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# TEXAS REGISTER

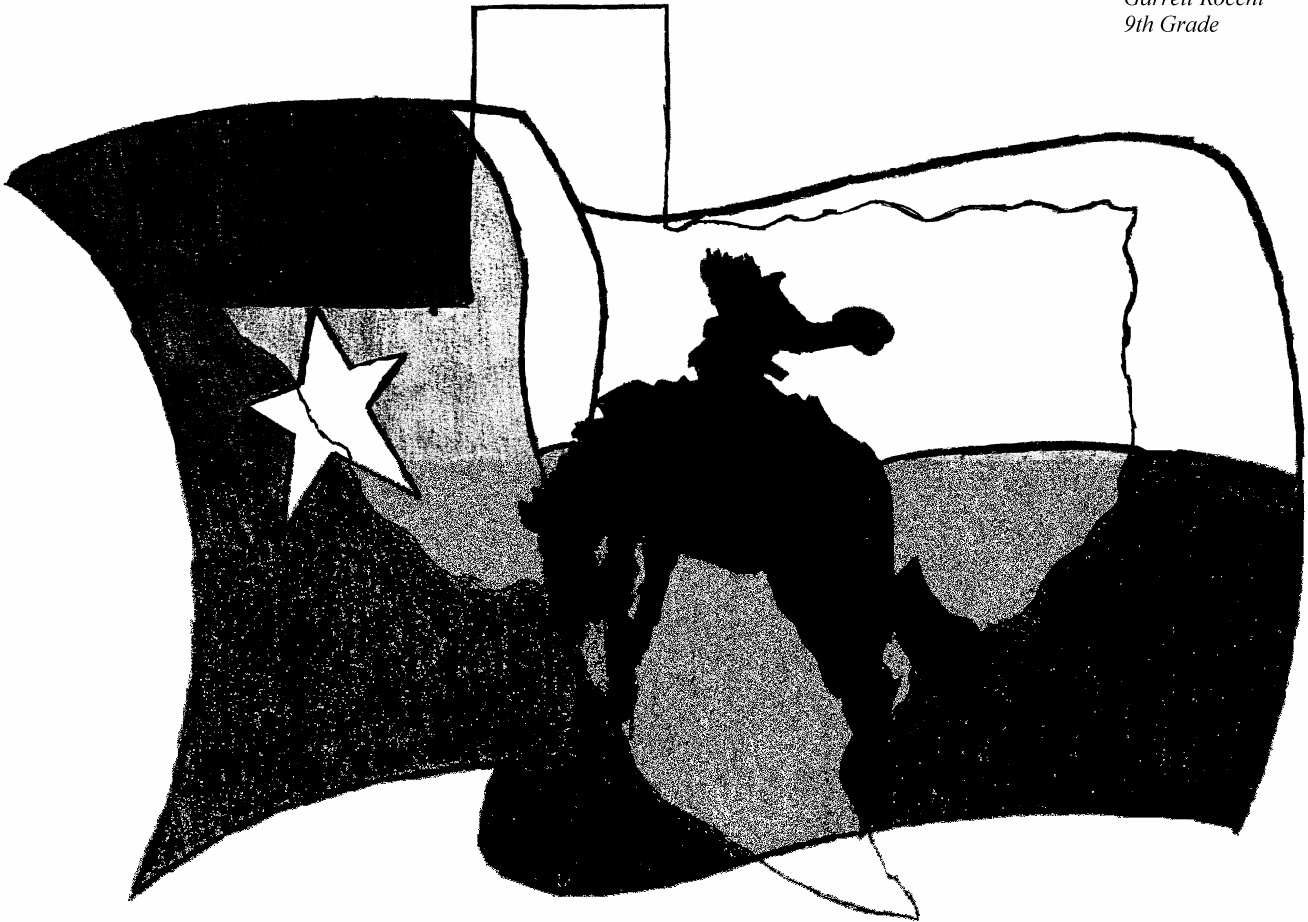
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*Pages 4505 - 4610*

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*Garrett Rocchi  
9th Grade*



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# TEXAS REGISTER

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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](mailto:register@sos.state.tx.us)

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

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

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

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

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

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

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

# THE GOVERNOR

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

## Appointments

### Appointments for June 22, 2007

Designating John W. Sylvester of Houston as presiding officer of the Texas Workforce Investment Council for a term at the pleasure of the Governor. Mr. Sylvester is replacing Ann Hodge as presiding officer.

### Appointments for July 3, 2007

Designating Peter Martin Holt of Blanco as presiding officer of the Texas Parks & Wildlife Commission for a term at the pleasure of the Governor. Mr. Holt is replacing Joseph B. C. Fitzsimons as presiding officer.

Appointed to the Texas A&M University System Board of Regents for a term to expire February 1, 2013, Morris Edwin Foster of Houston (replacing Phil Adams of Bryan whose term expired).

Appointed to the Texas A&M University System Board of Regents for a term to expire February 1, 2013, J.L. Huffines of Dallas (replacing Lowry Mays of San Antonio whose term expired).

Appointed to the Texas A&M University System Board of Regents for a term to expire February 1, 2013, James P. Wilson, Jr. of Sugar Land (replacing Wendy Lee Gramm of Helotes whose term expired).

Appointed to the Texas Tech University Board of Regents for a term to expire January 31, 2009, Bob L. Stafford, M.D. of Amarillo (replacing J. Frank Miller, III who is deceased).

Appointed to the Texas Tech University Board of Regents for a term to expire January 31, 2013, Jerry Edward Turner of Blanco (replacing C. Robert Black of Horseshoe Bay whose term expired).

Appointed to the Texas Tech University Board of Regents for a term to expire January 31, 2013, John Field Scovell of Dallas (replacing Bob L. Stafford, M.D. of Amarillo whose term expired).

Appointed to the Texas Tech University Board of Regents for a term to expire January 31, 2013, Lawrence Frederick "Rick" Francis of El Paso (Reappoint).

Rick Perry, Governor

TRD-200702839



# THE ATTORNEY GENERAL

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

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

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

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

Requests for Opinion

**RQ-0598-GA**

**Requestor:**

The Honorable Mike Jackson

Chair, Committee on Nominations

Texas State Senate

Post Office Box 12068

Austin, Texas 78711

Re: Use of county bond money to build, maintain or improve city streets (RQ-0598-GA)

**Briefs requested by August 9, 2007**

**RQ-0599-GA**

**Requestor:**

The Honorable Kevin Bailey

Chair, Committee on Urban Affairs

Texas House of Representatives

Post Office Box 2910

Austin, Texas 78768-2910

Re: Whether a local civil service commission may adopt a rule that awards additional points to examination scores on the basis of residency with the municipality (RQ-0599-GA)

**Briefs requested by August 10, 2007**

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

TRD-200702929

Stacey Napier

Deputy Attorney General

Office of the Attorney General

Filed: July 11, 2007



Opinions

**Opinion No. GA-0553**

The Honorable D. Matt Bingham

Smith County Criminal District Attorney

Smith County Courthouse

100 North Broadway, 4th Floor

Tyler, Texas 75702

Re: Whether a county may constitutionally contract under Local Government Code section 351.061 to provide a nongovernmental association with a constable office's law-enforcement services provided the contract (1) allows the constable to retain control and supervision of the constable's officers and (2) does not obligate the constable to assign officers to devote any portion of their working time to the nongovernmental association (RQ-0559-GA)

## S U M M A R Y

Under chapter 351, subchapter D of the Local Government Code, a county may contract to provide law-enforcement services to a nongovernmental association on a fee basis, provided the contract does not violate article III, section 52(a) or article III, section 1 of the Texas Constitution. Under article III, section 52(a) the commissioners court must determine, in the first instance, that (1) the contract has as its predominant purpose the accomplishment of a public, rather than a private, purpose; (2) the public entity retains sufficient control to ensure accomplishment of the public purpose; and (3) the public receives a return benefit.

To comply with article III, section 1 of the constitution, a contract must not cede county law-enforcement discretion to the nongovernmental association.

Attorney General Opinions JM-57 (1983) and JM-509 (1986) are overruled to the extent that they are inconsistent with this opinion.

**Opinion No. GA-0554**

The Honorable Geraldine "Tincy" Miller

Chair, State Board of Education

1701 North Congress Avenue

Austin, Texas 78701-1494

Re: Whether the State Board of Education may adopt a procedural rule that requires a vote of greater than a majority of the number of members of the board fixed by statute, i.e., a "supermajority" (RQ-0561-GA)

## S U M M A R Y



The authority of the State Board of Education to adopt rules of procedure does not encompass the authority to adopt rules that impose, in certain instances, a supermajority voting requirement.

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

TRD-200702928

Stacey Napier  
Deputy Attorney General  
Office of the Attorney General  
Filed: July 11, 2007



# TEXAS ETHICS COMMISSION

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

## Advisory Opinion

**EAO-475.** The Texas Ethics Commission has been asked to consider whether an incorporated local organization that is a member of an incorporated statewide organization may make donations to charities that match the amount of political contributions made by individual members of the local organization to the statewide organization's general-purpose political committee. (AOR-537)

### SUMMARY

The making of charitable contributions according to the proposed solicitation program is not a permissible solicitation expense for purposes of §253.100(b) of the Election Code.

The Texas Ethics Commission is authorized by §571.091 of the Government Code to issue advisory opinions in regard to the following statutes: (1) Chapter 572, Government Code; (2) Chapter 302, Gov-

ernment Code; (3) Chapter 303, Government Code; (4) Chapter 305, Government Code; (5) Chapter 2004, Government Code; (6) Title 15, Election Code; (7) Chapter 159, Local Government Code; (8) Chapter 36, Penal Code; and (9) Chapter 39, Penal Code.

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

TRD-200702852

Natalia Luna Ashley  
General Counsel  
Texas Ethics Commission  
Filed: July 5, 2007



# PROPOSED RULES

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

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

## TITLE 1. ADMINISTRATION

### PART 4. OFFICE OF THE SECRETARY OF STATE

#### CHAPTER 81. ELECTIONS

##### SUBCHAPTER D. VOTING SYSTEM CERTIFICATION

###### 1 TAC §81.62

The Office of the Secretary of State, Elections Division, proposes an amendment to §81.62, concerning the requirement of having a continuous feed printer dedicated to a real-time audit log on automatic tabulation equipment. This rule was written prior to the 2002 federal voluntary voting system guidelines that require system audit records to be provided in the form of printed reports, or electronic memory which can be printed centrally. The rule is being amended to reflect federal voluntary voting system guidelines.

Ann McGeehan, Director of Elections, has determined that for the first five-year period the amended rule is in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the amended rule.

Ms. McGeehan has also determined that for each year of the first five years the amendment is in effect, the public benefit anticipated as a result of enforcing the change is conformity to existing law. There will be no effect on small businesses or micro-businesses or individuals who are required to comply with the amendment as proposed.

Comments on the proposal may be submitted to the Office of the Secretary of State, Ann McGeehan, Director of Elections, P.O. Box 12060, Austin, Texas 78711.

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

Statutory Authority: Texas Election Code, Chapter 31, Subchapter A, §31.003

Texas Election Code §122.001 is affected by this proposal.

§81.62. Continuous Feed Printer Dedicated to the Central Accumulator Audit Log [Use of Audit Logs in Automatic Tabulation Equipment].

(a) For any Election Management System's central accumulator [voting tabulation device, or any modification to a voting tabulation device;] to be certified for use in Texas elections, the central accumulator [device] shall include a continuous feed printer dedicated to

a real-time audit log. All significant election events and their date and time stamps shall be printed to the audit log.

(b) The definition of "significant election events" in subsection (a) of this rule includes but is not limited to:

(1) error and/or warning messages and operator response to those messages;

(2) - (6) (No change.)

(7) reports being generated; ~~and~~

(8) diagnostics of any type being run; ~~and[-]~~

(9) change to printer status.

(c) The continuous-feed printed audit log for an election shall be retained by the custodian of election records for the appropriate preservation period.

(d) The "Election Management System" in subsection (a) of this rule is defined as a system that consists of any or all of the following elements: functions and databases within a voting system that define, develop and maintain election databases, perform election definition and setup functions, format ballots, count votes, consolidate and report results, and maintain audit trails. ~~[An alternative to the real-time printed audit log requirement may be approved by the Secretary of State for use on a precinct level voting system if the Secretary determines that the alternative produces at a minimum a sufficient record of items (b)(1)-(8) listed above and any administrative functions performed prior to opening the polls, the opening and closing of the polls, all ballot images, and any administrative functions performed after the closing of the polls. The alternative audit must be capable of being printed and a printed copy must be made available upon request.]~~

(e) The definition of "central accumulator" in subsection (a) of this rule is the part of an Election Management System that tabulates and/or consolidates the vote totals for multiple precincts/devices.

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

Filed with the Office of the Secretary of State on July 5, 2007.

TRD-200702851

Ann McGeehan

Director of Elections

Office of the Secretary of State

Earliest possible date of adoption: August 19, 2007

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



## TITLE 4. AGRICULTURE

## PART 3. TEXAS FEED AND FERTILIZER CONTROL SERVICE/OFFICE OF THE TEXAS STATE CHEMIST

### CHAPTER 65. COMMERCIAL FERTILIZER RULES

The Texas Feed and Fertilizer Control Service/Office of the Texas State Chemist proposes to amend TAC Title 4, Part 3, Subchapter A, §65.1 concerning Definitions, as well as to propose a new section in Subchapter B, §65.6 concerning Distribution of Ammonium Nitrate or Ammonium Nitrate Material. These proposed changes to our Commercial Fertilizer Rules are taken to comply with H.B. 2546 that was passed during the 80th legislative session. In §63.154(b)(1) of this new bill, the Office of the Texas State Chemist is instructed to adopt rules allowing a person to refuse sale of ammonium nitrate and ammonium nitrate material. These proposed rules fulfill that requirement.

Dr. Tim Herrman, State Chemist and Director, Office of the Texas State Chemist, has assessed that approximately 200 firms may be affected by the new law and that approximately 80,000 tons of ammonium nitrate and ammonium nitrate material are used in the state. H.B. 2546 requires that the Office of the Texas State Chemist charge a registration fee to cover the cost of implementing this regulation.

Dr. Herrman has also determined that the benefit afforded to the public includes increased regulatory oversight of an important agricultural material (ammonium nitrate) that finds alternate applications as an explosive material used to construct bombs. The principle thrust of this regulation and rules proposed by the Office of the Texas State Chemist is to protect the public from use of ammonium nitrate as explosive material and resulting weapons used against the public. The cost to small business or individuals to comply with this regulation is estimated at \$1 per ton of ammonium nitrate fertilizer, which equates to less than 0.5 percent of the product's cost. Fertilizer distributors and producers will benefit from this regulation by ensuring that this important form of nitrogen fertilizer remains available for use by Texas farmers, ranchers, and government entities.

Comments on the proposal may be submitted to Dr. Tim Herrman, State Chemist and Director, Office of the Texas State Chemist, P.O. Box 3160, College Station, Texas 77841-3160; by fax at (979) 845-1389; or by e-mail at [tjh@otsc.tamu.edu](mailto:tjh@otsc.tamu.edu).

#### SUBCHAPTER A. GENERAL PROVISIONS

##### 4 TAC §65.1

The amendment to §65.1 is proposed under the Texas Agriculture Code 63, §63.004 which provides Texas Feed and Fertilizer Control Service with the authority to promulgate rules relating to the distribution of commercial fertilizers.

The Texas Agriculture Code, Chapter 63, the Texas Commercial Fertilizer Control Act, Subchapter I, §§63.151 - 63.157, are affected by the proposed amendment.

##### §65.1. Definitions

Except where otherwise provided, the terms and definitions adopted by the Association of American Plant Food Control Officials in its last published official publication are adopted by reference as the terms and definitions to control in this part. (The publication is available from the Association of American Plant Food Control Officials.) In addition, the

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

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

(8) Acceptable Forms of Identification--The only acceptable form of identification, to provide personal information for the purchase of ammonium nitrate or ammonium nitrate materials, is U.S. government identification issued by a Federal, state, outlying possession, or local government agency that includes a photograph and an expiration date. These may include a valid U.S. passport, a valid U.S. military identification card, a driver's license or non-driver identification card issued by a state, Federal, outlying possession, or local U.S. government agency.

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

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

TRD-200702903

Dr. Tim Herrman

State Chemist and Director, OTSC

Texas Feed and Fertilizer Control Service/Office of the Texas State Chemist

Earliest possible date of adoption: August 19, 2007

For further information, please call: (979) 845-1121



#### SUBCHAPTER B. PERMITTING AND REGISTRATION

##### 4 TAC §65.6

The new rule §65.6 is proposed under the Texas Agriculture Code 63, §63.004 which provides Texas Feed and Fertilizer Control Service with the authority to promulgate rules relating to the distribution of commercial fertilizers.

The Texas Agriculture Code, Chapter 63, the Texas Commercial Fertilizer Control Act, Subchapter I, §§63.151 - 63.157, are affected by the proposed new rule.

§65.6. Distribution of Ammonium Nitrate or Ammonium Nitrate Material.

(a) Registration for ammonium nitrate or ammonium nitrate material: In addition to a permit to manufacture or distribute fertilizer and a registration for commercial fertilizer, as required in The Agriculture Code, Chapter 63, §63.031, an additional registration must be obtained to offer for sale or sell ammonium nitrate or ammonium nitrate material. The registration must be renewed on forms prescribed by the Service at the beginning of each fiscal year and accompanied by the fee specified on the form.

(b) Refusal to sell: The sale of ammonium nitrate or ammonium nitrate material may be refused to any person attempting to purchase under unusual patterns or circumstances, such as, out of season, outside their normal purchasing area, a person that is unknown to the registered facility or to a person that lacks clear knowledge of the use of ammonium nitrate or ammonium nitrate material for agronomic purposes.

(c) Training and Documentation: Employees of facilities that are registered to offer for sale or sell ammonium nitrate or ammonium nitrate material must be trained in the law, rules, policies, and procedures for the sale of ammonium nitrate and documentation of the training maintained on-site.

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

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

TRD-200702908

Dr. Tim Herrman

State Chemist and Director, OTSC

Texas Feed and Fertilizer Control Service/Office of the Texas State Chemist

Earliest possible date of adoption: August 19, 2007

For further information, please call: (979) 845-1121



## TITLE 22. EXAMINING BOARDS

### PART 1. TEXAS BOARD OF ARCHITECTURAL EXAMINERS

#### CHAPTER 1. ARCHITECTS

##### SUBCHAPTER A. SCOPE; DEFINITIONS

###### 22 TAC §1.12

The Texas Board of Architectural Examiners proposes an amendment to §1.12 of Chapter 1, Subchapter A, pertaining to the Joint Advisory Committee of the Texas Board of Architectural Examiners and the Texas Board of Professional Engineers. The proposed amendment would extend the Joint Committee from its scheduled expiration date of September 1, 2007, to September 1, 2011. If adopted, the Joint Committee may continue working on issues arising from the overlap of the jurisdiction of the agencies.

Cathy L. Hendricks, Executive Director, Texas Board of Architectural Examiners, has determined that for the first five-year period the amended rule is in effect, there will be a cost to the agency of \$5,800 per year assuming the committee meets four times per year. There will be no cost to local governments.

Ms. Hendricks has also determined that for the first five-year period the amended rule is in effect the public benefits expected as a result of the amended rule are as follows: the Joint Committee will continue to discuss issues regarding the overlap of architecture and engineering as well as the overlap of landscape architecture and engineering. The committee might provide valuable guidance on the requirements for, and the role of, each design professional in the design of projects. The public will benefit from superior designs resulting from the collaboration and coordination of the design professionals. The amended rule will have no impact on small business.

There will be no change in the cost to persons required to comply with the amended section. The rule continues the operations of an advisory committee and imposes no required compliance upon anyone.

Comments may be submitted to Cathy L. Hendricks, RID/ASID/IIDA, Executive Director, Texas Board of Architectural Examiners, P.O. Box 12337, Austin, Texas 78711-2337.

The amendment is proposed pursuant to §2110.008(a), Texas Government Code, which allows a state agency to amend its rules to allow an advisory committee to continue in existence after its scheduled abolishment date.

The proposed amendment affects §1051.212 and §1001.216, Texas Occupations Code, which provides for the creation and function of the Joint Advisory Committee.

*§1.12. Joint Advisory Committee of the Texas Board of Architectural Examiners and the Texas Board of Professional Engineers.*

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

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

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

Filed with the Office of the Secretary of State on July 5, 2007.

TRD-200702850

Cathy L. Hendricks, RID/ASID/IIDA

Executive Director

Texas Board of Architectural Examiners

Earliest possible date of adoption: August 19, 2007

For further information, please call: (512) 305-8544



### PART 5. STATE BOARD OF DENTAL EXAMINERS

#### CHAPTER 108. PROFESSIONAL CONDUCT

##### SUBCHAPTER E. BUSINESS PROMOTION

###### 22 TAC §108.60

The Texas State Board of Dental Examiners (Board) proposes the amendment of §108.60, false, misleading or deceptive referral schemes. The amendment is proposed to update the language from dental hygiene certificate holder to dental hygiene licensee.

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

Ms. Meek has also determined that for each year of the first five year period the section is in effect that the administration and enforcement of the proposed section is expected to benefit the public by enhancing the ability of dental hygienists to support dentists in providing patient care.

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

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

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

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

The proposed section affects Title 3, Subtitle D of the Occupations Code and Title 22, Texas Administrative Code, Chapters 101-125.

§108.60. *False, Misleading or Deceptive Referral Schemes.*

(a) This rule prohibits conduct which violates Sections 102.001 through 102.011, and Section 259.008 (8), of the Occupations Code. A dental or dental hygiene licensee [~~or dental hygiene certificate holder~~] shall not offer give, dispense, distribute or make available to any third party, or aid or abet another so to do, any cash, gift, premium, chance, reward, ticket, item, or thing of value for securing or soliciting patients.

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

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

Filed with the Office of the Secretary of State on July 3, 2007.

TRD-200702823

Sherri Sanders Meek

Interim Executive Director

State Board of Dental Examiners

Earliest possible date of adoption: August 19, 2007

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



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

### 22 TAC §115.1

The Texas State Board of Dental Examiners (Board) proposes the amendment of §115.1, concerning the definitions of "General Supervision" and "Direct Supervision". The amendment is proposed to clarify the definition of general supervision to say that a dentist may or may not be present on the premises when a dental hygienist performs an allowed procedure under general supervision. The amendment also includes the definition of direct supervision for greater clarification, as the two terms and definitions will appear together.

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

Ms. Meek has also determined that for each year of the first five years the section is in effect the administration and enforcement of the proposed section is expected to benefit the public by enhancing the ability of dental hygienists to support dentists in providing patient care.

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

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

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

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

The proposed section affects Title 3, Subtitle D of the Occupations Code and Title 22, Texas Administrative Code, Chapters 101 - 125.

§115.1. *Definitions.*

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

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

(6) General Supervision--In this section, "general supervision" means supervision of a dental hygienist by a supervising dentist, where the dentist may or may not be present on the premises when the dental hygienist performs the dental hygiene procedures.

(7) Direct Supervision--In this section, "direct supervision" means that the supervising dentist responsible for the procedure shall be present on the premises during patient care and shall be aware of the patient's physical status and well being.

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

Filed with the Office of the Secretary of State on July 3, 2007.

TRD-200702822

Sherri Sanders Meek

Interim Executive Director

State Board of Dental Examiners

Earliest possible date of adoption: August 19, 2007

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



### 22 TAC §115.4

The Texas State Board of Dental Examiners (Board) proposes the amendment of §115.4, concerning the placement of site specific subgingival medicaments. The amendment is proposed to change the standard from direct supervision to general supervision for a dentist who supervises a dental hygienist placing site specific subgingival medicaments. The amendment also updates the code reference and re-orders paragraphs (1) and (2) for better clarity.

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

Ms. Meek has also determined that for each year of the first five year period the section is in effect, the administration and enforcement of the proposed section is expected to benefit the public by enhancing the ability of dental hygienists to support dentists in providing patient care.

