2007

Workforce Solutions Brazos Valley Board

Public Notice

The Workforce Solutions Brazos Valley Board (WSBVB) issues this public notice of its annual Integrated Plan Modification for Fiscal Year 2008. The Workforce Solutions Board (Board) is responsible for the implementation of workforce development programs throughout the Board area, which includes the following counties: Brazos, Burleson, Grimes, Leon, Madison, Robertson, and Washington. The Board's Integrated Plan Modification will be submitted to the Texas Workforce Commission no later than July 6, 2007. Workforce programs and services covered by this Integrated Plan include: Workforce Investment Act Title I-Adult, Dislocated Worker, and Youth programs; TANF/Choices; Food Stamp Employment and Training; Employment Services; National Emergency Grant; and Child Care Services.

The WSBVB will make available to the public a draft of its Plan Modification for the plan year October 1, 2007 and fiscal year September 30, 2008. The public comment period will begin on May 18, 2007 and will end at the close of business on June 18, 2007. The document may be viewed at the Center for Regional Services, 3991 E. 29th Street, Bryan, Texas.

Public comments may be mailed to Barry Good at P.O. Box 4128, Bryan, TX 77805-4128, faxed to (979) 595-2810, or e-mailed to jgood@bvcog.org. The deadline for comments is 5:00 p.m. on Monday, June 18, 2007. All comments will be submitted to the Texas Workforce Commission and incorporated as part of the Board's Plan Modification.

For more information, call Barry Good, Board Planner, at (979) 595-2800. The WSBVB is an equal opportunity organization. Auxiliary aids for services are available upon request to those individuals with disabilities.

TRD-200701934
Tom Wilkinson
Executive Director
Workforce Solutions Brazos Valley Board
Filed: May 18, 2007



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).