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

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

Comments on the proposal may be submitted to Sherri Sanders Meek, Interim Executive Director, Texas State Board of Dental Examiners, 333 Guadalupe, Tower 3, Suite 800, Austin, Texas

78701, or by fax at (512) 463-7452. To be considered, all written comments must be received by the Texas State Board of Dental Examiners no later than 30 days from the date that this amended section is published in the *Texas Register*.

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

The proposed section affects Title 3, Subtitle D of the Occupations Code and Title 22, Texas Administrative Code, Chapters 101 - 125.

*§115.4. Placement of Site Specific Subgingival Medicaments.*

Pursuant to §262.002(a)(6) [Article 4551e, §1(d)], the placement and removal of site specific subgingival medicaments may be delegated to a Texas licensed dental hygienist under the general [direct] supervision of, and in the office of, a Texas licensed dentist, only after scaling and root planing.

(1) The responsibility for diagnosis, treatment planning, the prescription of therapeutic measures, and re-evaluation, shall remain with a Texas licensed dentist and may not be delegated to any dental hygienist or dental assistant. [Site specific subgingival medicaments are considered to be of "topical" nature and are agents approved for use by the Food and Drug Administration (FDA).]

(2) Site specific subgingival medicaments are considered to be of "topical" nature and are agents approved for use by the Food and Drug Administration (FDA). [The responsibility for diagnosis, treatment planning, the prescription of therapeutic measures, and re-evaluation, shall remain with a Texas licensed dentist and may not be delegated to any dental hygienist or dental assistant.]

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

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

Filed with the Office of the Secretary of State on July 3, 2007.

TRD-200702821

Sherri Sanders Meek

Interim Executive Director

State Board of Dental Examiners

Earliest possible date of adoption: August 19, 2007

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



## PART 9. TEXAS MEDICAL BOARD

### CHAPTER 190. DISCIPLINARY GUIDELINES

#### SUBCHAPTER B. VIOLATION GUIDELINES

##### 22 TAC §190.8

The Texas Medical Board proposes an amendment to §190.8, concerning Violation Guidelines.

The amendment to §190.8 sets forth standard procedures necessary to make a reasoned medical decision in the assessment and/or determination of the medical necessity of treatment for another individual, entity, or organization.

Robert D. Simpson, General Counsel, Texas Medical Board, has determined that for the first five-year period the amendment is in effect there will be no fiscal implications to state or local govern-

ment as a result of enforcing the section as proposed. There will be no effect to individuals required to comply with the section as proposed.

Mr. Simpson also has determined that for each year of the first five years the amendment as proposed is in effect the public benefit anticipated as a result of enforcing the section will be providing that medical necessity decisions will be made after proper consideration of relevant medical records and a reasoned justification. There will be no effect on small or micro businesses.

Comments on the proposal may be submitted to Sally Durocher, P.O. Box 2018, Austin, Texas 78768-2018. A public hearing will be held at a later date.

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

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

*§190.8. Violation Guidelines.*

When substantiated by credible evidence, the following acts, practices, and conduct are considered to be violations of the Act. The following shall not be considered an exhaustive or exclusive listing.

(1) Practice Inconsistent with Public Health and Welfare. Failure to practice in an acceptable professional manner consistent with public health and welfare within the meaning of the Act includes, but is not limited to:

(A) - (N) (No change.)

(O) Failure to follow standard procedures necessary to make a reasoned medical decision in the assessment and/or determination of the medical necessity of treatment for another individual, entity, or organization, including:

(i) reviewing relevant information that is reasonably available, subject to legally-imposed time limits;

(ii) communicating with the treating physician as reasonably necessary to clarify information;

(iii) consulting with another physician with appropriate expertise, if the case includes issues that are outside the expertise of the physician reviewer; and

(iv) documenting a reasoned medical analysis.

(2) - (6) (No change.)

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

Filed with the Office of the Secretary of State on July 6, 2007.

TRD-200702860

Donald W. Patrick, MD, JD

Executive Director

Texas Medical Board

Earliest possible date of adoption: August 19, 2007

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



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

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

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

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

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

###### **31 TAC §53.2, §53.5**

The Texas Parks and Wildlife Department proposes an amendment to §53.2, concerning License Issuance Procedures, Fees, Possession, and Exemption Rules and §53.5, concerning Recreational Hunting License, Stamps, and Tags.

The proposed amendment to §53.2 would clarify terminology to reduce confusion. The current rules provide that "persons may acquire recreational hunting and/or fishing licenses and stamps electronically (including by telephone) from the department or its designated representatives by agreeing to pay a convenience fee of up to \$5 per license in addition to the normal license or stamp fee." The proposed amendment would eliminate the phrase "(including by telephone)," which is redundant, since a sale over the telephone is by definition electronic in nature. In fact, almost all licenses and stamps sold by the department are sold electronically, via telephone, the Internet, or the department's automated point-of-sale system.

The proposed amendment to §53.5, concerning Recreational Hunting License, Stamps, and Tags, would add the Federal Migratory Bird Hunting and Conservation Stamp, commonly referred to as the "federal duck stamp," to the list of stamps sold by the department.

Under federal law, no person 16 years of age or older may hunt waterfowl in the United States without having acquired a federal duck stamp. For many years the federal duck stamp had to be physically purchased at certain federal offices and department law enforcement offices. The U.S. Fish and Wildlife Service recently made it possible for individual states to enter into agreements with the federal government to sell the federal duck stamp electronically (Electronic Duck Stamp Act of 2005, P.L. 109-266). With the passage of Senate Bill 1668 by the 80th Legislature, the department received the statutory authority to sell the federal duck stamp through the use of automated equipment and point-of-sale system, and the department has therefore chosen to enter into an agreement with the federal government to sell the federal duck stamp through the department's license deputies and website beginning with the 2007-2008 license year. The cost of the federal duck stamp will be \$17, which includes the \$15 federal fee, a \$1 federal fee for the cost of mailing a physical stamp to the customer, and a \$1 fee to cover the agency's transaction costs and commissions to license deputies.

Robert Macdonald, Regulations Coordinator, has determined that for each of the first five years the rule as proposed is in effect, there will be minimal fiscal implications to state or local governments as a result of enforcing or administering the rule as proposed. The department pays a per-transaction fee to the license vendor that operates the department's automated licensing system and a per-item fee to agents commissioned by the department to sell licenses, permits, and tags. The cost to

the department of issuing the federal duck stamp is dependent on whether the stamp is bought as part of another transaction or bought as a stand-alone item; however, the department expects that the overwhelming preponderance of waterfowl hunters will purchase a federal duck stamp at the same time that they purchase their hunting license and state stamp. The department pays the provider of the automated license system \$.76 per transaction, meaning that approximately one-third of the transaction fee would be for the federal stamp, or approximately \$.25. In addition, the department pays a commission of \$.75 per transaction to most of the authorized license deputy selling licenses and stamps to the public on behalf of the department. The department has rounded that figure to the nearest dollar to make transactions, accounting, and commission payments less cumbersome. Therefore, the cost to the department of selling the stamp will be \$.01 per stamp. In 2006, the department sold approximately 545,000 state migratory game bird stamps. Using those numbers, the maximum cost to the department would be \$5,450; however, the actual total will be less, since the department estimates that as many as half of all persons who purchase the state migratory stamp do not hunt waterfowl. Thus, the department concludes that the fiscal impact to the department will be somewhere around \$2,200, or approximately revenue-neutral.

Mr. Macdonald also has determined that for each of the first five years the rule as proposed is in effect, the public benefit anticipated as a result of enforcing or administering the rule as proposed will be the convenience of one-stop shopping for all licenses, permits, and stamps needed to lawfully hunt in this state.

There will be no adverse economic effect on small businesses or microbusinesses, as the rule will not affect businesses. There will be an effect on persons required to comply with the rule as proposed, namely the \$17 fee for the stamp.

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

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

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

Comments on the proposed rules may be submitted to Jason Martinson, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; (512) 389-4609 (e-mail: jason.martinson@tpwd.state.tx.us).

The amendments are proposed under the provisions of Senate Bill 1668 as enacted by the 80th Texas Legislature, which authorizes the department to issue a license, stamp, tag, permit, or another similar item authorized by the code or federal law through the use of automated equipment and a point-of-sale system; Parks and Wildlife Code, §12.701, which allows the department to authorize the issuance of a license, stamp, permit, or tag by a license deputy; Parks and Wildlife Code, §12.702, which authorizes the commission to set collection and issuance fees by rule for a license, stamp, tag, permit, or other similar item issued under any chapter of the code; and 31 TAC §53.2, which authorizes the department to charge a convenience fee of up to \$5 per hunting or fishing license or per stamp when purchased electronically.



The amendments affects Parks and Wildlife Code, Chapter 12.

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

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

(c) Issuance of licenses and stamps electronically (including by telephone).

(1) A person may acquire recreational hunting and/or fishing licenses electronically [~~including by telephone~~] from the department or its designated representatives by agreeing to pay a convenience fee of up to \$5 per license in addition to the normal license fee.

(2) A person may acquire recreational hunting and/or fishing stamps electronically [~~including by telephone~~] from the department or its designated representatives by agreeing to pay a convenience fee of up to \$5 per stamp order in addition to the normal stamp fee(s). This fee shall not be charged if a license is acquired during the same transaction.

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

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

(a) (No change.)

(b) Hunting stamps and tags:

(1) upland game bird--\$7;

(2) migratory game bird--\$7; [~~and~~]

(3) archery hunting--\$7; ~~and~~[-]

(4) Federal Migratory Bird Hunting and Conservation Stamp--\$17.

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

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

TRD-200702907

Ann Bright

General Counsel

Texas Parks and Wildlife Department

Earliest possible date of adoption: August 19, 2007

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



**31 TAC §53.18**

The Texas Parks and Wildlife Department proposes new §53.18, concerning Other Fees.

The proposed new section would provide for electronic registration of vessels by credit card and establish a fee for validation card/decals sets that permit the limited and temporary use of untitled vessels for recreational purposes or participation in contests or events under a marine dealer, distributor or manufacturer license.

In the future, the department will be able to provide boat registration renewal services over the Internet if the customer agrees to pay a convenience fee for handling payments made by credit card. Proposed new §53.18(a) would allow the electronic payment of vessel registration renewal fees, including any handling fees assessed by the credit card company. The proposed new subsection is necessary to provide greater customer service to the general public and alleviate the longer wait times at TPWD offices prior to holidays.

House Bill 3764 as enacted by the 80th Texas Legislature, amended Parks and Wildlife Code, §31.041, to authorize the department to establish rules concerning the issuance and price of validation cards permitting the limited and temporary use of untitled vessels for recreational purposes or participation in contests or events under a marine dealer, distributor or manufacturer license. Proposed rules governing the use, display, and recordkeeping with respect to the validation cards are in another rulemaking published elsewhere in this issue of the Texas Register.

One validation card and decal (card/decal set) would be included at no additional costs with the purchase of a marine dealer, distributor, or manufacturer license. Proposed new §53.18(b) would establish the fee for additional card/decal sets at \$120 per set. The fee for replacing a lost or destroyed validation card would be \$10.

Robert Macdonald, Regulations Coordinator, has determined that for each of the first five years the rule as proposed is in effect, there will be no fiscal implications to state or local governments as a result of enforcing or administering the rule as proposed. With respect to the convenience fee for electronic vessel registration by credit card, the fee charged to the customer will be a pass-through fee. Thus, there will be no fiscal impact on the department.

With respect to the fee for a validation card/decal set, the fee amount of \$120 was derived by taking the maximum fee amount currently charged by the department to register and title a vessel, which is \$115, and adding \$5 to recoup administrative costs associated with the printing of validation cards and decals.

The fee of \$10 to replace a lost or damaged validation card is established to recover the department's costs in printing and mailing the replacement card to the customer.

The revenue from the sale of validation card/decal sets will be approximately equivalent to the revenue that would be realized were each vessel used to show, test, or demonstrate to be registered and titled. Therefore, the fiscal impact of the proposed amendment is revenue neutral. There will be no additional costs to the department for enforcement of the rule, as the department's law enforcement officers currently enforce the existing statutory provisions governing the showing, testing, or demonstration of unregistered vessels and the new rule is not expected to result in appreciable additional time or effort related to those enforcement activities.

Mr. Macdonald also has determined that for each of the first five years the rule as proposed is in effect, the public benefit anticipated as a result of enforcing or administering the rule as proposed will be greater customer service and the ability of vessel dealers, distributors, and manufacturers to more fully demonstrate the capabilities of vessels to the public and the increased ability of consumers contemplating the potential purchase of a vessel to be able to better determine the suitability of the vessel to their needs.

There will be an adverse economic effect on small businesses, microbusinesses, or persons required to comply with the rule as proposed. The department believes that most if not all dealers, distributors, and manufacturers qualify as small businesses or microbusinesses. A dealer, distributor, or manufacturer's license includes one validation card/decal set at no additional cost, so no licensee will be unable to show, test, or demonstrate vessels for a recreational purpose or in a contest or event; however if a licensee desires to simultaneously show, test, or demonstrate

multiple vessels for a recreational purpose or in a content or event, the licensee will incur a minimum cost of \$120 per additional vessel. The economic cost of compliance is the same for the largest and the smallest businesses affected by the rule. For a business employing one employee, the cost of compliance would be between \$120 per employee per validation card purchased. For a business employing 20 employees, the cost of compliance would be \$3 per employee per validation card purchased. For a business employing 100 employees, the cost of compliance would be between \$0.12 per employee per validation card purchased.

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

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

Comments on the proposed rule may be submitted to Alfonso Campos, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; (512) 389-4624 (e-mail: alfonso.campos@tpwd.state.tx.us).

The new section is proposed under the authority of Parks and Wildlife Code, §11.027, which authorizes the commission to establish and provide for the collection of a fee to cover costs associated with the review of an application for a permit required by the code, and to set and charge a fee for the use of a credit card to pay a fee assessed by the department in an amount reasonable and necessary to reimburse the department for the costs involved in the use of the card; and under House Bill 3764, 80th Texas Legislature, Regular Session, which amended Parks and Wildlife Code, Chapter 31, to authorize the commission to establish rules concerning the issuance and price of validation cards permitting the limited and temporary use of vessels for recreational purposes or participation in contests or events and to adopt rules regarding dealer's, distributor's, and manufacturer's licenses, including application forms, application and renewal procedures, and reporting and recordkeeping requirements.

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

§53.18. Other Fees.

(a) Fees for Electronic Registration of Vessels. After the initial registration of a vessel, the vessel may be registered electronically by credit card by agreeing to pay any applicable credit card handling or convenience fees in addition to the normal registration fee.

(b) Marine dealer, manufacturer, or distributor's licensee validation card (with decal) for recreational purposes or participation in contests or events:

(1) original--included at no additional cost with purchase of marine dealer, manufacturer, or distributor's license.

(2) additional card--\$120; and

(3) replacement card--\$10.

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

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

TRD-200702906

Ann Bright  
General Counsel  
Texas Parks and Wildlife Department  
Earliest possible date of adoption: August 19, 2007  
For further information, please call: (512) 389-4775

◆ ◆ ◆  
**CHAPTER 55. LAW ENFORCEMENT**  
**SUBCHAPTER E. SHOW, TEST, AND**  
**DEMONSTRATION OF VESSELS**

**31 TAC §55.130**

The Texas Parks and Wildlife Department proposes new §55.130, concerning Show, Test, or Demonstration of Vessel.

The proposed new rule would allow the limited temporary use of non-registered vessels by dealers, distributors, and manufacturers for recreational purposes or for participation in contests or events. House Bill 3764, enacted by the 80th Texas Legislature, amended Parks and Wildlife Code, Chapter 31, to allow the Texas Parks and Wildlife Commission to establish rules concerning the issuance and price of validation cards permitting the limited and temporary use of vessels for recreational purposes or participation in contests or events. Prior to the passage of House Bill 3764, a dealer, distributor, or manufacturer of vessels was able to show, demonstrate, or test a vessel without securing a certificate of number for the vessel, but the showing, testing, or demonstration could not involve the use of the vessel for recreational purposes or for participation in a contest or event.

Proposed new §55.130(a) would restate the statutory provision allowing the show, test, or demonstration of a vessel by a licensed dealer, distributor, or manufacturer.

Proposed new §55.130(b) would prohibit the use of a dealer, distributor, or manufacturer license to show, test, or demonstrate a vessel for recreational purposes or for participation in a contest or event except as provided in the subchapter. The provision is necessary in order to delineate the circumstances under which a dealer, distributor, or manufacturer may show, test, or demonstrate a vessel for recreational purposes or for participation in a contest or event.

Proposed new §55.130(c) would allow a dealer, distributor, or manufacturer to use an untitled or unregistered vessel for recreational purposes or for participation in a contest or event, provided the licensee has a validation card/decal set issued by the department, displays them in the prescribed manner, and does not use a card/decal set for more than six consecutive days or more than 12 days in any calendar month. The provision is necessary to allow for the "limited and temporary use of vessels for recreational purposes or participation in contests or events" as authorized under the terms of H.B. 3764. The department considered that "limited and temporary," in the absence of a statutory definition, must be understood in the context of preventing the full-time, permanent use of an untitled or unregistered vessel for recreational purposes or for participation in contests or events. The department then considered that the most likely show, test, or demonstration uses of vessels for recreational purposes or for participation in a contest or events would be for fishing tournaments, "poker runs," water-skiing competitions, and similar events that typically do not last longer than a holiday weekend. The department concluded that the six-consecutive-day limit, coupled with a limit on the maximum number of

days of use per month, is sufficient to allow for thorough showing, testing, or demonstration of a vessel for a potential buyer, while still satisfying the legislative requirement for "limited and temporary" character.

Proposed new §55.130(d) would require that a validation card be made available upon the request of any peace officer, marine safety enforcement officer, or department employee acting within the scope of official duties. The provision is necessary to provide a method for enforcement and administrative personnel to quickly determine if a person operating an untitled or unregistered vessel is in fact authorized to do so.

Proposed new subsection (e) would provide that one validation card/decals be included at no additional cost to the purchaser of a dealer, distributor, or manufacturer license, and that additional card/decals sets could be purchased from the department. The proposed new section also provides that decals would not be available separately. The provision is necessary to provide a mechanism for dealers, distributors, and manufacturers to show, test, and demonstrate multiple vessels simultaneously. However, because card/decals units are uniquely numbered and the decals are pre-printed, there is no way to replace damaged, defaced, or destroyed decals; thus, if a decal needs to be replaced, the licensee would have to purchase a card/decals unit.

Proposed new §55.130(f) would require licensees to maintain a daily log accounting for all usage of validation decals and cards under a license. The provision is necessary because the department must be able to determine, if necessary, that the licensee has complied with the maximum use provisions of no more than six consecutive days and no more than 12 days in a calendar month. The proposed subsection also would require that the log be retained for not less than two years and made available upon the request of any peace officer, marine safety enforcement officer, or department employee acting within the scope of official duties. The provision is necessary to provide a method for enforcement and administrative personnel to quickly determine that a licensee has complied or is complying with the maximum provisions of the subchapter.

Proposed new §55.130(g) would provide that a validation card/decals set is not valid unless the corresponding license is valid and that a validation card/decals set expires on the last day of the last month that a license is valid. The provision is necessary to prevent confusion and possible unethical conduct. By establishing a specific period of validity, the department intends that there be no question as to whether a given validation card/decals set is lawful to use.

Proposed new §55.130(h) would provide that nothing in the rule authorizes the use of a licensee's number or a validation card and validation decals for purposes not related to the legitimate business activities of the licensee. The proposed new subchapter would define "legitimate business activities" to mean the sale, transfer, exchange, service, or transportation of a vessel or outboard motor.

Mr. Robert Macdonald, Regulations Coordinator, has determined that for each of the first five years that the rule as proposed is in effect, there will be minimal implications to state government as a result of enforcing or administering the rules. The department will incur costs related to the printing of validation cards and decals, but the fee assessed for additional decals should cover those costs. There will be no additional costs to the department for enforcement of the rule, as the department's law enforcement officers currently enforce the existing statutory

provisions governing the showing, testing, or demonstration of unregistered vessels and the new rule is not expected to result in appreciable additional time or effort related to those enforcement activities.

There will be no fiscal implications for units of local government as a result of administering the rules as proposed.

Mr. Macdonald also has determined that for each of the first five years the rule as proposed are in effect, the public benefit anticipated as a result of enforcing or administering the rule as proposed will be the ability of vessel dealers, distributors, and manufacturers to more fully demonstrate the capabilities of vessels to the public and the increased ability of consumers contemplating the potential purchase of a vessel to be able to better determine the suitability of the vessel to their needs.

There will be no adverse economic effect on small businesses, microbusinesses, or persons required to comply with the rule as proposed; however, in another rulemaking published elsewhere in this issue, the department is proposing a fee of \$120 for each validation card/decals set. The department's small and microbusiness impact statement for that rulemaking is reproduced here as a courtesy.

The fee amount of \$120 for a validation card/decals set was derived by taking the maximum fee amount currently charged by the department to register and title a vessel, which is \$115, and adding \$5 to recoup administrative costs associated with the printing of validation cards and decals.

The fee of \$10 to replace a lost or damaged validation card is established to recover the department's costs in printing and mailing the replacement card to the customer.

The revenue from the sale of validation cards and decals will be approximately equivalent to the revenue that would be realized were each vessel used to show, test, or demonstrate to be registered and titled. Therefore, the fiscal impact of the proposed amendment is revenue neutral. There will be no additional costs to the department for enforcement of the rule, as the department's law enforcement officers currently enforce the existing statutory provisions governing the showing, testing, or demonstration of unregistered or untitled vessels and the new rule is not expected to result in appreciable additional time or effort related to those enforcement activities.

The department believes that most if not all dealers, distributors, and manufacturers qualify as small businesses or microbusinesses. A dealer, distributor, or manufacturer's license includes a validation card/decals, so no licensee will be unable to show, test, or demonstrate vessels for a recreational purpose or in a contest or event; however if a licensee desires to simultaneously show, test, or demonstrate multiple vessels for a recreational purpose or in a contest or event, the licensee will incur a minimum cost of \$120 per additional vessel. The economic cost of compliance is the same for the largest and the smallest businesses affected by the rule. For a business employing one employee, the cost of compliance would be between \$120 per employee per validation card purchased. For a business employing 20 employees, the cost of compliance would be \$3 per employee per validation card purchased. For a business employing 100 employees, the cost of compliance would be between \$0.12 per employee per validation card purchased.

The department has not drafted a local employment impact statement under the Administrative Procedures Act, §2001.022,

as the agency has determined that the rules as proposed will not impact local economies.

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

Comments on the proposed rules may be submitted to Al Campos, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; (512) 389-4624 (e-mail: alfonso.campos@tpwd.state.tx.us).

The new section is proposed under the authority of House Bill 3764, 80th Texas Legislature, Regular Session, which amended Parks and Wildlife Code, Chapter 31, to authorize the commission to establish rules concerning the issuance and price of validation cards and decals permitting the limited and temporary use of vessels for recreational purposes or participation in contests or events and to adopt rules regarding dealer's, distributor's, and manufacturer's licenses, including application forms, application and renewal procedures, and reporting and recordkeeping requirements.

The proposed new section affects Parks and Wildlife Code, Chapter 31.

§55.130. Show, Test, or Demonstration of Vessel.

(a) A licensed dealer, distributor, or manufacturer (hereinafter "licensee") may use the licensee's number to show, demonstrate, or test a vessel on the water of this state without acquiring a certificate of number and registration decals. The licensee's number shall be attached, affixed, or inscribed on both sides of the vessel in an easily visible location. The use of removable signs which can be temporarily but firmly attached to the vessel is permissible.

(b) A licensee may not use the licensee's number for the use of a vessel on the water of this state for recreational purposes or for participation in contests or events, except as permitted in this subchapter.

(c) On a limited and temporary basis, a licensee, or person or persons authorized by the licensee, may use a vessel for recreational purposes or participation in contests or events only if:

(1) the licensee's number is either temporarily or permanently attached, affixed, or inscribed on both sides of the vessel in an easily visible location;

(2) a department-issued validation decal is either temporarily or permanently prominently displayed on both sides of the vessel in an easily visible location;

(3) a department-issued validation card is aboard the vessel; and

(4) the temporary use does not occur on more than six consecutive days, and does not occur on more than twelve days in any calendar month.

(d) A validation card must immediately be made available for inspection upon the request of any peace officer, marine safety officer, or department employee acting within the scope of their official duties.

(e) A dealer, distributor, or manufacturer license shall include one validation card and two validation decals, which shall be issued at the time the license is issued. Additional validation cards may be purchased separately upon payment of the fee specified in §53.18 of this title (relating to Other Fees). Each additional validation card includes two validation decals. Validation decals may not be purchased separately.

(f) A licensee shall maintain at the licensee's place of business a current daily log accounting for each use of each validation card issued to the licensee. The log shall be retained for a period of two years and must immediately be made available for inspection during normal business hours at the request of any peace officer, marine safety officer, or department employee acting within the scope of their official duties. The log shall indicate, for each use of a validation card:

(1) the date and location of the use;

(2) the hull identification number of the vessel;

(3) the specific business purpose of the recreational use, contest, or event;

(4) the name, address, and driver's license number or state-issued identification card number of the person or persons authorized by the licensee to operate the vessel; and

(5) the name of licensee's agent authorizing use of the validation card.

(g) A validation card is not valid if the corresponding license is not valid. A validation card and corresponding validation decals expire on the last day of the last month that a dealer, distributor, or manufacturer license is valid.

(h) Nothing in this subchapter authorizes the use of a licensee's number or a validation card and validation decals for purposes not related to the legitimate business activities of the licensee. "Legitimate business activities" means the sale, transfer, exchange, service, or transportation of a vessel or outboard motor.

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

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

TRD-200702905

Ann Bright

General Counsel

Texas Parks and Wildlife Department

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



## CHAPTER 59. PARKS

### SUBCHAPTER K. ACCEPTANCE OF DONATED LAND

#### 31 TAC §59.330

The Texas Parks and Wildlife Department proposes new §59.330, concerning Eligibility of Donated Land for Acceptance and Inclusion in State Park System. The new section implements the requirements of House Bill 12, enacted by the 80th Texas Legislature. House Bill 12 amended Parks and Wildlife Code, Chapter 13, by adding §13.0075, which requires the commission to adopt criteria by rule for determining the eligibility of real property that is donated to the department for inclusion in the state park system.

Among the purposes of the state park system is the management and conservation of natural and cultural resources and providing outdoor recreational opportunities, contact with and understanding of the natural world, and awareness of the diverse cultural and historical resources that make Texas unique. The

state parks system consists of state parks, state natural areas and state historic sites.

The proposed new rule would establish eligibility criteria for the acceptance of land donated for inclusion in the state parks system. To be considered for inclusion in the state parks system, the prospective donation should substantively address specific criteria. To that end, the proposed new rule would establish six general categories for evaluating the suitability of donated land for inclusion in the state park system: contiguity to existing parkland, recreational value, natural resource value, historical value, and size, as well as ancillary values. To some extent, the criteria are interrelated, but if a prospective donation satisfies any criteria, it is a candidate for inclusion in the state park system.

In general, the department will consider accepting lands that are near, adjacent to, or within the boundaries of existing parkland in order to expand, consolidate, or augment the values of existing parkland. In the department's view, this is a prudent practice. In most instances, the addition of land to existing park facilities will not significantly increase the department's operating costs since the added land usually can be managed by existing staff. Also, the acceptance of land adjacent to existing parkland often helps to address access issues, provide a buffer to development, and preserve or enhance the values of existing parkland.

The recreational value of donated land is a high priority. The types of features that the public typically finds appealing are those that allow for popular outdoor activities. One of the most appealing features is water. In many parts of Texas, the climate is conducive to swimming, boating, and fishing almost year round. Therefore, the presence of a water feature capable of sustaining recreational use is an important factor in considering the acceptance of a donation. Along the same lines, lands that present interesting or aesthetically pleasing landscape features are typically high-demand areas for recreation, including hiking, camping, and nature viewing. This also would include other features such as caverns and sinkholes, and areas offering impressive or panoramic views of the surrounding countryside. Similarly, cultural resources are important. Archeologically or architecturally significant structures or buildings that relate to pre-European and colonial heritage or that are representative of a particular era or way of life are an important tool in informing and educating the public about the people who made Texas home in preceding generations. A potential donation offering significant additional opportunity for these activities would therefore be attractive to the department.

Natural resource value is also an important factor to consider in a donation. Texas is ecologically varied, encompassing mountains, deserts, prairies, karst topography, coniferous forests, wetlands, and coastal areas which are habitats for hundreds of species of animals and plants as well as for humans past and present. A prospective donation that offered the opportunity to significantly enhance the department's inventory with regard to natural resource value would therefore be considered for acceptance.

Texas has a rich past that is reflected in and informs the present. Property that has significant historical value is therefore useful in illustrating the cultural themes of Texas or national heritage, the political, economic, military, or social history of Texas, or aspects of historic or prehistoric people and events. Prospective donations that would help the department in reflecting the rich heritage of the state would therefore be considered for acceptance.

The department will also consider accepting prospective donations of land if the property offers significant ancillary value, but otherwise does not substantially satisfy the other criteria. For instance, if a piece of land functions as a travel corridor or harbor for wildlife, offers an impressive view, or is in an important or critical watershed, the department would consider acceptance. Also, the department will consider land that would function as a buffer between development and existing parkland.

The size of a prospective property is important. A large parcel of land that satisfies the criteria of the proposed new rule, provided it is not irreparably damaged, polluted, or would require large amounts of money to be made fit for recreational opportunity, is preferred, but a small parcel could be accepted if it meets any of the criteria established by the proposed new rule.

As noted, the listed criteria are often interrelated. For example, many of the features that contribute to the recreational value or natural resource value of land also contribute to historical or interpretive value of the land. For example, while water features may contribute to land's recreational value, a water feature may also provide an opportunity to educate the public about the role of water in sustaining Texas' natural resources. Likewise, landscape features and cultural resources that contribute to land's recreational value, also contribute to the land's natural resource value and enhance the department's ability to provide lessons in science and history. Similarly, land that is contiguous to existing parkland may also address ancillary values, by enhancing viewsheds or providing buffers from development.

Subsection (b) of the proposed new rule provides that in addition to the criteria established in this section, the department will consider whether the acceptance of the donated land for inclusion in the state parks system would contribute to the goals established in the department's Land and Water Resources Conservation and Recreation Plan. In 2001, the 77th Texas Legislature enacted Parks and Wildlife Code, §11.104, directing the department to develop a Land and Water Resources Conservation and Recreation Plan (the Plan). In November 2002, the first Plan was adopted. A revised Plan was adopted by the Commission in January 2005. The Plan is intended to provide strategic direction for the department. Among other things, the Plan addresses conservation and recreation priorities for the department.

Subsection (c) of the proposed new rule would clarify that this rule is intended to address only the acceptance of donated land for inclusion in the state parks system. The department may accept land or an interest in land for purposes other than inclusion in the state parks system. For example, the department may accept real property for purposes of wildlife management, operation of a fish hatchery, or law enforcement training.

Subsection (d) of the proposed new rule would stipulate that the department is not compelled to accept a prospective donation simply because the land meets one or more of the criteria of the new rule. If some provision of the donation such as a deed restriction or covenant would preclude the effective use of the land as parkland, or if the acceptance of the property would result in an increase in operating or maintenance costs, the department could choose not to accept the donation.

Subsection (e) of the proposed new rule would clearly stipulate that the decision to accept or decline donated land for inclusion in the state park system would be solely at the discretion of the Texas Parks and Wildlife Commission. The department does not wish for the proposed new rule to suggest to anyone that land

can be donated to or declined by any entity other than the body that is statutorily constituted for that purpose.

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

Mr. Macdonald also has determined that for each of the first five years the rule as proposed is in effect, the public benefit anticipated as a result of enforcing or administering the rule as proposed will be the establishment of criteria to inform the public and assist the department in its decision-making process regarding the acceptance of donated land to be included in the state parks system as directed by the Texas Legislature.

There will be no adverse economic effect on small businesses or microbusinesses, as the rule will not affect businesses.

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

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

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

Comments on the proposed rules may be submitted to Ted Hollingsworth, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; (512) 389-4520 (e-mail: ted.hollingsworth@tpwd.state.tx.us).

The new rule is proposed under the provisions of House Bill 12 as enacted by the 80th Texas Legislature, which requires the commission to adopt criteria by rule for determining the eligibility of real property that is donated to the department for inclusion in the state park system.

The amendment affects Parks and Wildlife Code, Chapter 13.

§59.330. Eligibility of Donated Land for Acceptance and Inclusion in State Park System.

(a) Any land donated to the department is eligible to be included in the state park system, provided the acceptance of the land substantially satisfies elements of one or more of the following criteria.

(1) Contiguity with existing land in the state parks system. The donated land is near, adjacent to, or within the boundaries of an existing unit of the state parks system.

(2) Recreational value. The donated land possesses a high potential for providing popular or critical opportunities for recreational enjoyment of the natural world by the public. Such potential is characterized by:

(A) water features such as springs, creeks, bayous, rivers, lakes, or coastline;

(B) landforms such as mountains, hills, canyons, etc., that are suitable for hiking, camping, or other types of outdoor use that are typically sought after or enjoyed by the public;

(C) underground features such as caves, caverns, or sinkholes;

(D) significant cultural resources;

(E) significant aesthetic resources, such as views or panoramas; or

(3) Natural resource value. The donated land:

(A) contains a high-value natural feature or features;

(B) is habitat for rare or endangered species of plants or animals;

(C) reflects a representative ecosystem of the state or could be restored or managed to reflect a natural ecosystem; or

(D) significant geological or paleontological resources.

(4) Historical or Interpretive value. The donated land provides historical or interpretive value consistent with the department's Land and Water Resources Conservation and Recreation Plan.

(5) Ancillary values. The donated land offers or contains significant or valuable:

(A) viewsheds;

(B) wildlife corridors;

(C) watersheds; or

(D) buffers from development for existing parkland.

(6) Size. The department shall consider the size of a donated parcel of land as it relates to the factors set forth in paragraphs (1) - (5) of this subsection.

(A) Small parcels (less than 500 acres) should be contiguous to existing properties in the state park system to be considered for acceptance, unless the value of the parcel in terms of the criteria listed in paragraphs (1) - (5) of this section is such that the department has a compelling interest in accepting the land as a donation.

(B) Large parcels (greater than 500 acres) need not be contiguous to existing properties within the state park system to be considered for acceptance, provided that acquisition is consistent with the department's Land and Water Resources Conservation and Recreation Plan.

(b) In addition to the criteria established in subsection (a) of this section, the department will consider whether the acceptance of the donated land for inclusion in the state parks system would contribute to the goals established in the department's Land and Water Resources Conservation and Recreation Plan.

(c) Nothing in this section is intended to address or limit the acceptance of donated lands for purposes other than inclusion in the state parks system.

(d) Regardless of whether the property meets the criteria in subsection (a) of this section, the department may decline to accept the donation of any parcel of land. The reasons for declining a prospective donation may include, but are not limited to, lack of adequate access, deed restrictions, use agreements, previous land uses, operating and maintenance costs or any other factors would make the use of the land impractical or problematic with respect to the department's mission.

(e) No donated land will be added to the state park system unless the land is formally accepted by the Texas Parks and Wildlife Commission voting in open session. The Texas Parks and Wildlife Commission, in its sole discretion, may accept or decline any proposed donations of land for inclusion in the state park system.

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

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

TRD-200702904

Ann Bright

General Counsel

Texas Parks and Wildlife Department

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



## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### PART 13. TEXAS COMMISSION ON FIRE PROTECTION

#### CHAPTER 421. STANDARDS FOR CERTIFICATION

##### 37 TAC §421.1, §421.3

The Texas Commission on Fire Protection (Commission) proposes amendments to §421.1, concerning Procedures for Meetings; and §421.3, concerning Minimum Standards Set by the Commission. The purpose of the proposed amendments is to clarify the qualifications for HazMat and fire protection personnel; grammar and punctuation corrections; and to capitalize the letter "c" in the word "commission" when referring to the Texas Commission on Fire Protection.

Jake Soteriou, Director of the Fire Service Standards and Certification Division, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal impact on state or local governments.

Jake Soteriou has also determined that for each year of the first five years the proposed amendments are in effect, there will be no public benefit anticipated as a result of enforcing these amendments. There are no additional costs of compliance for small or large businesses or individuals that are required to comply with these proposed amendments.

Comments regarding these proposed amendments may be submitted, in writing, within 30 days following the publication of this notice in the *Texas Register* to Gary L. Warren, Sr., Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768-2286 or e-mailed to info@tcfp.state.tx.us. Comments will be reviewed and discussed at a future Commission meeting.

The amendments are proposed under Texas Government Code, §419.032, which provides the Commission with the authority to establish qualification criteria for fire protection personnel.

No other codes, articles, or statutes are affected by this proposal.

##### §421.1. *Procedures for Meetings.*

(a) Time and place [~~places~~]. The Fire Fighter Advisory Committee and the Curriculum and Testing Committee shall meet at such time [~~times~~] and place [~~places~~] in the State of Texas as they deem proper. The Fire Fighter Advisory Committee shall meet at least twice each calendar year.

(b) Meeting called. Meetings shall be called by the chairman, by the Commission [~~commission~~], or upon the written request of five members.

(c) - (e) (No change.)

(f) Responsibility. The Fire Fighter Advisory Committee shall review commission rules relating to fire protection personnel and fire departments and recommend changes in the rules to the Commission [~~commission~~].

(g) Effective Date. Rules shall become effective no sooner than 20 days after filing with the Texas Register for final adoption. The committee or Commission [~~commission~~] may recommend a later effective date.

(h) Removal. It is a ground for removal from an advisory committee appointed by the Commission [~~commission~~] if a member is absent from more than half of the regularly scheduled committee meetings that the member is eligible to attend during a calendar year unless the absence is excused by a majority vote of the committee.

##### §421.3. *Minimum Standards Set by the Commission.*

(a) (No change.)

(b) Functional position descriptions.

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

(4) Fire inspection personnel. The following general position description for fire inspection personnel serves as a guide for anyone interested in understanding the qualifications, competencies, and tasks required of the fire inspector operating in the State of Texas. It is ultimately the responsibility of an employer to define specific job descriptions within each jurisdiction.

(A) Qualifications. Successfully complete a Commission-approved [~~Commission approved~~] course; achieve a passing score on certification examinations; must be at least 18 years of age; generally, the knowledge and skills required to show the need for a high school education or equivalent; ability to communicate verbally, via telephone and radio equipment; ability to lift, carry, and balance weight equivalent to the weight of common tools and equipment necessary for conducting an inspection; ability to interpret written and oral instructions; ability to work effectively with the public; ability to work effectively in an environment with potentially loud noises; ability to function through an entire work shift; ability to calculate area, weight and volume ratios; ability to read and understand English language manuals, including chemical, construction and technical terms, building plans and road maps; ability to accurately discern street signs and address numbers; ability to document, in writing, all relevant information in a prescribed format in light of legal ramifications of such; ability to converse in English with coworkers and other personnel. Demonstrate knowledge of characteristics and behavior of fire, and fire prevention principles. Good manual dexterity with the ability to perform all tasks related to the inspection of structures and property; ability to bend, stoop, and crawl on uneven surfaces; ability to climb ladders; ability to withstand varied environmental conditions, such as extreme heat, cold, and moisture; and the ability to work in low light, confined spaces, elevated heights, and other dangerous environments.

(B) (No change.)

(5) Fire Investigator personnel. The following general position description for fire investigator personnel serves as a guide for anyone interested in understanding the qualifications, competencies, and tasks required of the fire investigator operating in the State of Texas. It is ultimately the responsibility of an employer to define specific job descriptions within each jurisdiction.

(A) Qualifications. Successfully complete a Commission-approved [~~Commission approved~~] course; achieve a passing score on certification examinations; be at least 18 years of age; generally, the knowledge and skills required to show the need for a high school education or equivalent; ability to communicate verbally, via telephone and radio equipment; ability to lift, carry, and balance weight equivalent to weight of common tools and equipment necessary for conducting an investigation; ability to interpret written and oral instructions; ability to work effectively with the public; ability to work effectively in a hazardous environment; ability to function through an entire work shift; ability to calculate area, weight and volume ratios; ability to read and understand English language manuals including chemical, legal and technical terms, building plans and road maps; ability to accurately discern street signs and address numbers; ability to document, in writing, all relevant information in a prescribed format in light of legal ramifications of such; ability to converse in English with coworkers and other personnel. Good manual dexterity with the ability to perform all tasks related to fire investigation; ability to bend, stoop, and walk on uneven surfaces; ability to climb ladders; ability to withstand varied environmental conditions such as extreme heat, cold and moisture; and the ability to work in low light, confined spaces, elevated heights, and other potentially dangerous environments.

(B) (No change.)

(6) Hazardous Materials Technician personnel. The following general position description for hazardous materials personnel serves as a guide for anyone interested in understanding the qualifications, competencies, and tasks required of the hazardous materials technician operating in the State of Texas. It is ultimately the responsibility of an employer to define specific job descriptions within each jurisdiction.

(A) Qualifications. In addition to the qualifications for basic structural fire protection personnel: successfully complete a Commission-approved course; achieving a passing score on the certification examination; the ability to analyze a hazardous materials incident, plan a response, implement the planned response, evaluate the progress of the planned response, and terminate the incident.

(B) (No change.)

(7) (No change.)

(8) Fire Officer I personnel. The following general position description for Fire Officer I personnel serves as a guide for anyone interested in understanding the qualifications, competencies, and tasks required of the Fire Officer I operating in the State of Texas. It is ultimately the responsibility of an employer to define specific job descriptions within each jurisdiction.

(A) Qualifications. In addition to the qualifications for basic structural fire protection and Fire Instructor I personnel: the ability to supervise personnel, and assign tasks at emergency operations; the ability to direct personnel during training activities; the ability to recommend action for member-related problems; the ability to coordinate assigned tasks and projects, and deal with inquiries and concerns from members of the community; the ability to implement policies; the ability to perform routine administrative functions, perform preliminary fire investigation, secure an incident scene and preserve evidence; the ability to develop pre-incident plans, supervise [supervisory] emergency operations, and develop and implement action plans; the ability to deploy assigned resources to ensure a safe work environment for personnel, conduct initial accident investigation, and document an incident.

(B) (No change.)

(9) Fire Officer II personnel. The following general position description for Fire Officer II personnel serves as a guide for anyone interested in understanding the qualifications, competencies, and tasks required of the Fire Officer II operating in the State of Texas. It is ultimately the responsibility of an employer to define specific job descriptions within each jurisdiction.

(A) Qualifications. In addition to the qualifications for Fire Officer I and Fire Instructor I personnel: the ability to motivate members for maximum job performance; the ability to evaluate job performance; the ability to deliver life safety and fire prevention education programs; the ability to prepare budget requests, news releases, and policy changes; the ability to conduct pre-incident planning, fire inspections, and fire investigations; the ability to supervise multi-unit emergency operations, identify unsafe work environments or behaviors, review injury, accident, and exposure reports.

(B) (No change.)

(10) Fire Service Instructor I personnel. The following general position description for Fire Service Instructor I personnel serves as a guide for anyone interested in understanding the qualifications, competencies, and tasks required of the Fire Service Instructor I operating in the State of Texas. It is ultimately the responsibility of an employer to define specific job descriptions within each jurisdiction.

(A) Qualifications. In addition to successfully completing a Commission-approved [~~Commission approved~~] course and achieving a passing score on the certification examination: must have the ability to deliver instructions [instruction] effectively from a prepared lesson plan; the ability to use [of] instructional aids and evaluation instruments; the ability to adapt lesson [lessons] plans to the unique requirements of both student [students] and the jurisdictional authority [having jurisdiction]; the ability to organize the learning environment to its maximum potential [so that learning is maximized]; the ability to [and] meet the record-keeping requirements of the jurisdictional authority [having jurisdiction].

(B) (No change.)

(11) Fire Service Instructor II personnel. The following general position description for Fire Service Instructor II personnel serves as a guide for anyone interested in understanding the qualifications, competencies, and tasks required of the Fire Service Instructor II operating in the State of Texas. It is ultimately the responsibility of an employer to define specific job descriptions within each jurisdiction.

(A) Qualifications. In addition to successfully completing a Commission-approved [~~Commission approved~~] course, achieving a passing score on the certification examination, and meeting the qualifications for Fire Service Instructor I: the ability to develop individual lesson plans for a specific topic, including learning objectives, instructional aids, and evaluation instruments; the ability to schedule training sessions based on the overall training plan of the jurisdictional authority [having jurisdiction]; the ability to [and] supervise and coordinate the activities of other instructors.

(B) (No change.)

(12) Fire Service Instructor III personnel. The following general position description for Fire Service Instructor III personnel serves as a guide for anyone interested in understanding the qualifications, competencies, and tasks required of the Fire Service Instructor III operating in the State of Texas. It is ultimately the responsibility of an employer to define specific job descriptions within each jurisdiction.

(A) Qualifications. In addition to successfully completing a Commission-approved [~~Commission approved~~] course, achieving a passing score on the certification examination, and meeting the



qualifications for Fire Service Instructor II: the ability to develop comprehensive training curricula and programs for use by single or multiple organizations; the ability to conduct organizational needs analysis; and the ability to develop training goals and implementation strategies.

(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 July 3, 2007.

TRD-200702843

Gary L. Warren, Sr.

Executive Director

Texas Commission on Fire Protection

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For further information, please call: (512) 936-3838



## CHAPTER 423. FIRE SUPPRESSION

The Texas Commission on Fire Protection (the Commission) proposes amendments to §423.3, concerning Minimum Standards for Basic Structure Fire Protection Personnel Certification; §423.5, concerning Minimum Standards for Intermediate Structure Fire Protection Personnel Certification; §423.201, concerning Minimum Standards for Aircraft Rescue Fire Fighting Personnel; §423.203, concerning Minimum Standards for Basic Aircraft Rescue Fire Fighting Personnel Certification; §423.209, concerning Minimum Standards for Master Aircraft Rescue Fire Fighting Personnel Certification; §423.301, concerning Minimum Standards for Marine Fire Protection Personnel; §423.303, concerning Minimum Standards for Basic Marine Fire Protection Personnel Certification; §423.305, concerning Minimum Standards for Intermediate Marine Fire Protection Personnel Certification; §423.309, concerning Minimum Standards for Master Marine Fire Protection Personnel Certification. The purpose of the proposed amendments is to update, make grammatical changes and correct any discrepancies in the rules, capitalize the "c" in the word "commission" when referring to the Texas Commission on Fire Protection.

Jake Soteriou, Director of the Fire Service Standards and Certification Division, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal impact on state or local governments.

Jake Soteriou has also determined that for each year of the first five years the proposed amendments are in effect, there will be no public benefit anticipated as a result of enforcing the amendments. There are no additional costs of compliance for small or large businesses or individuals that are required to comply with these proposed amendments.

Comments regarding these proposed amendments may be submitted, in writing, within 30 days following the publication of this notice in the *Texas Register* to Gary L. Warren, Sr., Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768-2286 or e-mailed to [info@tcfp.state.tx.us](mailto:info@tcfp.state.tx.us). Comments will be reviewed and discussed at a future Commission meeting.

## SUBCHAPTER A. MINIMUM STANDARDS FOR STRUCTURE FIRE PROTECTION PERSONNEL CERTIFICATION

### 37 TAC §423.3, §423.5

The amendments are proposed under Texas Government Code, §419.008, which provides the Commission with the authority to propose rules for the administration of its powers and duties.

No other codes, articles, or statutes are affected by this proposal.

*§423.3. Minimum Standards for Basic Structure Fire Protection Personnel Certification.*

(a) In order to become certified as basic structure fire protection personnel, an individual must:

(1) possess valid documentation of accreditation from the International Fire Service Accreditation Congress as a Fire Fighter I, Fire Fighter II, First Responder Awareness, and First Responder Operations, and meet the medical requirements outlined in §423.1(b) of this title; or

(2) complete a Commission-approved [~~commission approved~~] basic structure fire suppression program, meet the medical requirements outlined in §423.1(b), and successfully pass the Commission's [~~commission~~] examination(s) as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved basic structure fire suppression program shall consist of one or any combination of the following:

(A) completion of a Commission-approved [~~commission approved~~] Basic Fire Suppression Curriculum, as specified in Chapter 1 of the Commission's [~~commission's~~] Certification Curriculum Manual; or

(B) completion of the five phase levels of the approved Basic Fire Suppression Curriculum, as specified in Chapter 1 of the Commission's [~~commission's~~] Certification Curriculum Manual; or

(C) completion of an out-of-state, and/or military training program deemed equivalent to the Commission-approved [~~commission approved~~] basic fire suppression curriculum; or

~~(D) completion of a military training program deemed equivalent to a commission-approved basic fire suppression curriculum; or~~

~~(D)~~ [(E)] documentation of the receipt of an advanced certificate or training records from the State Firemen's and Fire Marshals' Association of Texas, that is deemed equivalent to a Commission-approved [~~commission approved~~] basic fire suppression curriculum.

(b) A basic fire suppression program may be submitted to the Commission [~~commission~~] for approval by another jurisdiction as required in Texas Government Code, §419.032(d), Appointment of Fire Protection Personnel. These programs include out-of-state and military programs and shall be deemed equivalent by the Commission [~~commission~~] if the subjects taught, subject content, and total hours of training meet or exceed those contained in Chapter 1 of the Commission's [~~commission's~~] Certification Curriculum Manual.

*§423.5. Minimum Standards for Intermediate Structure Fire Protection Personnel Certification.*

(a) Applicants for Intermediate Structure Fire Protection Personnel Certification must complete the following requirements:

(1) hold, as a prerequisite, a Basic Structure Fire Protection Personnel Certification as defined in §423.3 of this title (relating to

Minimum Standards for Basic Structure Fire Protection Personnel Certification); and

(2) acquire a minimum of four years of fire protection experience and complete the training listed in one of the following options:

(A) Option 1--Successfully complete six semester hours of fire science or fire technology from an approved Fire Protection Degree Program and submit documentation as required by the Commission [~~eommission~~] that the courses comply with subsections (b) and (c) of this section; or

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

(b) Non-traditional credit awarded at the college level, such as credit for experience or credit by examination obtained from attending any school in the Commission's [~~eommission's~~] Certification Curriculum Manual or for experience in [~~the~~] fire service, may not be counted toward this level of 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.

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Gary L. Warren, Sr.

Executive Director

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For further information, please call: (512) 936-3838



## SUBCHAPTER B. MINIMUM STANDARDS FOR AIRCRAFT RESCUE FIRE FIGHTING PERSONNEL

### 37 TAC §§423.201, 423.203, 423.209

The amendments are proposed under Texas Government Code, §419.008, which provides the Commission with the authority to propose rules for the administration of its powers and duties.

No other codes, articles, or statutes are affected by this proposal.

§423.201. *Minimum Standards for Aircraft Rescue Fire Fighting Personnel.*

(a) (No change.)

(b) Personnel appointed as aircraft rescue fire fighting personnel must be certified to at least the basic level by the Commission [~~eommission~~] within one year from their employment in an aircraft rescue fire fighting personnel position.

(c) Prior to being appointed to aircraft rescue fire suppression duties, all personnel must:

(1) successfully complete a Commission-approved [~~eommission approved~~] basic fire suppression course and pass the Commission's [~~eommission's~~] examination pertaining to that curriculum; and

(2) successfully complete a Commission-approved [~~eommission approved~~] basic aircraft rescue fire protection course and pass the Commission's [~~eommission's~~] examination pertaining to that curriculum.

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

(f) Personnel holding any level of aircraft rescue fire fighting personnel certification shall be required to comply with the continuing education specified in §441.9 of this title (relating to Continuing Education [~~Requirements~~] for Aircraft Rescue Fire Fighting Personnel).

(g) (No change.)

§423.203. *Minimum Standards for Basic Aircraft Rescue Fire Fighting Personnel Certification.*

(a) In order to obtain basic aircraft rescue fire fighting personnel certification the individual must:

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

(3) complete a Commission-approved [~~eommission approved~~] aircraft rescue fire suppression training program and successfully pass the Commission [~~eommission~~] examination as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved aircraft rescue fire suppression training program shall consist of one of the following:

(A) a Commission-approved [~~eommission approved~~] Basic Aircraft Rescue Fire Suppression curriculum as specified in Chapter 2 of the Commission's [~~eommission's~~] Certification Curriculum Manual. [~~This course must be taught by a training facility that has been certified by the commission as provided in Chapter 427 of this title (relating to Training Facility Certification)]; or~~

(B) an out-of-state, and/or military training program that has been submitted to the Commission [~~eommission~~] for evaluation and found to be equivalent to or to exceed the Commission-approved [~~eommission approved~~] basic aircraft rescue fire suppression curriculum. [~~;~~ ~~øf~~]

[(C) a military training program that has been submitted to the commission for evaluation and found to be equivalent to or to exceed the commission approved basic aircraft rescue fire suppression curriculum;]

(b) A person who holds, or is eligible to hold, a certificate upon employment as a part-time aircraft rescue firefighter, may be certified as an aircraft rescue fire fighting personnel, of the same level of certification, without meeting the applicable examination requirements.

(c) If a person holds a current certification as a part-time aircraft rescue firefighter, the Texas Department of State Health Services emergency care attendant certification may be satisfied by documentation of equivalent training or certification in lieu of current certification by the Texas Department of State Health Services.

§423.209. *Minimum Standards for Master Aircraft Rescue Fire Fighting Personnel Certification.*

(a) Applicants for Master Aircraft Rescue Fire Fighting Personnel Certification must complete the following requirements:

(1) hold, as a prerequisite, an Advanced Aircraft Rescue Fire Fighting Personnel Certification as defined in §423.207 of this title (relating to Minimum Standards for Advanced Aircraft Rescue Fire Fighting Personnel Certification); and

(2) acquire a minimum of twelve years of fire protection experience, [~~and~~] 60 college semester hours, or an associate's [~~associate~~] degree, which includes at least 18 college semester hours in fire science subjects.

(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.

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Gary L. Warren, Sr.

Executive Director

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For further information, please call: (512) 936-3838



## SUBCHAPTER C. MINIMUM STANDARDS FOR MARINE FIRE PROTECTION PERSONNEL

### 37 TAC §§423.301, 423.303, 423.305, 423.309

The amendments are proposed under Texas Government Code, §419.008, which provides the Commission with the authority to propose rules for the administration of its powers and duties.

No other codes, articles, or statutes are affected by this proposal.

*§423.301. Minimum Standards for Marine Fire Protection Personnel.*

(a) (No change.)

(b) Fire protection personnel of any local government entity, who are appointed marine fire protection duties, must be certified by the Commission [eommission] within one year from the date of their appointment in a marine fire protection personnel position.

(c) Prior to being appointed to marine fire suppression duties, all personnel must:

(1) successfully complete a Commission-approved [eommission-approved] basic fire suppression course and pass the Commission's [eommission's] examination pertaining to that curriculum; and

(2) successfully complete a Commission-approved [eommission approved] basic marine fire suppression course and pass the Commission's [eommission's] examination pertaining to that curriculum.

(d) Personnel holding any level of Marine Fire Protection Personnel certification shall be required to comply with the continuing education specified in §441.11 of this title (relating to Continuing Education [Requirements] for Marine Fire Protection Personnel).

*§423.303. Minimum Standards for Basic Marine Fire Protection Personnel Certification.*

(a) In order to obtain basic Marine Fire Protection Personnel certification, the individual must:

(1) (No change.)

(2) complete a training program specific to marine fire protection consisting of one of the following:

(A) complete the Commission-approved [eommission approved] Basic Marine Fire Protection Curriculum as specified in Chapter 3, of the Commission's [eommission's] Certification Curriculum Manual[- as approved by the commission in accordance with Chapter 443 of this title (relating to Certification Curriculum Manual): The commission approved marine fire protection curriculum must be taught by a training facility that has been certified by the commission as provided in Chapter 427 of this title (relating to Training Facility Certification)]; or

(B) an out-of-state, and/or military training program that has been submitted to the Commission [eommission] for evaluation

and found to be equivalent to or exceed the Commission-approved [eommission approved] Basic Marine Fire Protection Curriculum; or

~~[(C) a military training program that has been submitted to the commission for evaluation and found to be equivalent to the commission approved Basic Marine Fire Protection Curriculum.]~~

(3) successfully pass the Commission [eommission] examination as specified in Chapter 439 of this title (relating to Examinations for Certification) prior to assignment.

(b) (No change.)

(c) If a person holds a current certification as a part-time marine fire protection personnel, the Texas Department of State Health Services emergency care attendant certification may be satisfied by documentation of equivalent training or certification in lieu of current certification by the Texas Department of State Health Services.

*§423.305. Minimum Standards for Intermediate Marine Fire Protection Personnel Certification.*

(a) Applicants for Intermediate Marine Fire Protection Personnel Certification must complete the following requirements:

(1) hold, as a prerequisite, a Basic Marine Fire Protection Personnel Certification as defined in §423.303 of this title (relating to Minimum Standards for Basic Marine Fire Protection Personnel Certification); and

(2) acquire a minimum of four years of fire protection experience and complete the training listed in one of the following options:

(A) Option 1--Successfully complete six semester hours of fire science or fire technology from an approved Fire Protection Degree Program and submit documentation as required by the Commission [eommission] that the courses comply with subsections (b) and (c) of this section; or

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

(b) Non-traditional credit awarded at the college level, such as credit for experience or credit by examination obtained from attending any school in the Commission's [eommission's] Certification Curriculum Manual or for experience in [the] fire service, may not be counted towards this level of certification.

(c) The training required in this section must be in addition to any training used to qualify for any lower level of Marine Fire Protection Personnel Certification. Repeating a course, or a course of similar content, cannot be used towards this level of certification.

*§423.309. Minimum Standards for Master Marine Fire Protection Personnel Certification.*

(a) Applicants for Master Marine Fire Protection Personnel Certification must complete the following requirements:

(1) hold, as a prerequisite, an Advanced Marine Fire Protection Personnel Certification as defined in §423.307 of this title (relating to Minimum Standards for Advanced Marine Fire Protection Personnel Certification); and

(2) acquire a minimum of twelve years of fire protection experience, [and] 60 college semester hours, or an associate's [associate] degree, which includes at least 18 college semester hours in fire science subjects.

(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.

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Gary L. Warren, Sr.

Executive Director

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## CHAPTER 425. FIRE SERVICE INSTRUCTORS

### 37 TAC §425.7, §425.11

The Texas Commission on Fire Protection (the Commission) proposes amendments to §425.7, concerning Minimum Standards for Fire Service Instructor III Certification; and §425.11, concerning International Fire Service Accreditation Congress Seal. The purpose of the proposed amendments is to remove expired language; make grammatical changes; correct any discrepancies in the rules, and capitalize the letter "c" in the word "commission" when referring to the Texas Commission on Fire Protection.

Jake Soteriou, Director of the Fire Service Standards and Certification Division, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal impact on state or local governments.

Jake Soteriou has also determined that for each year of the first five years the proposed amendments are in effect, there will be no public benefit anticipated as a result of enforcing the amendments. There are no additional costs of compliance for small or large businesses or individuals that are required to comply with these proposed amendments.

Comments regarding these proposed amendments may be submitted, in writing, within 30 days following the publication of this notice in the *Texas Register* to Gary L. Warren, Sr., Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768-2286 or e-mailed to info@tcfp.state.tx.us. Comments will be reviewed and discussed at a future Commission meeting.

The amendments are proposed under Texas Government Code, §419.033, which provides the Commission with the authority to certify persons at certain levels of certification prescribed by the Commission.

No other articles, codes, or statutes are affected by this proposal.

*§425.7. Minimum Standards for Fire Service Instructor III Certification.*

(a) In order to become certified as a Fire Service Instructor III an individual must:

(1) (No change.)

(2) have a minimum of three years of experience (as defined in §421.5(43) of this title) in fire protection in one or more or any combination of the following:

(A) (No change.)

(B) a department of a state agency, education institution or political subdivision providing fire protection training and related responsibilities; and

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

(iii) successfully pass the applicable Commission examination as specified in Chapter 439 of this title; and either

(I) - (II) (No change.)

(III) hold an associate's [associate] degree from a regionally accredited educational institution.

(b) (No change.)

*§425.11. International Fire Service Accreditation Congress Seal.*

(a) Individuals [who hold basic fire service instructor or basic fire education specialist certification prior to the effective date of this chapter or individuals] completing a Commission-approved [eommission-approved] Fire Service Instructor I training program and passing the applicable state examination after the effective date of this chapter, may be granted an IFSAC seal for Instructor I by making application to the Commission [eommission] and paying the applicable fee.

(b) Individuals [who hold intermediate fire service instructor, intermediate fire education specialist, or associate instructor certification prior to the effective date of this chapter or individuals] holding an IFSAC Instructor I certification, completing a Commission-approved [eommission-approved] Fire Service Instructor II training program, and passing the applicable state examination after the effective date of this chapter, may be granted an IFSAC seal for Instructor II by making application to the Commission [eommission] and paying the applicable fee.

(c) Individuals [who hold advanced or master fire service instructor or advanced or master fire education specialist certification prior to the effective date of this chapter or individuals] holding an IFSAC Instructor II certification, completing a Commission-approved [eommission-approved] Fire Service Instructor III training program, and passing the applicable state examination after the effective date of this chapter, may be granted an IFSAC seal for Instructor III by making application to the Commission [eommission] and paying the applicable fee.

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

Filed with the Office of the Secretary of State on July 3, 2007.

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Gary L. Warren, Sr.

Executive Director

Texas Commission on Fire Protection

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For further information, please call: (512) 936-3838



## CHAPTER 427. TRAINING FACILITY

### CERTIFICATION

#### SUBCHAPTER A. ON-SITE CERTIFIED

#### TRAINING PROVIDER

### 37 TAC §427.15

*(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 Commission on Fire Protection or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Texas Commission on Fire Protection (Commission) proposes to repeal, Chapter 427, Training Facility Certification, Subchapter A, On-Site Certified Training Provider, consisting of the following section: §427.15. Testing Procedures. The purpose

of the proposed repeal is to remove outdated testing procedures for on-site training providers.

Jake Soteriou, Director of the Fire Service Standards and Certification Division, has determined that for the first five-year period the proposed repeal is in effect there will be no fiscal impact on state and local governments.

Jake Soteriou has also 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 to remove outdated testing procedures for on-site training providers. There will be no additional costs of compliance for small or large businesses or individuals that are required to comply with the proposed repeal.

Comments regarding this proposed repeal may be submitted in writing within 30 days following the publication of this notice in the *Texas Register* to Gary L. Warren, Sr., Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768-2286 or by email at [info@tcfp.state.tx.us](mailto:info@tcfp.state.tx.us). Comments will be reviewed and discussed at a future Commission meeting.

This repeal is proposed under Texas Government Code, §419.28, which provides the Commission the authority to set Commission standards for training programs and instructors.

Cross reference: There are no statutes, articles or codes affected by this section.

*§427.15. Testing Procedures.*

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

Filed with the Office of the Secretary of State on July 6, 2007.

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Gary L. Warren, Sr.

Executive Director

Texas Commission on Fire Protection

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**37 TAC §427.18, §427.19**

The Texas Commission on Fire Protection (the Commission) proposes amendments to Subchapter A, On-Site Certified Training Provider; consisting of the following sections; §427.18, Live Fire Training Evolutions and §427.19, General Information. The purpose of the proposed amendments is to correct grammatical and punctuation errors, and to capitalize the letter "c" when referring to the Texas Commission on Fire Protection.

Jake Soteriou, Director of the Fire Service Standards and Certification Division, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal impact on state or local governments.

Jake Soteriou has also determined that for each year of the first five years the proposed amendments are in effect, there will be no public benefit anticipated as a result of enforcing the amendments. There are no additional costs of compliance for small or large businesses or individuals that are required to comply with these proposed amendments.

Comments regarding these proposed amendments may be submitted, in writing, within 30 days following the publication of this

notice in the *Texas Register* to Gary L. Warren, Sr., Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768-2286 or e-mailed to [info@tcfp.state.tx.us](mailto:info@tcfp.state.tx.us). Comments will be reviewed and discussed at a future Commission meeting.

These amendments are proposed under Texas Government Code, §419.28, which provides the Commission with the authority to set Commission standards for training programs and instructors.

Cross reference to statute: Texas Government Code, §419.042.

*§427.18. Live Fire Training Evolutions.*

The most current edition of NFPA 1403, Standard on Live Fire Training Evolutions, shall be used as a guide when developing standard operating procedures for conducting live fire training. The following requirements shall apply for all live fire training evolutions conducted during basic certification training of fire protection personnel.

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

(9) A standard operating procedure shall be developed and utilized for live fire training evolutions. The standard operating procedure shall include, but not be limited to:

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

*§427.19. General Information.*

(a) All Texas certified training facilities shall meet these minimum requirements. No training credit will be recognized from a Texas training facility that has not been certified by the Commission [~~commission~~], unless the program has been approved by the Commission [~~commission~~] as being equivalent. The Commission [~~commission~~] shall take action on an application for certification of a training facility within 30 days from receipt.

(b) Certified training facilities shall conduct all training in a controlled and safe manner so that trainees are not subjected to unnecessary risks. Texas Government Code, §419.032(c) provides that fire protection personnel must complete a Commission-approved [~~commission approved~~] training course in fire suppression before being assigned to fire suppression duties. In addition, certified training facilities, whether operated by a fire department or other governmental or private training facility, shall not put trainees at risk by requiring or allowing a trainee to perform the duties of fire protection personnel at actual uncontrolled emergency situations such as, but not limited to, structure fires, aircraft fires, wildland fires, hazardous materials incidents or dangerous rescue situations.

(c) A certified training facility may transport trainees to the site of an actual emergency for training purposes only if the following requirements are strictly adhered to:

(1) the [~~The~~] trainees are kept in a group under the direct supervision of qualified instructors to maintain accountability and ensure their safety;

(2) the [~~The~~] trainees are kept outside of the emergency operations area; and

(3) the [~~The~~] trainees' activities are restricted to observation only and trainees are not allowed to participate in emergency operations.

(d) Certified training facilities are subject to inspection by the Commission [~~commission~~] at any time during regular business hours.

(e) In order to retain the certification as a certified training facility, schools desiring to make substantial changes in the facility or

other conditions under which the school was approved shall coordinate such plans with the Commission [~~eommission~~].

(f) The Commission [~~eommission~~] shall be notified, in writing, within 14 days of any change from the original status under which the certification was issued.

(g) The Commission [~~eommission~~] may revoke, suspend, and/or probate the certification of a training facility when the Commission [~~eommission~~] determines that the training facility:

(1) fails [~~Fails~~] to provide the quality of training for which the facility was approved; or

(2) fails [~~Fails~~] to comply with Commission [~~eommission~~] rules and/or these minimum standards; or

(3) fails [~~Fails~~] to submit required reports in a timely manner or submits false reports to the Commission [~~eommission~~]; or

(4) fails [~~Fails~~] to meet at least a 70-percent [~~70 percent~~] student pass rate on the state certification examination per course.

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

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

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Gary L. Warren, Sr.

Executive Director

Texas Commission on Fire Protection

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For further information, please call: (512) 936-3838



## SUBCHAPTER B. DISTANCE TRAINING PROVIDER

### 37 TAC §427.205

*(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 Commission on Fire Protection or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Texas Commission on Fire Protection (Commission) proposes to repeal, Chapter 427, Training Facility Certification, Subchapter B, Distance Training Provider, consisting of the following section: §427.205, Testing Procedures. The purpose of the proposed repeal is to remove outdated testing procedures for distance training providers.

Jake Soteriou, Director of the Fire Service Standards and Certification Division, has determined that for the first five-year period the proposed repeal is in effect there will be no fiscal impact on state and local governments.

Jake Soteriou has also 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 to remove outdated testing procedures for distance training providers. There will be no additional costs of compliance for small or large businesses or individuals that are required to comply with the proposed repeal.

Comments regarding this proposed repeal may be submitted in writing within 30 days following the publication of this notice in the *Texas Register* to Gary L. Warren, Sr., Executive Director, Texas

Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768-2286 or by email at info@tcfp.state.tx.us. Comments will be reviewed and discussed at a future Commission meeting.

This repeal is proposed under Texas Government Code, §419.28, which provides the Commission the authority to set Commission standards for training programs and instructors.

There are no statutes, articles or codes affected by this section.

### §427.205. Testing Procedures.

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

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Gary L. Warren, Sr.

Executive Director

Texas Commission on Fire Protection

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### 37 TAC §427.209

The Texas Commission on Fire Protection (the Commission) proposes amendments to Subchapter B, Distance Training Provider; §427.209, General Information. The purpose of the proposed amendments is to correct grammatical and punctuation errors and to capitalize the letter "c" when referring to the Texas Commission on Fire Protection.

Jake Soteriou, Director of the Fire Service Standards and Certification Division, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal impact on state or local governments.

Jake Soteriou has also determined that for each year of the first five years the proposed amendments are in effect, there will be no public benefit anticipated as a result of enforcing the amendments. There are no additional costs of compliance for small or large businesses or individuals that are required to comply with these proposed amendments.

Comments regarding these proposed amendments may be submitted, in writing, within 30 days following the publication of this notice in the *Texas Register* to Gary L. Warren, Sr., Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768-2286 or e-mailed to info@tcfp.state.tx.us. Comments will be reviewed and discussed at a future Commission meeting.

These amendments are proposed under Texas Government Code, §419.28, which provides the Commission with the authority to set Commission standards for training programs and instructors.

Cross reference to statute: Texas Government Code, §419.042.

### §427.209. General Information.

(a) All distance training providers shall meet these minimum requirements. No training credit will be recognized from a distance training provider that has not been certified by the Commission [~~eommission~~]. The Commission [~~eommission~~] shall take action on an application for certification of a distance training provider/training [~~provider training~~] facility provider within 30 days from receipt.

(b) Distance training providers conducting on-site programs shall ensure that all training is conducted in a controlled and safe manner so that trainees are not subjected to unnecessary risks. In addition, certified training facilities shall not put trainees at risk by requiring or allowing a trainee to perform the duties of fire protection personnel at actual uncontrolled emergency situations such as, but not limited to, structure fires, aircraft fires, wildland fires, hazardous materials incidents or dangerous rescue situations.

(c) A distance training provider may transport trainees to the site of an actual emergency for training purposes, only if the following requirements are strictly adhered to:

(1) ~~the~~ ~~[The]~~ trainees are kept in a group under the direct supervision of qualified instructors to maintain accountability and ensure their safety;

(2) ~~the~~ ~~[The]~~ trainees are kept outside of the emergency operations area: and

(3) ~~the~~ ~~[The]~~ trainees' activities are restricted to observation only and trainees are not allowed to participate in emergency operations.

(d) Distance training providers are subject to inspection by the Commission ~~[eommission]~~ at any time during regular business hours. Distance training providers shall provide the Commission ~~[eommission]~~ with access to the training facility to monitor the course in progress.

(e) The Commission ~~[eommission]~~ shall be notified, in writing, within 14 days of any change from the original status under which the certification was issued.

(f) The Commission ~~[eommission]~~ may revoke, suspend, and/or probate the certification of training when the Commission ~~[eommission]~~ determines that the distance training provider:

(1) fails ~~[Fails]~~ to provide the quality of training and education for which the provider was approved; or

(2) fails ~~[Fails]~~ to comply with Commission ~~[eommission]~~ rules and/or these minimum standards; or

(3) fails ~~[Fails]~~ to submit required reports in a timely manner or submits false reports to the Commission ~~[eommission]~~; or

(4) per course, fails ~~[Fails]~~ to meet at least a 70-percent ~~[70 percent]~~ student pass rate on the state certification examination ~~[per course]~~.

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

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

TRD-200702902

Gary L. Warren, Sr.

Executive Director

Texas Commission on Fire Protection

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For further information, please call: (512) 936-3838



## CHAPTER 429. MINIMUM STANDARDS FOR FIRE INSPECTORS

## SUBCHAPTER A. MINIMUM STANDARDS FOR FIRE INSPECTOR CERTIFICATION BASED ON REQUIREMENTS IN EFFECT PRIOR TO JANUARY 1, 2005

### 37 TAC §429.1

The Texas Commission on Fire Protection (the Commission) proposes an amendment to Subchapter A, Minimum Standards for Fire Inspector Certification Based on Requirements in Effect Prior to January 1, 2005, consisting of the following section: §429.1, Minimum Standards for Fire Inspection Personnel. The purpose of the proposed amendment is to remove outdated information.

Jake Soteriou, Director of the Fire Service Standards and Certification Division, has determined that for the first five-year period the proposed amendment is in effect there will be no fiscal impact on state or local governments.

Jake Soteriou has also determined that for each year of the first five years the proposed amendment is in effect, there will be no public benefit anticipated as a result of enforcing the amendment. There are no additional costs of compliance for small or large businesses or individuals that are required to comply with this proposed amendment.

Comments regarding this proposed amendment may be submitted, in writing, within 30 days following the publication of this notice in the *Texas Register* to Gary L. Warren, Sr., Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768-2286 or e-mailed to info@tcfp.state.tx.us. Comments will be reviewed and discussed at a future Commission meeting.

This amendment is proposed under Texas Government Code, §419.029, which provides the Commission the authority to establish minimum requirements for advanced courses and programs for fire protection personnel.

Cross reference: There are no statutes, articles or codes affected by this section.

#### §429.1. Minimum Standards for Fire Inspection Personnel.

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

(d) Individuals holding any level of fire inspector certification shall be required to comply with the continuing education requirements of §441.13 of this title (relating to Continuing Education ~~[Requirements]~~ for Fire Inspection Personnel).

(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 July 6, 2007.

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Gary L. Warren, Sr.

Executive Director

Texas Commission on Fire Protection

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For further information, please call: (512) 936-3838



## SUBCHAPTER B. MINIMUM STANDARDS FOR FIRE INSPECTOR CERTIFICATION

### 37 TAC §429.201, §429.203

The Texas Commission on Fire Protection (the Commission) proposes amendments to Subchapter B, Minimum Standards for Fire Inspector Certification, consisting of the following sections: §429.201, Minimum Standards for Fire Inspection Personnel--New Track; 429.203, Minimum Standards for Basic Fire Inspector Certification--New Track. The purpose of the proposed amendments is to remove expired or outdated information, correct grammatical and punctuation errors, and to capitalize the letter "c" when referring to the Texas Commission on Fire Protection.

Jake Soteriou, Director of the Fire Service Standards and Certification Division, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal impact on state or local governments.

Jake Soteriou has also determined that for each year of the first five years the proposed amendments are in effect, there will be no public benefit anticipated as a result of enforcing the amendments. There are no additional costs of compliance for small or large businesses or individuals that are required to comply with these proposed amendments.

Comments regarding these proposed amendments may be submitted, in writing, within 30 days following the publication of this notice in the *Texas Register* to Gary L. Warren, Sr., Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768-2286 or e-mailed to info@tcfp.state.tx.us. Comments will be reviewed and discussed at a future Commission meeting.

These amendments are proposed under Texas Government Code, §419.029, which provides the Commission the authority to establish minimum requirements for advanced courses and programs for fire protection personnel.

Cross reference: There are no statutes, articles or codes affected by these sections.

§429.201. *Minimum Standards for Fire Inspector Personnel--New Track.*

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

(c) Individuals holding any level of fire inspector certification shall be required to comply with the continuing education requirements in §441.13 of this title (relating to Continuing Education [Requirements] for Fire Inspection Personnel).

(d) (No change.)

§429.203. *Minimum Standards for Basic Fire Inspector Certification--New Track.*

(a) In order to be certified as a basic fire inspector, an individual must:

(1) (No change.)

(2) complete a Commission-approved [~~commission approved~~] Basic Fire Inspector program and successfully pass the Commission [~~commission~~] examination(s) as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved basic fire inspection training program shall consist of one or any combination of the following:

(A) completion of the Commission-approved [~~commission approved~~] Basic Fire Inspector Curriculum, as specified in Chapter

4 of the Commission's [~~commission's~~] Certification Curriculum Manual[, as approved by the commission in accordance with Chapter 443 of this title (relating to Certification Curriculum Manual)]; or

(B) successful completion of an out-of-state and/or military training program which has been submitted to the Commission [~~commission~~] for evaluation and found to meet the minimum requirements as listed in the Commission-approved [~~commission approved~~] Basic Fire Inspector Curriculum as specified in Chapter 4 of the Commission's [~~commission's~~] Certification Curriculum Manual; or

(C) (No change.)

(D) successful completion of a National Fire Academy program for fire inspection. The program must include the basic course, Fire Inspection Principles I, and two of the following courses or their successors [~~predecessor~~]:

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

[(b) National Fire Academy courses that replace a course discontinued by the National Fire Academy may be used towards requirements for certification in place of the discontinued course.]

(b) [(e)] A person who holds, or is eligible to hold, a certificate upon employment as a part-time fire inspector may be certified as a fire inspector, of the same level of certification, without meeting the applicable examination requirements.

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

Filed with the Office of the Secretary of State on July 6, 2007.

TRD-200702882

Gary L. Warren, Sr.

Executive Director

Texas Commission on Fire Protection

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For further information, please call: (512) 936-3838

## CHAPTER 433. MINIMUM STANDARDS FOR DRIVER/OPERATOR-PUMPER

### 37 TAC §433.3, §433.5

The Texas Commission on Fire Protection (the Commission) proposes amendments to §433.3, Minimum Standards for Driver/Operator-Pumper Certification; §433.5, Examination Requirements. The purpose of the proposed amendments is to move subsection (c) regarding examination, which is for certification and enter it under "Examination Requirements"; correct grammatical and punctuation errors, and to capitalize the letter "c" when referring to the Texas Commission on Fire Protection.

Jake Soteriou, Director of the Fire Service Standards and Certification Division, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal impact on state or local governments.

Jake Soteriou has also determined that for each year of the first five years the proposed amendments are in effect, there will be no public benefit anticipated as a result of enforcing the amendments. There are no additional costs of compliance for small or large businesses or individuals that are required to comply with these proposed amendments.



Comments regarding these proposed amendments may be submitted, in writing, within 30 days following the publication of this notice in the *Texas Register* to Gary L. Warren, Sr., Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768-2286 or e-mailed to info@tcfp.state.tx.us. Comments will be reviewed and discussed at a future Commission meeting.

These amendments are proposed under Texas Government Code, §419.035, which provides the Commission with the authority to propose rules for the administration of examinations for certification.

Cross reference: There are no statutes, articles or codes affected by these sections.

*§433.3. Minimum Standards for Driver/Operator-Pumper Certification.*

(a) In order to obtain Driver/Operator-Pumper certification, the individual must:

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

(3) complete a Commission-approved [~~commission-approved~~] Driver/Operator-Pumper Curriculum and successfully pass the Commission [~~commission~~] examination as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved driver/operator-pumper program must consist of one of the following:

(A) complete a Commission-approved [~~commission-approved~~] Driver/Operator-Pumper Curriculum as specified in Chapter 7 of the Commission's [~~commission's~~] Certification Curriculum Manual.

(B) complete an out-of-state training program that has been submitted to the Commission [~~commission~~] for evaluation and found to be equivalent to or exceeds [~~exceed~~] the Commission-approved [~~commission-approved~~] Driver/Operator-Pumper Curriculum.

(C) complete a military training program that has been submitted to the Commission [~~commission~~] for evaluation and found to be equivalent to or exceeds the Commission-approved [~~commission-approved~~] Driver/Operator-Pumper Curriculum.

(b) Out-of-state or military training programs, which are submitted to the Commission [~~commission~~] for the purpose of determining equivalency, will be considered equivalent if all competencies set forth in Chapter 7 (pertaining to Driver/Operator-Pumper) of the Commission's [~~commission's~~] Certification Curriculum Manual are met.

~~{(e) No individual will be permitted to take the commission examination for driver/operator-pumper unless the individual documents, as a minimum, completion of NFPA 1001 Fire Fighter I training.}~~

*§433.5. Examination Requirements.*

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

(c) No individual will be permitted to take the Commission examination for driver/operator-pumper unless the individual documents, as a minimum, the completion of the NFPA 1001 Fire Fighter I training.

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

Filed with the Office of the Secretary of State on July 6, 2007.

TRD-200702883

Gary L. Warren, Sr.  
Executive Director  
Texas Commission on Fire Protection  
Earliest possible date of adoption: August 19, 2007  
For further information, please call: (512) 936-3638



## CHAPTER 435. FIRE FIGHTER SAFETY

### 37 TAC §435.3

The Texas Commission on Fire Protection (the Commission) proposes an amendment to §435.3, Self-contained Breathing Apparatus. The purpose of the proposed amendment is to ensure the safety of the end user by making sure that all self-contained breathing apparatus is updated and meets the current standards in effect at the time the entity contracts for new, rebuilt or used, self-contained breathing apparatus per the requirements of the National Fire Protection Association's standards. The Commission filed a previous emergency amendment with a *Texas Register* issue date of June 22, 2007.

Jake Soteriou, Director of the Fire Service Standards and Certification Division, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal impact on state or local governments.

Jake Soteriou has also determined that for each year of the first five years the proposed amendments are in effect, there will be no public benefit anticipated as a result of enforcing the amendments. There are no additional costs of compliance for small or large businesses or individuals that are required to comply with these proposed amendments.

Comments regarding these proposed amendments may be submitted, in writing, within 30 days following the publication of this notice in the *Texas Register* to Gary L. Warren, Sr., Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768-2286 or e-mailed to info@tcfp.state.tx.us. Comments will be reviewed and discussed at a future Commission meeting.

This amendment is proposed under Texas Government Code, §419.01, which provides the Commission with the authority to propose rules administered regarding self-contained breathing apparatus safety for fire protection personnel.

Cross reference to statute: There are no statutes, articles or codes affected by this section.

*§435.3. Self-Contained [Self-contained] Breathing Apparatus.*

The employing entity shall:

(1) (No change.)

(2) ensure that all self-contained breathing apparatus used by fire protection personnel complies with the minimum standards of the National Fire Protection Association identified in NFPA 1981, Standard on Open-Circuit Self-contained Breathing Apparatus for Fire Fighters:

(A) the National Fire Protection Association standard applicable to a self-contained breathing apparatus is the standard in effect at the time the entity contracts for new, rebuilt, or used self-contained breathing apparatus;

(B) an entity may continue to use a self-contained breathing apparatus that meets the requirements of an earlier edition of NFPA 1981, unless the commission determines that the continued

use of the self-contained breathing apparatus constitutes an undue risk to the wearer, in which case the commission shall order that the use be discontinued and shall set an appropriate date for compliance with the revised standard;

(3) - (6) (No change.)

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

Filed with the Office of the Secretary of State on July 6, 2007.

TRD-200702884

Gary L. Warren, Sr.

Executive Director

Texas Commission on Fire Protection

Earliest possible date of adoption: August 19, 2007

For further information, please call: (512) 936-3838



### 37 TAC §435.19

The Texas Commission on Fire Protection (the Commission) proposes amendments to §435.19, Commission Enforcement of Chapter 435. The purpose of the proposed amendment is to make it known to fire departments, throughout the state of Texas, that there will be no prior notification regarding inspections; grammatical and punctuation corrections, and capitalize the letter "c" in the word "commission".

Jake Soteriou, Director of the Fire Service Standards and Certification Division, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal impact on state or local governments.

Jake Soteriou has also determined that for each year of the first five years the proposed amendments are in effect, there will be no public benefit anticipated as a result of enforcing the amendments. There are no additional costs of compliance for small or large businesses or individuals that are required to comply with these proposed amendments.

Comments regarding these proposed amendments may be submitted, in writing, within 30 days following the publication of this notice in the *Texas Register* to Gary L. Warren, Sr., Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768-2286 or e-mailed to info@tcfp.state.tx.us. Comments will be reviewed and discussed at a future Commission meeting.

This amendment is proposed under Texas Government Code, §419.008, which provides the Commission with the authority to propose rules for the administration of its powers and duties.

Cross Reference: There are no statutes, articles or codes affected by this section.

§435.19. [Commission] Enforcement of Commission Rules [Of Chapter 435].

(a) The Commission [eommission] shall enforce all Commission rules [Chapter 435] at anytime, including, but not limited to, Commission [eommission] investigations, fire department inspections, or upon receiving a written complaint from an identified person or entity of an alleged infraction of a Commission rule. [Chapter 435.]

(b) The Commission shall not provide prior notification of an inspection to a fire department.

(c) [(b)] Upon receipt of a signed [written] complaint alleging a violation of a Commission rule; [Chapter 435] the Commission [eommission] shall have 30 days to initiate an investigation and report back to the complainant its progress.

(d) [(e)] Upon substantiating the validity of a written complaint, the Commission [eommission] shall follow the procedures outlined in Government Code, Chapter 419, §419.011(b) and (c).

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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Gary L. Warren, Sr.

Executive Director

Texas Commission on Fire Protection

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For further information, please call: (512) 936-3838



## CHAPTER 437. FEES

### 37 TAC §437.13

The Texas Commission on Fire Protection (the Commission) proposes amendments to §437.13, Basic Certification Examination Fees. The purpose of the proposed amendment is for grammatical and punctuation corrections and to capitalize the letter "c" when referring to the Texas Commission on Fire Protection.

Jake Soteriou, Director of the Fire Service Standards and Certification Division, has determined that for the first five-year period the proposed amendment is in effect there will be no fiscal impact on state or local governments.

Jake Soteriou has also determined that for each year of the first five years the proposed amendment is in effect, there will be no public benefit anticipated as a result of enforcing the amendment. There are no additional costs of compliance for small or large businesses or individuals that are required to comply with this proposed amendment.

Comments regarding this proposed amendment may be submitted, in writing, within 30 days following the publication of this notice in the *Texas Register* to Gary L. Warren, Sr., Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768-2286 or e-mailed to info@tcfp.state.tx.us. Comments will be reviewed and discussed at a future Commission meeting.

This amendment is proposed under Texas Government Code, §419.026, which provides the Commission with the authority to set and collect fees for certificates.

Cross reference to statute: There are no statutes, articles or codes affected by this section.

§437.13. Basic Certification Examination Fees.

(a) A non-refundable processing fee of \$15 shall be charged for each written or performance skill examination administered by the Commission [eommission].

(b) Academy testing fees will be paid in advance with the students' application to test or be billed after the state testing has been completed. The exceptions to this rule are:

- (1) individual walk-ins; and

(2) retesting of a failed skill [~~skills retests~~] administered the same day.

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

Filed with the Office of the Secretary of State on July 6, 2007.

TRD-200702886

Gary L. Warren, Sr.

Executive Director

Texas Commission on Fire Protection

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For further information, please call: (512) 936-3838



### 37 TAC §437.19

*(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 Commission on Fire Protection or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Texas Commission on Fire Protection (Commission) proposes to repeal, Chapter 437, Fees, consisting of the following section: §437.19, Late Filing Penalty. The purpose of the proposed repeal is to eliminate any late filing fee penalties.

Jake Soteriou, Director of the Fire Service Standards and Certification Division, has determined that for the first five-year period the proposed repeal is in effect there will be no fiscal impact on state and local governments.

Jake Soteriou has also determined that for each year of the first five years the proposed repeal is in effect, there will be no additional costs of compliance for small or large businesses or individuals that are required to comply with the proposed repeal.

Comments regarding this proposed repeal may be submitted in writing within 30 days following the publication of this notice in the *Texas Register* to Gary L. Warren, Sr., Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768-2286 or by email at [info@tcfp.state.tx.us](mailto:info@tcfp.state.tx.us). Comments will be reviewed and discussed at a future Commission meeting.

This repeal is proposed under Texas Government Code, §419.026, which provides the TCFP with the authority to charge fees.

Cross reference: There are no statutes, articles or codes affected by this code.

§437.19. *Late Filing Penalty.*

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

Filed with the Office of the Secretary of State on July 6, 2007.

TRD-200702887

Gary L. Warren, Sr.

Executive Director

Texas Commission on Fire Protection

Earliest possible date of adoption: August 19, 2007

For further information, please call: (512) 936-3838



## CHAPTER 451. FIRE OFFICER

The Texas Commission on Fire Protection (the Commission) proposes amendments to Chapter 451, Fire Officer; Subchapter A, Minimum Standards for Fire Officer I, consisting of the following chapters: §451.3, Minimum Standards for Fire Officer I Certification; Subchapter B, §451.203, Minimum Standards for Fire Officer II Certification, and §451.207, International Fire Service Accreditation Congress (IFSAC) Seal. The purpose of the proposed amendments is to remove redundant information; to make any grammatical or punctuation corrections and to capitalize the letter "c" when referring to the Texas Commission on Fire Protection.

Jake Soteriou, Director of the Fire Service Standards and Certification Division, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal impact on state or local governments.

Jake Soteriou has also determined that for each year of the first five years the proposed amendments are in effect, there will be no public benefit anticipated as a result of enforcing the amendments. There are no additional costs of compliance for small or large businesses or individuals that are required to comply with these proposed amendments.

Comments regarding these proposed amendments may be submitted, in writing, within 30 days following the publication of this notice in the *Texas Register* to Gary L. Warren, Sr., Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768-2286 or e-mailed to [info@tcfp.state.tx.us](mailto:info@tcfp.state.tx.us). Comments will be reviewed and discussed at a future Commission meeting.

### SUBCHAPTER A. MINIMUM STANDARDS FOR FIRE OFFICER I

#### 37 TAC §451.3

These amendments are proposed under Texas Government Code, §419.032, which provides the Commission with the authority to set minimum standards for fire protection personnel examinations and certification.

Cross reference to statute: There are no statutes, articles or codes affected by this section.

§451.3. *Minimum Standards for Fire Officer I Certification.*

(a) In order to be certified as a Fire Officer I an individual must:

(1) (No change.)

(2) hold Fire Service Instructor I certification through the Commission [~~commission~~]; and

(A) (No change.)

(B) complete a Commission-approved [~~commission approved~~] Fire Officer I program and successfully pass the Commission [~~commission~~] examination as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved Fire Officer I program must consist of one of the following:

(i) completion of a Commission [~~commission~~] approved Fire Officer I Curriculum as specified in Chapter 9 of the commission's Certification Curriculum Manual;

(ii) completion of an out-of-state and/or military training program that has been submitted to the Commission [~~commission~~] for evaluation and found to be equivalent to or exceed the

Commission-approved [~~commission approved~~] Fire Officer I Curriculum; or

~~{(iii) completion of a military training program that has been submitted to the commission for evaluation and found to be equivalent or exceed the commission approved Fire Officer I Curriculum; or}~~

~~(iii) [(iv)] successful completion of 15 college semester hours consisting of the following courses or their equivalent:~~

~~(I) - (V) (No change.)~~

~~(b) Out-of-state or military training programs which are submitted to the Commission [~~commission~~] for the purpose of determining equivalency will be considered equivalent if all competencies set forth in Chapter 9 (pertaining to Fire Officer I) of the commission's Certification Curriculum Manual are met.~~

~~(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 July 6, 2007.

TRD-200702888

Gary L. Warren, Sr.

Executive Director

Texas Commission on Fire Protection

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For further information, please call: (512) 936-3838



## SUBCHAPTER B. MINIMUM STANDARDS FOR FIRE OFFICER II

### 37 TAC §451.203, §451.207

These amendments are proposed under Texas Government Code, §419.032, which provides the Commission with the authority to set minimum standards for fire protection personnel examinations and certification.

Cross reference to statute: There are no statutes, articles or codes affected by this section.

§451.203. *Minimum Standards for Fire Officer II Certification.*

(a) In order to be certified as a Fire Officer II an individual must:

(1) (No change.)

(2) hold Fire Officer I certification through the Commission [~~commission~~]; and

(3) hold, as a minimum, Fire Service Instructor I certification through the Commission [~~commission~~]; and

(A) (No change.)

(B) complete a Commission-approved [~~commission approved~~] Fire Officer II program and successfully pass the Commission [~~commission~~] examination as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved Fire Officer II program must consist of one of the following:

(i) completion of a Commission-approved [~~commission approved~~] Fire Officer II Curriculum as specified in Chapter 9 of the Commission's [~~commission's~~] Certification Curriculum Manual;

(ii) completion of an out-of-state and/or military training program that has been submitted to the Commission [~~commission~~] for evaluation and found to be equivalent to or exceed the Commission-approved [~~commission approved~~] Fire Officer II Curriculum; or

~~(iii) completion of a military training program that has been submitted to the commission for evaluation and found to be equivalent or exceed the commission approved Fire Officer II Curriculum; or}~~

~~(iii) [(iv)] successful completion of 18 college semester hours consisting of the following courses or their equivalent:~~

~~(I) - (VI) (No change.)~~

~~(b) Out-of-state or military training programs which are submitted to the Commission [~~commission~~] for the purpose of determining equivalency will be considered equivalent if all competencies set forth in Chapter 9 (pertaining to Fire Officer [H]) of the Commission's [~~commission's~~] Certification Curriculum Manual are met.~~

~~(c) (No change.)~~

§451.207. *International Fire Service Accreditation Congress (IF-SAC) Seal.*

(a) Individuals holding a current Commission [~~commission~~] Fire Officer II certification received prior to March 10, 2003, may be granted an International Fire Service Accreditation Congress (IFSAC) seal as a Fire Officer II by making application to the commission for the IFSAC seal and paying applicable fees.

(b) Individuals completing a Commission-approved [~~commission approved~~] Fire Officer II program; documenting IFSAC seals for Fire Fighter II, Instructor I and Fire Officer I; [~~holding, as a minimum, Instructor I certification or associate instructor certification through the commission, or documenting an IFSAC seal as an Instructor I;~~] and passing the applicable state examination, may be granted an IFSAC seal as a Fire Officer II by making application to the Commission [~~commission~~] for the IFSAC seal and paying applicable fees.

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

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TRD-200702889

Gary L. Warren, Sr.

Executive Director

Texas Commission on Fire Protection

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For further information, please call: (512) 936-3838



## CHAPTER 453. MINIMUM STANDARDS FOR HAZARDOUS MATERIALS TECHNICIAN

### 37 TAC §§453.1, 453.3, 453.5

The Texas Commission on Fire Protection (the Commission) proposes amendments to §453.1, Hazardous Materials Technician Certification; §453.3, Minimum Standards for Hazardous Materials Technician Certification; and §453.5, Examination Requirements. The purpose of the proposed amendments is to clarify qualifications for hazardous materials technicians; to make grammatical or punctuation corrections and to capitalize the let-

ter "c" when referring to the Texas Commission on Fire Protection.

Jake Soteriou, Director of the Fire Service Standards and Certification Division, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal impact on state or local governments.

Jake Soteriou has also determined that for each year of the first five years the proposed amendments are in effect, there will be no public benefit anticipated as a result of enforcing the amendments. There are no additional costs of compliance for small or large businesses or individuals that are required to comply with these proposed amendments.

Comments regarding these proposed amendments may be submitted, in writing, within 30 days following the publication of this notice in the *Texas Register* to Gary L. Warren, Sr., Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768-2286 or e-mailed to info@tcfp.state.tx.us. Comments will be reviewed and discussed at a future Commission meeting.

These amendments are proposed under Texas Government Code, §419.029, which provides the Commission with the authority to establish curriculum requirements for training fire protection personnel.

Cross reference to statute: There are no statutes, articles or codes affected by this section.

#### §453.1. *Hazardous Materials Technician Certification.*

(a) A hazardous materials technician is defined as an individual who performs emergency response to an occurrence which results in, or is likely to result in, an uncontrolled release of a hazardous substance where there is a potential safety or health hazard (i.e., fire, explosion, or chemical exposure). A hazardous materials technician responds to such occurrences and is expected to perform work to handle and control (stop, confine, or extinguish) actual or potential leaks or spills. The hazardous materials technician assumes a more aggressive role than a first responder at the operations level, in that, the hazardous materials technician will approach the point of release. The hazardous materials technician is expected to use specialized chemical protective clothing (CPC) and specialized control equipment.

(b) All individuals holding a hazardous materials technician certification shall be required to comply with the continuing education requirements in §441.17 of this title (relating to Continuing Education [Requirements] for Hazardous Materials Technician).

#### §453.3. *Minimum Standards for Hazardous Materials Technician Certification.*

(a) In order to be certified as a hazardous materials technician [~~Hazardous Materials Technician~~] an individual must:

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

(3) complete a Commission-approved [~~commission approved~~] hazardous materials technician program and successfully pass the Commission [~~commission~~] examination as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved hazardous materials technician program must consist of one of the following:

(A) completion of a Commission-approved hazardous materials technician curriculum [~~commission approved Hazardous Materials Technician Curriculum~~] as specified in Chapter 6 of the Commission's [~~commission's~~] Certification Curriculum Manual.

(B) completion of an out-of-state and/or military training program that has been submitted to the Commission [~~commission~~] for evaluation and found to be equivalent to, or exceed, the Commission-approved [~~commission approved~~] Hazardous Materials Technician Curriculum.

~~[(C) completion of a military program that has been submitted to the commission for evaluation and found to be equivalent to or exceed the commission approved Hazardous Materials Technician Curriculum.]~~

(b) Out-of-state or military training programs, which are submitted to the Commission [~~commission~~] for the purpose of determining equivalency, will be considered equivalent if all competencies set forth in Chapter 6 (pertaining to Hazardous Materials Technician) of the Commission's [~~commission's~~] Certification Curriculum Manual are met.

~~[(e) No individual will be permitted to take the commission examination for hazardous materials technician unless the individual documents completion of the first responder awareness and operations level training as required by Chapter 1, Basic Fire Suppression, of the commission's Certification Curriculum Manual.]~~

#### §453.5. *Examination Requirements.*

(a) The written examination requirements of Chapter 439 of this title (relating to Examinations for Certification) must be met in order to receive a Hazardous Materials Technician certification.

(b) Performance skills must meet the requirements in Chapter 439.

~~[(c) No individual will be permitted to take the Commission examination for hazardous materials technician unless the individual documents completion of the first responder awareness and operations level training as required by Chapter 1, Basic Fire Suppression, of the Commission's Certification Curriculum Manual.]~~

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

Filed with the Office of the Secretary of State on July 6, 2007.

TRD-200702890

Gary L. Warren, Sr.  
Executive Director

Texas Commission on Fire Protection

Earliest possible date of adoption: August 19, 2007

For further information, please call: (512) 936-3838



## CHAPTER 491. VOLUNTARY REGULATION OF STATE AGENCIES AND STATE AGENCY EMPLOYEES

### 37 TAC §491.1

The Texas Commission on Fire Protection (the Commission) proposes amendments to §491.1, Election of Components for Voluntary Regulation. The purpose of the proposed amendments is to simplify references to the Commission's authority regarding voluntary regulation of state agencies and employees; to make grammatical and punctuation corrections and to capitalize the letter "c" when referring to the Texas Commission on Fire Protection.

Jake Soteriou, Director of the Fire Service Standards and Certification Division, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal impact on state or local governments.

Jake Soteriou has also determined that for each year of the first five years the proposed amendments are in effect, the public will benefit because the current standards regarding existing rules will be better clarified. There are no additional costs of compliance for small or large businesses or individuals that are required to comply with these proposed amendments.

Comments regarding these proposed amendments may be submitted, in writing, within 30 days following the publication of this notice in the *Texas Register* to Gary L. Warren, Sr., Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768-2286 or e-mailed to [info@tcfp.state.tx.us](mailto:info@tcfp.state.tx.us). Comments will be reviewed and discussed at a future Commission meeting.

This amendment is proposed under Texas Government Code, §419.083, which allows state agencies/employees to apply to the Commission for regulation of training of fire protection personnel.

Cross reference to statute: There are no statutes, articles or codes affected by this section.

*§491.1. Election of Components for Voluntary Regulation.*

A state agency, or state employee, eligible for regulation under the Texas Government Code, §419.083, may apply to the Commission [eommission] for regulation. The agency or individual must submit an application to the Commission for regulation under one or more components of the Commission's regulatory authority. [that elects regulation under one or more of the following components:]

- [(1) standards for certification and continuing education;]
- [(2) standards for structure fire protection personnel certification;]
- [(3) standards for certified training facilities;]
- [(4) standards for aircraft rescue fire fighting personnel certification;]
- [(5) standards for marine fire protection personnel certification;]
- [(6) standards for fire instructor certification;]
- [(7) standards for fire inspector certification;]
- [(8) standards for fire investigation certification; and]
- [(9) standards for protective clothing.]

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

Filed with the Office of the Secretary of State on July 6, 2007.

TRD-200702891

Gary L. Warren, Sr.

Executive Director

Texas Commission on Fire Protection

Earliest possible date of adoption: August 19, 2007

For further information, please call: (512) 936-3838



**37 TAC §491.7**

*(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 Commission on Fire Protection or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Texas Commission on Fire Protection (Commission) proposes to repeal, Chapter 491, Voluntary Regulation of State Agencies and State Agency Employees, consisting of the following section: §491.7, Certification. The purpose of the proposed rule is that the present rule, §491.1, is already covered in individual chapters in our standards manual relating to that part of the certification process.

Jake Soteriou, Director of the Fire Service Standards and Certification Division, has determined that for the first five-year period the proposed repeal is in effect there will be no fiscal impact on state and local governments.

Jake Soteriou has also 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 current and updated rules. There will be no additional costs of compliance for small or large businesses or individuals that are required to comply with the proposed repeal.

Comments regarding this proposed repeal may be submitted in writing within 30 days following the publication of this notice in the *Texas Register* to Gary L. Warren, Sr., Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768-2286 or by email at [info@tcfp.state.tx.us](mailto:info@tcfp.state.tx.us). Comments will be reviewed and discussed at a future Commission meeting.

This repeal is proposed under Texas Government Code, §419.083, which allows state agencies/employees to apply to the Commission for regulation of training of fire protection personnel.

Cross reference to statute: There are no statutes, articles or codes affected by this section.

*§491.7. Certification.*

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

Filed with the Office of the Secretary of State on July 6, 2007.

TRD-200702892

Gary L. Warren, Sr.

Executive Director

Texas Commission on Fire Protection

Earliest possible date of adoption: August 19, 2007

For further information, please call: (512) 936-3838



**CHAPTER 493. VOLUNTARY REGULATION OF FEDERAL AGENCIES AND FEDERAL FIRE FIGHTERS**

**37 TAC §493.1**

The Texas Commission on Fire Protection (the Commission) proposes amendments to Chapter 493, Voluntary Regulation of Federal Agencies and Federal Fire Fighters; §493.1, Election of Components for Voluntary Regulation. The purpose of the proposed amendment is to simplify references to the Commission's authority regarding regulation of federal agencies

and federal fire fighters; to make grammatical and punctuation corrections and to capitalize the letter "c" when referring to the Texas Commission on Fire Protection.

Jake Soteriou, Director of the Fire Service Standards and Certification Division, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal impact on state or local governments.

Jake Soteriou has also determined that for each year of the first five years the proposed amendments are in effect, the public will benefit because the current standards regarding existing rules will be better clarified. There are no additional costs of compliance for small or large businesses or individuals that are required to comply with these proposed amendments.

Comments regarding these proposed amendments may be submitted, in writing, within 30 days following the publication of this notice in the *Texas Register* to Gary L. Warren, Sr., Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768-2286 or e-mailed to info@tcfp.state.tx.us. Comments will be reviewed and discussed at a future Commission meeting.

This amendment is proposed under Texas Government Code, §419.084, which allows federal agencies/fire fighters to apply to the Commission for regulation of training for fire protection personnel.

Cross reference to statute: There are no statutes, articles or codes affected by this section.

*§493.1. Election of Components for Voluntary Regulation.*

A federal agency or federal fire fighter eligible for regulation under the Texas Government Code, §419.084, may apply to the Commission [eommission] for regulation. The agency or individual must submit an application to the Commission for regulation under one or more components of the Commission's regulatory authority. [that elects regulation under one or more of the following components:

- {(1) standards for certification and continuing education;}
- {(2) standards for structure fire protection personnel certification;}
- {(3) standards for certified training facilities;}
- {(4) standards for aircraft rescue fire fighting personnel certification;}
- {(5) standards for marine fire protection personnel certification;}
- {(6) standards for fire instructor certification;}
- {(7) standards for fire inspector certification;}
- {(8) standards for fire investigation certification;}
- {(9) standards for protective clothing; and}
- {(10) standards for self-contained breathing apparatus.}

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

Filed with the Office of the Secretary of State on July 6, 2007.

TRD-200702893

Gary L. Warren, Sr.  
Executive Director  
Texas Commission on Fire Protection  
Earliest possible date of adoption: August 19, 2007  
For further information, please call: (512) 936-3838



**37 TAC §493.7**

*(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 Commission on Fire Protection or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Texas Commission on Fire Protection (Commission) proposes to repeal, Chapter 493, Voluntary Regulation of Federal Agencies and Federal Fire Fighters, consisting of the following section: §493.7, Certification. The purpose of the proposed rule is that the present rule, §493.1, is already covered in individual chapters in our standards manual relating to that part of the certification process.

Jake Soteriou, Director of the Fire Service Standards and Certification Division, has determined that for the first five-year period the proposed repeal is in effect there will be no fiscal impact on state and local governments.

Jake Soteriou has also 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 current and updated rules. There will be no additional costs of compliance for small or large businesses or individuals that are required to comply with the proposed repeal.

Comments regarding this proposed repeal may be submitted in writing within 30 days following the publication of this notice in the *Texas Register* to Gary L. Warren, Sr., Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768-2286 or by email at info@tcfp.state.tx.us. Comments will be reviewed and discussed at a future Commission meeting.

This repeal is proposed under Texas Government Code, §419.084, which allows federal agencies/fire fighters to apply to the Commission for regulation of training for fire protection personnel.

Cross reference to statute: There are no statutes, articles or codes affected by this section.

*§493.7. Certification.*

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

Filed with the Office of the Secretary of State on July 6, 2007.

TRD-200702894  
Gary L. Warren, Sr.  
Executive Director  
Texas Commission on Fire Protection  
Earliest possible date of adoption: August 19, 2007  
For further information, please call: (512) 936-3838



# ADOPTED RULES

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

## TITLE 1. ADMINISTRATION

### PART 2. TEXAS ETHICS COMMISSION

#### CHAPTER 20. REPORTING POLITICAL CONTRIBUTIONS AND EXPENDITURES

##### SUBCHAPTER B. GENERAL REPORTING RULES

###### 1 TAC §20.56

The Texas Ethics Commission adopts new §20.56, relating to the reporting of a political contribution in the form of a pledge. The new rule is adopted without changes to the proposed text as published in the May 4, 2007, issue of the *Texas Register* (32 TexReg 2427) and will not be republished.

Section 20.56 would clarify the method for reporting pledges of political contributions. The rule would require a pledge of a contribution that is actually received in the reporting period in which the pledge was accepted to be reported on the "political contributions" schedule and NOT on the "pledged contributions" schedule. The rule also would require that the "date of the contribution" is the date the pledge was accepted.

No comments were received regarding the proposed rule during the comment period.

The new §20.56 is adopted under Government Code, Chapter 571, Section 571.062, which authorizes the commission to adopt rules concerning the laws administered and enforced 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 July 3, 2007.

TRD-200702832

Natalia Luna Ashley

General Counsel

Texas Ethics Commission

Effective date: July 23, 2007

Proposal publication date: May 4, 2007

For further information, please call: (512) 463-5800



## TITLE 4. AGRICULTURE

### PART 1. TEXAS DEPARTMENT OF AGRICULTURE

#### CHAPTER 20. COTTON PEST CONTROL SUBCHAPTER B. QUARANTINE REQUIREMENTS

##### 4 TAC §20.12, §20.16

The Texas Department of Agriculture (the department) adopts amendments to §20.12 and §20.16, concerning a suppressed area under the department's cotton pest control program, without changes to the proposal published in the May 25, 2007, issue of the *Texas Register* (32 TexReg 2809). Amendments are adopted to add the St. Lawrence Boll Weevil Eradication Zone (the St. Lawrence Zone) to the list of suppressed areas in §20.12 and to exempt transportation of regulated articles through Sterling County from certain quarantine requirements in §20.16.

The addition of the St. Lawrence Zone to the list of suppressed areas will minimize the risk of artificial re-infestation of the area by boll weevils, thereby protecting the investment that cotton producers and the State of Texas have made to eradicate the pest. Once the boll weevil is reduced to low levels or eradicated from cotton producing areas of the state, fewer insecticide applications should be necessary to produce high quality cotton. In other eradicated areas of the United States, it is estimated that growers are saving an average of \$36 per acre in reduced pesticide applications and earning an additional \$42 per acre from increased cotton yield. Preventing re-infestation by boll weevils in restricted areas may enable Texas cotton producers to achieve similar results.

In accordance with §20.12, the Texas Boll Weevil Eradication Foundation (the foundation) recommended that the department declare the St. Lawrence Zone as suppressed. The foundation provided scientific documentation acceptable to the department, which indicates that movement of regulated articles into this zone presents a threat to the success of boll weevil eradication. The data provided indicates that boll weevil numbers for the 2006 cotton crop year were below the requirement of an average of 0.025 boll weevils per trap per week. Consequently, the Commissioner of Agriculture declared the St. Lawrence Zone to be suppressed on May 8, 2007.

Amendments to §20.16 are adopted to exempt regulated articles being transported through Sterling County from restrictions in §20.16. This exemption is not expected to pose a risk to boll weevil eradication because no cotton is grown in Sterling County and when the amendments become effective all surrounding counties will have attained either suppressed or functionally eradicated status. Enactment of this exemption will avoid imposing an unnecessary regulatory burden and expenses on persons transporting regulated articles through Sterling County.

No comments were received on the proposal.



The amendments to §20.12 and §20.16 are adopted in accordance with the Texas Agriculture Code, §74.006, which provides the department with the authority to adopt rules as necessary for the effective enforcement and administration of Chapter 74, Subchapter A; §74.004 which provides the department with the authority to establish regulated areas, dates and appropriate methods of destruction of stalks, other cotton parts and products of host plants for cotton pests; and §74.122, which provides the department with the authority to adopt rules relating to quarantining areas of Texas that are infested with the boll weevil, including rules addressing the storage and movement of regulated articles into and out of a quarantined area.

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

Filed with the Office of the Secretary of State on July 6, 2007.

TRD-200702861

Dolores Alvarado Hibbs

Deputy General Counsel

Texas Department of Agriculture

Effective date: July 26, 2007

Proposal publication date: May 25, 2007

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



## TITLE 19. EDUCATION

### PART 2. TEXAS EDUCATION AGENCY

#### CHAPTER 89. ADAPTATIONS FOR SPECIAL POPULATIONS

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

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

The Texas Education Agency (TEA) adopts new §§89.1601, 89.1603, 89.1605, 89.1607, 89.1609, 89.1611, and 89.1613, concerning dual language immersion programs. The new sections are adopted without changes to the proposed text as published in the April 27, 2007, issue of the *Texas Register* (32 TexReg 2348) and will not be republished. The adopted new sections provide guidance for school districts and charter schools on dual language immersion programs for students enrolled in elementary grades, in accordance with the Texas Education Code (TEC), §28.0051.

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

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

New §89.1601, Definitions, defines applicable words and terms.

New §89.1603, Dual Language Immersion Program Goals, addresses the primary goals of the program.

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

New §89.1607, Staffing and Staff Development, sets forth certification and professional development requirements.

New §89.1609, Program Implementation, addresses selection criteria, parental approval of student participation, and local policy on enrollment and continuation in the program. The adopted rule specifies that student enrollment in the program is optional.

New §89.1611, Standards for Evaluation, describes evaluations that must be conducted by a local school district implementing a program. The adopted rule also provides indicators of success of a dual language immersion program.

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

The public comment period began April 27, 2007, and ended May 27, 2007. Following is a summary of public comments received and corresponding agency responses regarding the proposed new 19 TAC Chapter 89, Adaptations for Special Populations, Subchapter FF, Commissioner's Rules Concerning Dual Language Immersion Programs.

**Comment.** Concerning §89.1601, Definitions, the assistant superintendent for the multi-language enrichment program of the Dallas Independent School District (ISD) requested the use of the term "two-way dual language immersion program" rather than "dual language immersion program" because there is also a one-way dual language model.

**Agency Response.** The agency disagrees with the comment and has maintained language as filed as proposed. The term "dual language immersion program" encompasses all possible dual language models, allowing for the most flexibility for districts.

**Comment.** Concerning §89.1605, Minimum Program Requirements, a dual language education professor from The University of Texas-Pan American expressed the belief that the minimum enrollment requirement for limited English proficient (LEP) students should be no less than 50%.

**Agency Response.** The agency disagrees with the comment and has maintained language as filed as proposed. The requirement for LEP students to be no less than 30% would allow more districts throughout the state to meet minimum requirements, thus

increasing the number of districts that would be able to implement a dual language program.

Comment. Concerning §89.1605, Minimum Program Requirements, the assistant superintendent for the multi-language enrichment program of the Dallas ISD expressed the belief that the minimum enrollment requirement for LEP students should be no less than 45%.

Agency Response. The agency disagrees with the comment and has maintained language as filed as proposed. The requirement for LEP students to be no less than 30% would allow more districts throughout the state to meet minimum requirements, thus increasing the number of districts that would be able to implement a dual language program.

Comment. Concerning §89.1607, Staffing and Staff Development, comments were received from the following individuals: the bilingual/English as a second language director of the Spring Branch ISD, the assistant superintendent and an elementary specialist for the multi-language enrichment program of the Dallas ISD, a dual language education professor from The University of Texas-Pan American, and an associate professor from The University of Texas at Brownsville and Texas Southmost College. The commenters suggested that the rule would provide schools the option to use either a bilingual education certified teacher for both English and Spanish content instruction or an English as a second language certified teacher for English content instruction and a bilingual education certified teacher for Spanish content instruction to allow schools to serve more English language learners.

Agency Response. The agency disagrees with the comment and has maintained language as filed as proposed. The language filed as proposed allows for flexibility in the certification of teachers who teach in dual language programs.

Comment. An individual expressed support for a dual language immersion program beginning as early as prekindergarten, kindergarten, and Grade 1. The individual commented on the benefits for children learning a second language.

Agency Response. The agency agrees.

Comment. An elementary specialist for the multi-language enrichment program of the Dallas ISD and the bilingual/English as a second language director of the Spring Branch ISD inquired about funding for non-English language learners participating in dual language immersion programs.

Agency Response. The rule action addresses legislative direction regarding program design, including minimum program requirements, standards for evaluation, and standards for recognition. Funding decisions are to occur at the local level.

Comment. The bilingual/English as a second language director of the Spring Branch ISD requested clarification of departmentalization of bilingual programs, specifically, regular transitional programs and/or dual language programs.

Agency Response. The rule action is specific to the dual language immersion program. Departmentalization and transition programs are outside the scope of this rule action and not addressed.

The new sections are adopted under the TEC, §28.0051, which requires the commissioner of education by rule to adopt minimum requirements for a dual language immersion program implemented by a school district; standards for evaluating the success of a dual language immersion program and the perfor-

mance of schools that implement a dual language immersion program; and standards for recognizing schools that offer an exceptional dual language immersion program and students who successfully complete a dual language immersion program.

The new sections implement the TEC, §§28.0051, 29.051, and 29.055.

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

Filed with the Office of the Secretary of State on July 3, 2007.

TRD-200702840

Cristina De La Fuente-Valadez

Director, Policy Coordination

Texas Education Agency

Effective date: July 23, 2007

Proposal publication date: April 27, 2007

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



## CHAPTER 97. PLANNING AND ACCOUNTABILITY

### SUBCHAPTER AA. ACCOUNTABILITY AND PERFORMANCE MONITORING

The Texas Education Agency (TEA) adopts an amendment to §97.1001 and the repeal of §97.1002, concerning accountability. The amendment and repeal are adopted without changes to the proposed text as published in the June 1, 2007, issue of the *Texas Register* (32 TexReg 2969) and will not be republished. The amendment to §97.1001 adopts applicable excerpts of the *2007 Accountability Manual*, dated May 2007. The repeal of §97.1002 repeals 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 amendment to 19 TAC §97.1001 adopts 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 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.

No changes were made to the rule or manual excerpts adopted as rule since published as proposed.

The public comment period on the proposal began June 1, 2007, and ended July 1, 2007. No public comments were received.

#### **19 TAC §97.1001**

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

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

Filed with the Office of the Secretary of State on July 6, 2007.

TRD-200702873

Cristina De La Fuente-Valadez  
Director, Policy Coordination

Texas Education Agency

Effective date: July 26, 2007

Proposal publication date: June 1, 2007

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

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#### **19 TAC §97.1002**

The repeal is adopted under the Texas Education Code, §§39.051(c) - (d), 39.072(c), 39.0721, 39.073, and 29.081(e), which authorize the commissioner of education to specify the indicators, standards, and procedures used to determine standard accountability ratings and alternative education accountability ratings, and to determine acknowledgment on additional indicators. 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 repeal implements the Texas Education Code, §§39.051(c) - (d), 39.072(c), 39.0721, 39.073, 39.1322, and 29.081(e).

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

Filed with the Office of the Secretary of State on July 6, 2007.

TRD-200702874

Cristina De La Fuente-Valadez  
Director, Policy Coordination

Texas Education Agency

Effective date: July 26, 2007

Proposal publication date: June 1, 2007

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

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## **TITLE 37. PUBLIC SAFETY AND CORRECTIONS**

### **PART 13. TEXAS COMMISSION ON FIRE PROTECTION**

#### **CHAPTER 403. CRIMINAL CONVICTIONS AND ELIGIBILITY FOR CERTIFICATION**

##### **37 TAC §§403.5, 403.9, 403.15**

The Texas Commission on Fire Protection (the Commission) adopts amendments to §403.5, Access to Criminal History Record Information; §403.9, Mitigating Factors and §403.15, Report of Criminal History Convictions by an Individual or a Department. These amendments are adopted with changes to the proposed text published in the May 4, 2007, issue of the *Texas Register* (32 TexReg 2458) and will be republished.

These amendments are being made for the purpose of clarification, grammatical and punctuation corrections and to capitalize the letter "c" in the word "commission" when referring to the Texas Commission on Fire Protection.

No comments were received from the public regarding the proposed amendments.

These amendments are adopted under §419.022(b) of the Texas Government Code.

§403.5. *Access to Criminal History Record Information.*

(a) Criminal history record. The Commission is entitled to obtain criminal history record information maintained by the Department of Public Safety, or another law enforcement agency to investigate the eligibility of a person applying to the Commission for or holding a certificate.

(b) Confidentiality of information. All information received under this section is confidential and may not be released to any person outside the agency except in the following instances:

- (1) a court order;
- (2) with written consent of the person being investigated;
- (3) in a criminal proceeding; or
- (4) in a hearing conducted under the authority of the Commission.

(c) Early review. A fire department that employs a person regulated by the Commission, a person seeking to apply for a beginning position with a regulated entity, a volunteer fire department, or an individual participating in the Commission's certification program may seek the early review under this chapter of the person's present fitness to be certified. Prior to completing the requirements for certification, the individual may request such a review in writing by providing the person's full name, date of birth and any additional identifying information requested by the Commission. A decision based on an early review does not bind the Commission if there is a change in circumstances.

§403.9. *Mitigating Factors.*

(a) In addition to the factors that must be considered under §403.7 of this title (relating to Criminal Convictions Guidelines), in determining the present fitness of a person who has been convicted of a crime, the Commission shall consider the following evidence:

- (1) the extent and nature of the person's past criminal activity;
- (2) the age of the person at the time of the commission of the crime;
- (3) the amount of time that has elapsed since the person's last criminal activity;
- (4) the conduct and work activity of the person prior to and following the criminal activity;
- (5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release; and
- (6) other evidence of the person's present fitness, including letters of recommendation from:

(A) prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility for the person;

(B) the sheriff or chief of police in the community where the person resides; and

(C) any other persons in contact with the convicted person.

(b) It shall be the responsibility of the applicant to the extent possible to secure and provide to the Commission the recommendations of prosecution, law enforcement, and correctional authorities as required by statute and these rules upon request by the Commission staff. The applicant shall also furnish:

- (1) a copy of the indictment, information or complaint;
- (2) a copy of the judgement(s) or order(s) of the court adjudicating guilt, granting probation, community supervision, deferred adjudication, or discharge from probation or community supervision;
- (3) a record of steady employment in the form of a letter from current or former employers;
- (4) a record that the applicant has supported his or her dependents in the form of a letter from a person in the applicant's community with personal knowledge of the circumstances;
- (5) evidence that the applicant has paid all outstanding court costs, supervision fees, fines, and restitution as may have been ordered in all criminal cases in which he or she has been convicted, in the form of copies of official records, documents, or a letter from the person's probation or parole officer where applicable concerning his or her current status; and
- (6) a copy of the police or offense report(s).

§403.15. *Report of Convictions by an Individual or a Department.*

(a) A certificate holder shall report to the Commission, any conviction, other than a minor traffic offense (Class C misdemeanor) under the laws of this state, another state, the United States, or foreign country, within 14 days of the conviction date.

(b) A fire department or local government regulated by the Commission shall report to the Commission, any conviction of a certificate holder employed by the regulated entity, other than a minor traffic offense (class C misdemeanor) under the laws of this state, another state, the United States, or foreign country, that it has knowledge of, within 14 days of the conviction date.

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

Filed with the Office of the Secretary of State on July 3, 2007.

TRD-200702826

Gary L. Warren, Sr.

Executive Director

Texas Commission on Fire Protection

Effective date: July 23, 2007

Proposal publication date: May 4, 2007

For further information, please call: (512) 936-3821



# REVIEW OF AGENCY RULES

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

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

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

## Proposed Rule Review

Texas Commission on Fire Protection

### Title 37, Part 13

The Texas Commission on Fire Protection (the Commission) files this notice of intention to review the following chapters contained in Title 37, Part 13 of the Texas Administrative Code. This review is pursuant to §2001.039, Texas Government Code. The assessment made by the Commission at this time indicates that the reasons for adopting the rules contained in the following chapters continue to exist and it proposes to readopt these chapters:

Chapter 407 Administration;

Chapter 421 Standards for Certification;

Chapter 423 Fire Suppression;

Chapter 425 Fire Service Instructors;

Chapter 427 Training Facility Certification;

Chapter 429 Minimum Standards for Fire Inspectors;

Chapter 439 Examinations for Certification;

Chapter 441 Continuing Education;

Chapter 451 Fire Officer;

Chapter 453 Minimum Standards for Hazardous Materials Technician;

Chapter 491 Voluntary Regulation of State Agencies and State Agency Employees;

Chapter 493 Voluntary Regulation of Federal Agencies and Federal Agency;

Chapter 495 Regulation of Nongovernmental Departments

Comments regarding this notice of intention to review and whether the reasons for adopting the rules continue to exist may be submitted in writing within 30 days following the publication of this notice in the *Texas Register* to Gary L. Warren, Sr., Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768-2286 or by e-mail at [info@tcfp.state.tx.us](mailto:info@tcfp.state.tx.us). Comments will be reviewed and discussed at a future Commission meeting.

TRD-200702876

Gary L. Warren, Sr.

Executive Director

Texas Commission on Fire Protection

Filed: July 6, 2007



## Adopted Rule Reviews

Comptroller of Public Accounts

### Title 34, Part 1

The Comptroller of Public Accounts (comptroller) will repeal all sections of Texas Administrative Code, Title 34, Part 1, Chapter 1, Subchapter C (Advisory Committees) and Subchapter D (Texas Film Industry Loan Guarantee Program).

Under Government Code, §2110.008, state agencies may designate by rule the date on which an advisory committee will automatically be abolished. In Subchapter C, §1.300 (Public Education Integrity Task Force) and §1.301 ("e-Texas" Citizens' Committee), the comptroller set the abolition dates for the task force and the committee as December 31, 2000, and June 30, 2001, respectively. Since the Public Education Integrity Task Force and the "e-Texas" Citizens' Committee no longer exist, §1.300 and §1.301 are no longer necessary.

The comptroller will repeal Subchapter D, §1.330 (General Provisions), §1.331 (Purposes, Limitations, and Lender Loan Requirements), and §1.332 (Filing Requirements and Consideration of the Loan Guarantee Application) as a result of the statutory expiration of the Texas Film Industry Loan Guarantee Program on September 1, 2005, in accordance with the Sunset Advisory Commission's recommendation to the 79th Legislature, 2005, that the program under Government Code, §§403.321 - 403.335, be allowed to expire.

The comptroller has reviewed Chapter 1, Subchapters C and D, and determined that the reasons for initially adopting these rules no longer exist. Notice of the repeal of Chapter 1, Subchapter C, §1.300 and §1.301, and Subchapter D, §§1.330 - 1.332 will be published in future issues of the *Texas Register*.

This review was conducted in accordance with Government Code, §2001.039. The proposed rule review was published in the March 19, 2004, issue of the *Texas Register* (29 TexReg 2927). No comments were received concerning the readoption of these sections.

TRD-200702857

Martin Cherry

General Counsel

Comptroller of Public Accounts

Filed: July 5, 2007



The Comptroller of Public Accounts (comptroller) readopts all sections under Texas Administrative Code, Title 34, Part 1, Chapter 1 (Central Administration), Subchapters E and F.

**Subchapter E (Historically Underutilized Businesses):**

§1.345. Historically Underutilized Businesses.

**Subchapter F (Negotiation and Mediation of Contract Disputes):**

- §1.360. Purpose.
- §1.361. Applicability.
- §1.362. Definitions.
- §1.363. Prerequisites to Suit.
- §1.364. Sovereign Immunity.
- §1.365. Notice of Claim of Breach of Contract.
- §1.366. Agency Counterclaim.
- §1.367. Request for Voluntary Disclosure of Additional Information.
- §1.368. Duty to Negotiate.
- §1.369. Timetable.
- §1.370. Conduct of Negotiation.
- §1.371. Settlement Approval Procedures for Negotiation.
- §1.372. Settlement Agreement.
- §1.373. Cost of Negotiation.
- §1.374. Request for Contested Case Hearing.
- §1.375. Mediation Timetable.
- §1.376. Conduct of Mediation.
- §1.377. Agreement to Mediate.
- §1.378. Qualifications and Immunity of the Mediator.
- §1.379. Confidentiality of Mediation and Final Settlement Agreement.
- §1.380. Costs of Mediation.
- §1.381. Settlement Approval Procedures for Mediation.
- §1.382. Initial Settlement Agreement.
- §1.383. Final Settlement Agreement.
- §1.384. Referral to the State Office of Administrative Hearing (SOAH).
- §1.385. Assisted Negotiation Processes.
- §1.386. Factors that Support the Use of Assisted Negotiation Processes.
- §1.387. Use of Assisted Negotiation Processes.

The comptroller has reviewed Chapter 1, Subchapters E and F, and determined that the reasons for initially adopting these rules continue to exist. Notice of any changes to these subchapters 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 re Adoption of the sections under Subchapters E and F. This concludes the review of Texas Administrative Code, Title 34, Part 1, Chapter 1.

TRD-200702858  
Martin Cherry  
General Counsel  
Comptroller of Public Accounts  
Filed: July 5, 2007



The Comptroller of Public Accounts readopts all sections of Texas Administrative Code, Title 34, Part 1, Chapter 5 (Funds Management--Fiscal Affairs).

**Subchapter A (Judiciary Department Procedures):**

- §5.1. Definitions.
- §5.2. Salary Affidavits: District Attorneys, Criminal District Attorneys, and State Paid County Attorneys.
- §5.3. Salary Affidavits: District Judges, Criminal District Judges and Judges of Court of Civil Appeals.
- §5.4. Claims for Additional Compensation for Active, Retired, and Former District Judges.
- §5.6. Travel and Expense Accounts of District Judges and District Attorneys.
- §5.7. Witness Fees.
- §5.8. Payroll Procedures: District Judges, Criminal District Judges, District Attorneys, and Criminal District Attorneys.

**Subchapter B (Claims Processing--Electronic Funds Transfers):**

- §5.12. Paying Vendors through Electronic Funds Transfers.
- §5.13. Paying State Employees through Electronic Funds Transfers.
- §5.14. Paying Annuitants through Electronic Funds Transfers.
- §5.15. Paying Governmental Entities through Electronic Funds Transfers.

**Subchapter C (Claims Processing--Travel Vouchers):**

- §5.22. Incorporation by Reference: "State of Texas Travel Allowance Guide".

**Subchapter D (Claims Processing--Payroll):**

- §5.36. Deductions for Paying Membership Fees to Certain Law Enforcement Employee Organizations.
- §5.39. Hazardous Duty Pay.
- §5.40. Overpayments and Underpayments of Compensation.
- §5.41. Payroll Requirements.
- §5.43. Payments for Accrued Vacation Time.
- §5.44. Payments for Accrued Vacation Time and Sick Leave to the Estates of Deceased State Employees.
- §5.45. IRS Levy Procedures.
- §5.46. Deductions for Paying Membership Fees to Employee Organizations.
- §5.47. Deductions for Payments to Credit Unions.
- §5.48. Deductions for Contributions to Charitable Organizations.

**Subchapter E (Claims Processing--Purchase Vouchers):**

- §5.51. Requirements for Purchase Documents.
- §5.54. Consulting Services Contracts.
- §5.56. Appropriation Year Determination.
- §5.57. Use of Payment Cards by State Agencies.
- §5.58. Recovery of Certain State Agency Overpayments.

**Subchapter F (Claims Processing--General Requirements):**

§5.61. Approval and Certification of Certain Payment and USPS Documents.

**Subchapter L (Claims Processing--Duplicate Warrants):**

§5.140. Replacement Warrants.

**Subchapter N (Funds Accounting--Accounting Policy Statements):**

§5.160. Incorporation by Reference: Accounting Policy Statements 2006-2007.

**Subchapter O (Uniform Statewide Accounting System):**

§5.200. State Property Accounting System.

The comptroller has reviewed Chapter 5 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 19, 2004, issue of the *Texas Register* (29 TexReg 2927). No comments were received concerning the re adoption of these rules. This concludes the review of Texas Administrative Code, Title 34, Part 1, Chapter 5.

TRD-200702898  
Martin Cherry  
General Counsel  
Comptroller of Public Accounts  
Filed: July 6, 2007



The Comptroller of Public Accounts readopts all sections under Texas Administrative Code, Title 34, Part 1, Chapter 7 (Prepaid Higher Education Tuition Program).

**Subchapter A (General Rules):**

§7.1. General Statement of Purpose.

§7.2. Definitions.

§7.3. Tax Exempt Status Requirements.

**Subchapter B (Board Meeting Guidelines and Requirements):**

§7.11. Board Officers.

§7.12. Meetings.

§7.13. Agenda for Board Meetings.

§7.14. Record of Meetings.

§7.15. Voting Procedures.

§7.16. Public Comment.

§7.17. Public Hearings.

§7.18. Complaints.

**Subchapter C (Board Responsibilities):**

§7.21. General Responsibilities.

**Subchapter D (Executive Director):**

§7.31. General Responsibilities.

§7.32. Management Responsibilities.

§7.33. Delegated Responsibilities.

**Subchapter E (Application, Enrollment, Payment, and Fees):**

§7.41. Application.

§7.42. Enrollment Period.

§7.43. Administrative Fees.

**Subchapter F (Tuition):**

§7.51. Tuition Paid.

§7.52. Maximum Tuition Credit Hours and Fees Paid.

§7.53. Supplemental Contracts.

§7.54. Application of Unused Credit Hours To Graduate Tuition.

**Subchapter G (Beneficiaries):**

§7.61. Qualified Beneficiary.

§7.62. Certification and Evidence of Residency.

§7.63. Change of Beneficiary.

§7.64. Purchasers.

**Subchapter H (Conversion):**

§7.71. Conversion.

**Subchapter I (Refunds, Termination):**

§7.81. Refunds.

§7.82. Termination of Prepaid Tuition Contract.

§7.83. Termination of Program.

§7.84. Transfer of Benefits.

**Subchapter J (Default):**

§7.91. Default.

**Subchapter K (Higher Education Savings Plan):**

§7.101. Definitions.

§7.102. General Provisions.

§7.103. Tax Benefits and Securities Laws Exemptions.

§7.104. Enrollment.

§7.105. Administrative Fees and Service Charges.

§7.106. Plan Managers.

§7.107. Beneficiaries.

§7.108. Roll-Overs.

§7.109. Owners.

§7.110. Replacement of Beneficiary.

§7.111. Withdrawals.

The comptroller has reviewed Chapter 7 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 re adoption of these sections. This concludes the review of Texas Administrative Code, Title 34, Part 1, Chapter 7.

TRD-200702859

Martin Cherry  
General Counsel  
Comptroller of Public Accounts  
Filed: July 5, 2007



Department of State Health Services

**Title 25, Part 1**

The Department of State Health Services (department) has reviewed 25 TAC, Chapter 38, §§38.1 - 38.14 and §38.16, concerning Children with Special Health Care Needs Services Program, in accordance with the requirements of the Texas Government Code, §2001.039. The department has determined that reasons for readopting the sections continue to exist.

As a result of the rule review, the department published proposed rules, §§38.1 - 38.14 and §38.16, in the January 6, 2006, issue of the *Texas Register* (31 TexReg 55). The final rules were published in the May 19, 2006, issue of the *Texas Register* (31 TexReg 4200), and the rules became effective May 28, 2006. The chapter review completion date is May 28, 2006.

TRD-200702853  
Linda Wiegman  
Deputy General Counsel  
Department of State Health Services  
Filed: July 5, 2007



The Department of State Health Services (department) has reviewed 25 TAC Chapter 39, §§39.1 - 39.11 and §§39.91 - 39.94, concerning Primary Health Care Services Program, in accordance with the requirements of the Texas Government Code, §2001.039. The department has determined that reasons for readopting the sections continue to exist.

As a result of the rule review, the department published proposed rules in Subchapter D, concerning Clearinghouse for Primary Care Providers Seeking Collaborative Practice, §§39.91 - 39.94 in the August 22, 2003, issue of the *Texas Register* (28 TexReg 6674). The final rules were published in the November 14, 2003, issue of the *Texas Register* (28 TexReg 10221), and the rules became effective November 20, 2003.

The proposed rules in Subchapter A, concerning Primary Health Care Services Program, §§39.1 - 39.11 were published in the February 24, 2006, issue of the *Texas Register* (31 TexReg 1165) as a result of the rules review. The final rules were published in the May 19, 2006, issue of the *Texas Register* (31 TexReg 4218), and the rules became effective May 28, 2006. The chapter review completion date is May 28, 2006.

TRD-200702854  
Linda Wiegman  
Deputy General Counsel  
Department of State Health Services  
Filed: July 5, 2007



The Department of State Health Services (department) has reviewed 25 TAC Chapter 73, concerning Laboratories, in accordance with the requirements of the Texas Government Code, §2001.039. The department has determined that reasons for readopting the sections continue to exist.

As a result of the rule review, the department published amendments to §§73.11, 73.21, 73.31, 73.41, and 73.51 - 73.55, and the proposed

repeal of §73.25, in the October 14, 2005, issue of the *Texas Register* (30 TexReg 6557). The final rules were published in the April 7, 2006, issue of the *Texas Register* (31 TexReg 3034), and the rules became effective April 16, 2006. The chapter review completion date is April 16, 2006.

TRD-200702855  
Linda Wiegman  
Deputy General Counsel  
Department of State Health Services  
Filed: July 5, 2007



The Department of State Health Services (department) has reviewed 25 TAC Chapter 91, §§91.1 - 91.12, concerning Cancer Registry, in accordance with the requirements of the Texas Government Code, §2001.039. The department has determined that reasons for readopting the sections continue to exist.

As a result of the rule review, the department published amendments to rules in the April 14, 2006, issue of the *Texas Register* (31 TexReg 3154). The final rules were published in the June 30, 2006, issue of the *Texas Register* (31 TexReg 5300), and the rules became effective July 9, 2006. The chapter review completion date is July 9, 2006.

TRD-200702895  
Linda Wiegman  
Deputy General Counsel  
Department of State Health Services  
Filed: July 6, 2007



The Department of State Health Services (department) has reviewed 25 TAC Chapter 96, concerning Bloodborne Pathogen Control, in accordance with the requirements of the Texas Government Code, §2001.039. The department has determined that reasons for readopting the sections continue to exist.

As a result of the rule review, the department published amendments to §§96.101, 96.201 - 96.203, 96.301 - 96.304, 96.401, 96.402, and 96.501; and the proposed repeal of §96.601 in the January 6, 2006, issue of the *Texas Register* (31 TexReg 79). The final rules were published in the July 14, 2006, issue of the *Texas Register* (31 TexReg 5626), and the rules became effective July 23, 2006. The chapter review completion date is July 23, 2006.

TRD-200702856  
Linda Wiegman  
Deputy General Counsel  
Department of State Health Services  
Filed: July 5, 2007



The Department of State Health Services (department) has reviewed 25 TAC Chapter 123, §§123.1 - 123.16, concerning Respiratory Care Practitioner Certification, in accordance with the requirements of the Texas Government Code, §2001.039. The department has determined that reasons for readopting the sections continue to exist.

As a result of the rule review, the department published amendments to the rules in the March 24, 2006, issue of the *Texas Register* (31 TexReg 2369). The final rules were published in the September 22, 2006, issue of the *Texas Register* (31 TexReg 8094), and the rules became effective September 27, 2006. The chapter review completion date is September 27, 2006.

TRD-200702868



Lisa Hernandez  
Deputy General Counsel  
Department of State Health Services  
Filed: July 6, 2007



The Department of State Health Services (department) has reviewed 25 TAC Chapter 129, §§129.1, 129.2, 129.4, 129.5, and 129.7 - 129.13, concerning Opticians' Registry, in accordance with the requirements of the Texas Government Code, §2001.039. The department has determined that reasons for readopting the sections continue to exist.

As a result of the rule review, the department published amendments to the rules in the August 18, 2006, issue of the *Texas Register* (31 TexReg 6455). The final rules were published in the December 8, 2006, issue of the *Texas Register* (31 TexReg 9838), and the rules became effective December 17, 2006. The chapter review completion date is December 17, 2006.

TRD-200702869  
Lisa Hernandez  
Deputy General Counsel  
Department of State Health Services  
Filed: July 6, 2007



The Department of State Health Services (department) has reviewed 25 TAC Chapter 133, §§133.1, 133.2, 133.21 - 133.26, 133.41 - 133.48, 133.61, 133.62, 133.81, 133.101, 133.102, 133.121, 133.122, 133.141 - 133.143, and 133.161 - 133.169, concerning Hospital Licensing, in accordance with the requirements of the Texas Government Code, §2001.039. The department has determined that reasons for readopting the sections continue to exist.

As a result of the rule review, the department published proposed repeals and new rules in the December 15, 2006, issue of the *Texas Register* (31 TexReg 9961). The final rules were published in the June 15, 2007, issue of the *Texas Register* (32 TexReg 3587), and the rules became effective June 21, 2007. The chapter review completion date is June 21, 2007.

TRD-200702870  
Lisa Hernandez  
Deputy General Counsel  
Department of State Health Services  
Filed: July 6, 2007



The Department of State Health Services (department) has reviewed 25 TAC Chapter 143, §§143.1 - 143.20, concerning Medical Radiologic Technologists, in accordance with the requirements of the Texas Government Code, §2001.039. The department has determined that reasons for readopting the sections continue to exist.

As a result of the rule review, the department published amendments to rules in the March 24, 2006, issue of the *Texas Register* (31 TexReg 2378). The final rules were published in the September 22, 2006, issue of the *Texas Register* (31 TexReg 8099), and the rules became effective October 1, 2006. The chapter review completion date is October 1, 2006.

TRD-200702871  
Lisa Hernandez  
Deputy General Counsel  
Department of State Health Services  
Filed: July 6, 2007



# IN

# ADDITION

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

## Texas State Affordable Housing Corporation

### Notice of Request for Proposals

Notice is hereby given of a Request for Proposals by Texas State Affordable Housing Corporation (TSAHC) for Audit, Tax and Accounting Services. Proposals will be due at the TSAHC offices in Austin by 5:00 p.m. on Friday, August 3, 2007. The Request for Proposals can be viewed and downloaded from TSAHC's web site ([www.tsahc.org](http://www.tsahc.org)). Any questions about the Request for Proposals should be directed to Melinda Smith by email at [msmith@tsahc.org](mailto:msmith@tsahc.org), by fax at (512) 477-3557, or by phone at (512) 477-3555 Ext. 420.

TRD-200702943

David Long

President

Texas State Affordable Housing Corporation

Filed: July 11, 2007



## Ark-Tex Council of Governments

### Request for Qualifications for Household Hazardous Waste Pickup Event

**PROJECT:** Household Hazardous Waste Pickup Event--Bowie County

**ISSUER:** Ark-Tex Council of Governments (ATCOG)

**PROJECT CONTACT:** Elizabeth Layman, Environmental Resource Planner

**SUBMITTAL DEADLINE:** 5:00 p.m., August 31, 2007

The Ark-Tex Council of Governments (ATCOG) expects that the selected contractor will:

\* Prepare and maintain schedules and budgets for pickup and disposal activities

\* Conduct and oversee site and prepare technical reports including:

Review of material goods collected

Onsite collection

Cleanup, disposal, and costs thereof

Quality Assurance Project Plan in compliance with US EPA Regulations

\* Provide status and financial information

\* Attend meetings of ATCOG planning committees for this project

\* Prepare presentation regarding project

\* Develop a budget which includes plans for cleanup and disposal

The ATCOG consultant selection process will include:

\* Soliciting Requests for Qualifications especially for the handling of potentially dangerous materials

\* Negotiating a contract with a selected consultant to begin work immediately

### SUBMIT FIVE COPIES TO:

Elizabeth Layman, Environmental Resource Planner

Ark-Tex Council of Governments

P.O. Box 5307

Texarkana, Texas 75505-5307

*No electronically transmitted proposals will be accepted.*

TRD-200702909

L.D. Williamson

Executive Director

Ark-Tex Council of Governments

Filed: July 9, 2007



## Texas Building and Procurement Commission

### Request for Proposal

The Texas Building and Procurement Commission (TBPC), on behalf of the Department of Family and Protective Services, announces the issuance of Request for Proposal (RFP) #303-7-11969. TBPC seeks a 5 - 10 year lease of approximately 4,241 square feet of office space in Canton, Van Zandt County, Texas.

The deadline for questions is July 27, 2007 and the deadline for proposals is July 31, 2007 at 3:00 p.m. The award date is August 10, 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=71427](http://esbd.tbpc.state.tx.us/bid_show.cfm?bidid=71427).

TRD-200702897

Susan Maldonado

Interim General Counsel

Texas Building and Procurement Commission

Filed: July 6, 2007



### Request for Proposal

The Texas Building and Procurement Commission (TBPC), on behalf of the Texas Department of Criminal Justice, announces the issuance of Request for Proposal (RFP) #303-7-11986. TBPC seeks a 10 year lease of approximately 12,558 square feet of office space in the Garland area, East Dallas County, Texas.

The deadline for questions is July 27, 2007 and the deadline for proposals is July 31, 2007 at 3:00 p.m. The award date is August 10, 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=71428](http://esbd.tbpc.state.tx.us/bid_show.cfm?bidid=71428).

TRD-200702896

Susan Maldonado

Interim General Counsel

Texas Building and Procurement Commission

Filed: July 6, 2007



### Request for Proposal

The Texas Building and Procurement Commission (TBPC), on behalf of the Department of Family and Protective Services (DFPS), announces the issuance of **Request for Proposals (RFP) #303-8-10030**. TBPC seeks a 5-10 year lease of approximately 4,037 square feet of office space in Jacksonville, Cherokee County, Texas.

The deadline for questions is July 30, 2007 and the deadline for proposals is August 6, 2007 at 3:00 p.m. The award date is August 24, 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=71652](http://esbd.tbpc.state.tx.us/bid_show.cfm?bidid=71652).

TRD-200702911

Kay Molina

General Counsel

Texas Building and Procurement Commission

Filed: July 9, 2007



### Request for Proposal

The Texas Building and Procurement Commission (TBPC), on behalf of the Department of Family and Protective Services (DFPS), announces the issuance of **Request for Proposals (RFP) #303-8-10031**. TBPC seeks a 5-10 year lease of approximately 8,219 square feet of office space in Athens, Henderson County, Texas.

The deadline for questions is July 30, 2007 and the deadline for proposals is August 6, 2007 at 3:00 p.m. The award date is August 24, 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=71655](http://esbd.tbpc.state.tx.us/bid_show.cfm?bidid=71655).

TRD-200702910

Kay Molina

General Counsel

Texas Building and Procurement Commission

Filed: July 9, 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 June 29, 2007, through July 5, 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 July 11, 2007. The public comment period for this project will close at 5:00 p.m. on August 10, 2007.

#### FEDERAL AGENCY ACTIONS:

**Applicant: Genesis Producing Company;** Location: The project is located in Aransas Bay in State Tract (ST) 199, approximately 3.5 miles southeast of Rockport, Aransas County, Texas. The project can be located on the U.S.G.S. quadrangle map titled: Rockport, Texas. Approximate UTM Coordinates in NAD 27 (meters): Zone 14; Easting: 694244; Northing: 3096628. Project Description: The applicant proposes to install, operate and maintain structures and equipment necessary for oil and gas drilling, production and transportation activities. Such activities include installation of typical marine barges and keyways, shell and gravel pads, production structures with attendant facilities, and flowlines for Well Nos. 1 and 2. Approximately 2,667 cubic yards of shell, crushed rock, or washed gravel would be used as a base for the drilling rig and well platform at each well site. The pads would be 240 feet long by 100 feet wide and cover approximately 24,000 square feet of area at a typical elevation of 3 feet above the bay bottom. The well platforms would replace the drilling rigs after the well is drilled and would be 7 feet by 30 feet in size and marked with lights and navigation aids as per U.S. Coast Guard regulations. Production platforms would be 70 feet by 70 feet in size and marked with lights and navigation aids as per U.S. Coast Guard regulations. A 6-inch pipeline, 1,525 feet long, would be laid between Well Nos. 1 and 2 and an additional 5,527 feet of pipeline would be laid from Well No. 2 through ST's 200, 201, and 186 to connect to the existing PI production platform in ST 186. The pipeline would be installed by jetting, and/or trenching to a minimum depth of 3 feet below the bay bottom. A designated access route to the wells with a minimum draft clearance of 2 feet would be marked by reflection PVC pipe or other suitable material and with numeric labeling. No dredging is requested. The agent states that no oysters or seagrasses were found with 500 feet of the proposed well sites or pipeline route. CCC Project No.: 07-0227-F1; Type of Application: U.S.A.C.E. permit application #SWG-2007-991 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: Jay Lack;** Location: The project is located along the Gulf Intracoastal Waterway (GIWW), one-half block east of the intersection of 13th Street and Water Street, in Port O'Connor, Calhoun County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: Port O'Connor, Texas. Approximate UTM Coordinates in NAD 27 (meters): Zone 14; Easting: 753129; Northing: 3148606. Project Description: The applicant requests a modification to Department of the Army (DA) Permit 22722. The authorized purpose of the permit is use as a marine docking facility. The applicant proposes to modify the permit to change the use to a seven home single family residential area. The three piers have not been constructed; however, the applicant wants to retain that feature in the permit modification. DA Permit 22722 was issued to the permittee on 13 November 2003 with an expiration date of 31 December 2007. The permit authorized the applicant to construct approximately 390 feet of bulkhead and back-fill approximately 0.59 acre of upper-salt marsh wetlands adjacent to the GIWW. In addition, three piers were authorized, each consisting of a 4-foot-wide by 67-foot-long walkway with a 6- by 48-foot terminal T-head. Four 12- by 25-foot mooring slips were authorized to be constructed on the waterward side of each T-head along with four mooring poles. The end of the boat slips were authorized to be located 150 feet from the centerline of the GIWW in water approximately 8 feet deep at mean high water. No dredging was authorized. To compensate for the impacts to 0.59 acre of wetlands the applicant excavated 1.2 acres of uplands across the GIWW from the proposed project outside the leveed area for Dredge Material Placement Area (PA) 117 and adjacent to Barroom Bay. The excavated material was authorized for placement into PA 117. The site was planted with smooth cordgrass based on 3-foot centers. The planting was completed in November 2006. The mitigation site is still under monitoring by permittee. The goal of the mitigation site is the establishment of a 1.2 acre salt marsh. No additional mitigation is proposed. CCC Project No.: 07-0231-F1; Type of Application: U.S.A.C.E. permit application #SWG-2007-218 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).

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-200702912  
Larry L. Laine  
Chief Clerk/Deputy Land Commissioner, General Land Office  
Coastal Coordination Council  
Filed: July 10, 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 and §303.009, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 07/16/07 - 07/22/07 is 18% for Consumer<sup>1</sup>/Agricultural/Commercial<sup>2</sup>/credit through \$250,000.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 07/16/07 - 07/22/07 is 18% for Commercial over \$250,000.

<sup>1</sup>Credit for personal, family or household use.

<sup>2</sup>Credit for business, commercial, investment or other similar purpose.

TRD-200702913  
Leslie L. Pettijohn  
Commissioner  
Office of Consumer Credit Commissioner  
Filed: July 10, 2007

## Comptroller of Public Accounts

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

The Comptroller of Public Accounts, administering agency for the collection of the Crude Oil Production Tax, has determined that the average taxable price of crude oil for reporting period April 2007, as required by Tax Code, §202.058, is \$56.67 per barrel for the three-month period beginning on January 1, 2007, and ending March 31, 2007. Therefore, pursuant to Tax Code, §202.058, crude oil produced during the month of April 2007, from a qualified Low-Producing Oil Lease, is not eligible for exemption from the crude oil production tax imposed by Tax Code, Chapter 202.

The Comptroller of Public Accounts, administering agency for the collection of the Natural Gas Production Tax, has determined that the average taxable price of gas for reporting period April 2007, as required by Tax Code, §201.059, is \$6.42 per mcf for the three-month period beginning on January 1, 2007, and ending March 31, 2007. Therefore, pursuant to Tax Code, §201.059, gas produced during the month of April 2007, from a qualified Low-Producing Well, is not eligible for exemption from the natural gas production tax imposed by Tax Code, Chapter 201.

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

TRD-200702899  
Martin Cherry  
General Counsel  
Comptroller of Public Accounts  
Filed: July 9, 2007

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

The Comptroller of Public Accounts, administering agency for the collection of the Crude Oil Production Tax, has determined that the average taxable price of crude oil for reporting period May 2007, as required by Tax Code, §202.058, is \$57.95 per barrel for the three-month period beginning on February 1, 2007, and ending April 30, 2007. Therefore, pursuant to Tax Code, §202.058, crude oil produced during the month of May 2007, from a qualified Low-Producing Oil Lease, is not eligible for exemption from the crude oil production tax imposed by Tax Code, Chapter 202.

The Comptroller of Public Accounts, administering agency for the collection of the Natural Gas Production Tax, has determined that the average taxable price of gas for reporting period May 2007, as required by Tax Code, §201.059, is \$6.50 per mcf for the three-month period beginning on February 1, 2007, and ending April 30, 2007. Therefore, pursuant to Tax Code, §201.059, gas produced during the month of May 2007, from a qualified Low-Producing Well, is not eligible for

exemption from the natural gas production tax imposed by Tax Code, Chapter 201.

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

TRD-200702900

Martin Cherry

General Counsel

Comptroller of Public Accounts

Filed: July 9, 2007



## Texas Education Agency

### Notice of the Grant Writer Designation Form for the 2007 - 2008 Investment Capital Fund, Cycle 17, Competitive Grant Program

As part of the Texas Education Agency (TEA) eGrants system, the Grant Writer Designation Form has been introduced as a mechanism for identifying users who will have access to view and complete the Investment Capital Fund, Cycle 17, Grant Application. Due to the competitive nature of some grants, certain users will be designated to have access to a grant application by the superintendent or the organization's authorized official. Only the superintendent or the organization's authorized official may complete the form, and he or she must denote agreement with the authorization statement on the bottom of the form before the schedule is complete. The information submitted on the form is considered to be binding, and only the users identified on the form will have access to the grant application. The organization must select the eligible campuses so that the designated individuals will have access to the grant application.

The Grant Writer Designation Form will be available 30 days prior to publication of the grant in eGrants and must be submitted in order to gain access to the Investment Capital Fund, Cycle 17, Grant Application. The form will close 10 to 15 days before the deadline for receipt of applications, and access to the application will no longer be available if the form has not been completed and submitted.

Superintendents or organizations' authorized officials and eGrants TEA Security Environment (TEA SE) users can view the instructions for the Grant Writer Designation Form at [http://www.tea.state.tx.us/opge/disc/icf\\_c16/grant\\_writer.pdf](http://www.tea.state.tx.us/opge/disc/icf_c16/grant_writer.pdf).

A TEA SE username and password are required for each user of eGrants, including authorized officials such as superintendents and executive directors who submit grant applications, employees or contractors who will assist in writing/completing applications in eGrants, and grant personnel who will be completing project progress reports in eGrants. For each user, a single TEA SE username and password is valid for all eGrants applications and is not limited to any one specific grant. To request a TEA SE username and password, or for information on how to apply for eGrants access once a TEA SE account has been established, go to <http://www.tea.state.tx.us/opge/egrant/index.html>.

Description of Investment Capital Fund Grant Program. The purposes of the Investment Capital Fund are (1) to assist eligible public schools to implement practices and procedures consistent with deregulation and school restructuring so as to improve student achievement, and (2) to help schools identify and train parents and community leaders who will hold the school and the school district accountable for achieving high academic standards. The primary objective of the Investment Capital Fund grant program is to improve academic performance through the following program goals: train school staff, parents, and community leaders to understand academic standards; develop and implement effective strategies to improve student performance; organize a large con-

stituency of parents and community leaders who will hold the school and school district accountable for achieving high academic standards; and engage in ongoing planning to help ensure the success of the grant program.

Obtaining Access to the eGrants Application. This grant is available only through eGrants and may not be submitted through any other means. To access the information and requirements for this grant, enter the TEA Grant Opportunities webpage at <http://burleson.tea.state.tx.us/GrantOpportunities/forms>. In the "Select Search Options" box select the name of the program/RFA from the drop-down list. Scroll down to the "Application and Support Information" section to view all documents that pertain to this RFA. All applicants must complete and submit the Grant Writer Designation Form.

Further Information. For clarifying information about this notice or the RFA, contact Carlos Garza, Division of Discretionary Grants, Texas Education Agency, (512) 463-9269. In order to assure that no prospective applicant may obtain a competitive advantage because of acquisition of information unknown to other prospective applicants, any information that is different from or in addition to information provided in the RFA will be provided only in response to written inquiries. Copies of all such inquiries and the written answers thereto will be posted on the TEA website in the format of Frequently Asked Questions (FAQ) at <http://burleson.tea.state.tx.us/GrantOpportunities/forms/>.

TRD-200702930

Cristina De La Fuente-Valadez

Director, Policy Coordination

Texas Education Agency

Filed: July 11, 2007



## Texas Commission on Environmental Quality

### Enforcement Orders

An agreed order was entered regarding Nuraj Enterprises, Inc. dba West End Grocery, Docket No. 2004-1578-PST-E on June 28, 2007 assessing \$1,600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Marlin Bullard, Enforcement Coordinator at (254) 761-3038, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Saint-Gobain Vetrotex America, Inc., Docket No. 2004-1786-AIR-E on June 28, 2007 assessing \$3,100 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Trina Grieco, Enforcement Coordinator at (210) 403-4006, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Alcoa World Alumina LLC, Docket No. 2005-0350-AIR-E on June 28, 2007 assessing \$44,426 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 Nathaniel Energy Corporation, Docket No. 2005-0388-MSW-E on June 28, 2007 assessing \$16,900 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 Texas Parks and Wildlife Department, Docket No. 2005-0451-MWD-E on June 28, 2007 assessing \$5,678 in administrative penalties with \$1,136 deferred.

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 The City of Cockrell Hill, Docket No. 2005-0702-PWS-E on June 28, 2007 assessing \$6,525 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Lena Roberts, Staff Attorney at (512) 239-0019, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding SAK Diamond Petroleum, LLC, Docket No. 2005-1657-PWS-E on June 28, 2007 assessing \$3,175 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 Daniel Lopez and Mariciela Carrillo a/k/a Marisela Lopez, Docket No. 2005-1934-MSW-E on June 28, 2007 assessing \$5,250 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Mark Curnutt, 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 Market Truck Stop Inc. dba Texas Truck Stop, Docket No. 2006-0288-PST-E on June 28, 2007 assessing \$13,400 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Mark Curnutt, Staff Attorney at (512) 239-0624, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Abdullah Ahmedi dba Country Boy Store 2, Docket No. 2006-0300-PST-E on June 28, 2007 assessing \$14,700 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 HMW Special Utility District, Docket No. 2006-0593-MLM-E on June 28, 2007 assessing \$11,011 in administrative penalties with \$2,203 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 Exxon Mobil Corporation, Docket No. 2006-0736-AIR-E on June 28, 2007 assessing \$50,147 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 Chet N Inc. dba Lakeside Cleaners, Docket No. 2006-0854-DCL-E on June 28, 2007 assessing \$2,370 in administrative penalties with \$474 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 Lin Song dba A Plus Cleaners, Docket No. 2006-0871-DCL-E on June 28, 2007 assessing \$1,185 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Lena Roberts, Staff Attorney at (512) 239-0019, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Savoy, Docket No. 2006-1058-MWD-E on June 28, 2007 assessing \$10,400 in administrative penalties with \$2,080 deferred.

Information concerning any aspect of this order may be obtained by contacting Pam Campbell, Enforcement Coordinator at (512) 239-4493, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Nara Management, Inc. dba Nara Cleaners, Docket No. 2006-1097-DCL-E on June 28, 2007 assessing \$1,185 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Mark Curnutt, Staff Attorney at (512) 239-0624, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Richard R. Goody dba Rockin Texas Lounge, Docket No. 2006-1100-PWS-E on June 28, 2007 assessing \$1,220 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Kathleen Decker, Staff Attorney at (512) 239-6500, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Southwest Convenience Stores, LLC dba 7-Eleven, Docket No. 2006-1261-AIR-E on June 28, 2007 assessing \$11,380 in administrative penalties with \$2,276 deferred.

Information concerning any aspect of this order may be obtained by contacting Jason Kemp, Enforcement Coordinator at (512) 239-5610, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Clarksville, Docket No. 2006-1394-PWS-E on June 28, 2007 assessing \$725 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Yuliya Dunaway, Enforcement Coordinator at (210) 490-3096, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Chambers County, Docket No. 2006-1397-AIR-E on June 28, 2007 assessing \$4,950 in administrative penalties with \$990 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 Exxon Mobil Corporation, Docket No. 2006-1442-AIR-E on June 28, 2007 assessing \$92,138 in administrative penalties with \$18,428 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 Windwood Water System, Inc., Docket No. 2006-1772-PWS-E on June 28, 2007 assessing \$1,575 in administrative penalties with \$315 deferred.

Information concerning any aspect of this order may be obtained by contacting Catherine Albrecht, Enforcement Coordinator at (713) 767-3672, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Crims Chapel Water Supply Corporation, Docket No. 2006-1829-PWS-E on June 28, 2007 assessing \$1,905 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Yuliya Dunaway, Enforcement Coordinator at (210) 490-3096, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Hagg, Inc. dba Speedy Mart, Docket No. 2006-1868-PST-E on June 28, 2007 assessing \$6,600 in administrative penalties with \$1,320 deferred.

Information concerning any aspect of this order may be obtained by contacting Colin Barth, Enforcement Coordinator at (512) 239-0086, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Somerville, Docket No. 2006-1883-PWS-E on June 28, 2007 assessing \$760 in administrative penalties.

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 City of Tehuacana, Docket No. 2006-1888-PWS-E on June 28, 2007 assessing \$1,400 in administrative penalties with \$280 deferred.

Information concerning any aspect of this order may be obtained by contacting Amy Martin, Enforcement Coordinator at (512) 239-2540, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Jong Oh dba J. C. Phillips, Docket No. 2006-1906-PST-E on June 28, 2007 assessing \$1,050 in administrative penalties with \$210 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 Arkema Inc., Docket No. 2006-1910-AIR-E on June 28, 2007 assessing \$3,950 in administrative penalties with \$790 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 Ullah Brothers, Incorporated dba Sinton Travel Center, Docket No. 2006-1916-PST-E on June 28, 2007 assessing \$16,000 in administrative penalties with \$3,200 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 Nazir N. Chandani dba River Run Texaco, Docket No. 2006-1936-PST-E on June 28, 2007 assessing \$2,250 in administrative penalties with \$450 deferred.

Information concerning any aspect of this order may be obtained by contacting Phillip DeFrancesco, Enforcement Coordinator at (817) 588-5833, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Cooper Concrete Co., Docket No. 2006-1943-IWD-E on June 28, 2007 assessing \$28,435 in administrative penalties with \$5,687 deferred.

Information concerning any aspect of this order may be obtained by contacting Harvey Wilson, Enforcement Coordinator at (512) 239-0321, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Rosamond Corporation dba JRS Mart, Docket No. 2006-1950-PST-E on June 28, 2007 assessing \$6,300 in administrative penalties with \$1,260 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 Aqua Development, Inc. dba Wilson Road Properties, Ltd., Docket No. 2006-1965-MWD-E on June 28, 2007 assessing \$1,120 in administrative penalties with \$224 deferred.

Information concerning any aspect of this order may be obtained by contacting Suzanne Walrath, Enforcement Coordinator at (512) 239-2134, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Sabine Valley Pipeline Inc., Docket No. 2006-1970-AIR-E on June 28, 2007 assessing \$3,750 in administrative penalties with \$750 deferred.

Information concerning any aspect of this order may be obtained by contacting Roshondra Lowe, Enforcement Coordinator at (713) 767-3553, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Calabrian Corporation, Docket No. 2006-1972-IWD-E on June 28, 2007 assessing \$4,110 in administrative penalties with \$822 deferred.

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 Ultra Fuel & Oil, L.L.C. dba Rio Grande Supermarket, Docket No. 2006-1979-AIR-E on June 28, 2007 assessing \$1,000 in administrative penalties with \$200 deferred.

Information concerning any aspect of this order may be obtained by contacting Bryan Elliott, Enforcement Coordinator at (512) 239-6162, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding White Oak Utilities, Inc., Docket No. 2006-1981-MWD-E on June 28, 2007 assessing \$5,400 in administrative penalties with \$1,080 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 Tracy L. Baccus, Docket No. 2006-1982-OSI-E on June 28, 2007 assessing \$187 in administrative penalties with \$37 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 Commercial Metals Company, Docket No. 2006-1989-AIR-E on June 28, 2007 assessing \$1,400 in administrative penalties with \$280 deferred.

Information concerning any aspect of this order may be obtained by contacting Suzanne Walrath, Enforcement Coordinator at (512) 239-2134, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Gregory D. Fox, Docket No. 2006-1991-LII-E on June 28, 2007 assessing \$275 in administrative penalties with \$55 deferred.

Information concerning any aspect of this order may be obtained by contacting Michael Limos, Enforcement Coordinator at (512) 239-5839, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Hill Country Arts Foundation, Docket No. 2006-1993-PWS-E on June 28, 2007 assessing \$2,840 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Yuliya Dunaway, Enforcement Coordinator at (210) 490-3096, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding C & R Distributing, Inc., Docket No. 2006-2002-AIR-E on June 28, 2007 assessing \$1,100 in administrative penalties with \$220 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 The Dow Chemical Company, Docket No. 2006-2006-AIR-E on June 28, 2007 assessing \$20,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Trina Grieco, Enforcement Coordinator at (210) 403-4006, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Crown Cork & Seal Company (USA), Inc., Docket No. 2006-2018-AIR-E on June 28, 2007 assessing \$3,650 in administrative penalties with \$730 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 River Acres Water Supply Corporation, Docket No. 2006-2028-PWS-E on June 28, 2007 assessing \$735 in administrative penalties with \$147 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 ConocoPhillips Company, Docket No. 2006-2030-AIR-E on June 28, 2007 assessing \$10,000 in administrative penalties.

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 Glasscock County Co-Op, Docket No. 2006-2032-AIR-E on June 28, 2007 assessing \$1,000 in administrative penalties with \$200 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 Texas Parks and Wildlife Department, Docket No. 2006-2037-PWS-E on June 28, 2007 assessing \$450 in administrative penalties with \$90 deferred.

Information concerning any aspect of this order may be obtained by contacting Yuliya Dunaway, Enforcement Coordinator at (210) 490-3096, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Love's Travel Stops & Country Stores, Inc. dba Love's Country Store 214, Docket No. 2006-2041-AIR-E on June 28, 2007 assessing \$2,000 in administrative penalties with \$400 deferred.

Information concerning any aspect of this order may be obtained by contacting Harvey Wilson, Enforcement Coordinator at (512) 239-0321, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Panorama Village, Docket No. 2006-2057-MWD-E on June 28, 2007 assessing \$3,000 in administrative penalties with \$600 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 City of Tenaha, Docket No. 2006-2090-MWD-E on June 28, 2007 assessing \$5,010 in administrative penalties with \$1,002 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 Xiu Hui Li McCulloch dba Hartwick Green Mobile Home Park, Docket No. 2006-2100-MWD-E on June 28, 2007 assessing \$3,810 in administrative penalties with \$762 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 Keith Blair dba Lake Fork Marina WWTP, Docket No. 2006-2101-MWD-E on June 28, 2007 assessing \$3,420 in administrative penalties with \$684 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 Wise County Power Company, LP, Docket No. 2006-2105-AIR-E on June 28, 2007 assessing \$1,625 in administrative penalties with \$325 deferred.

Information concerning any aspect of this order may be obtained by contacting Trina Grieco, Enforcement Coordinator at (210) 403-4006, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Childress, Docket No. 2006-2158-MWD-E on June 28, 2007 assessing \$2,800 in administrative penalties with \$560 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 Rushing Paving Company, Ltd., Docket No. 2006-2229-AIR-E on June 28, 2007 assessing \$2,740 in administrative penalties with \$548 deferred.

Information concerning any aspect of this order may be obtained by contacting Jessica Rhodes, Enforcement Coordinator at (512) 239-2879, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Cotton Center Producers, Inc. dba United Gin Company, Docket No. 2006-2234-AIR-E on June 28, 2007 assessing \$1,700 in administrative penalties with \$340 deferred.

Information concerning any aspect of this order may be obtained by contacting Trina Grieco, Enforcement Coordinator at (210) 403-4006, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding David Gonzales, Docket No. 2006-2242-OSI-E on June 28, 2007 assessing \$500 in administrative penalties with \$100 deferred.

Information concerning any aspect of this order may be obtained by contacting Pam Campbell, Enforcement Coordinator at (512) 239-4493, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Valero Refining-Texas, L.P., Docket No. 2007-0028-IWD-E on June 28, 2007 assessing \$37,370 in administrative penalties with \$7,474 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 Union Water Supply Corporation, Docket No. 2007-0031-MWD-E on June 28, 2007 assessing \$8,550 in administrative penalties with \$1,710 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 Wingate Gin Corporation dba Big Spring Gin, Docket No. 2007-0079-AIR-E on June 28, 2007 assessing \$2,100 in administrative penalties with \$420 deferred.

Information concerning any aspect of this order may be obtained by contacting Trina Grieco, Enforcement Coordinator at (210) 403-4006, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Starrville Water Supply Corporation, Docket No. 2007-0098-PWS-E on June 28, 2007 assessing \$750 in administrative penalties.

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 Valero Refining-Texas, L.P., Docket No. 2007-0161-AIR-E on June 28, 2007 assessing \$38,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Kimberly Morales, Enforcement Coordinator at (713) 422-8938, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding reddy&family inc. dba Turbo Gas, Docket No. 2007-0628-PST-E on June 28, 2007 assessing \$3,500 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 Irwin Co., Inc. dba I & I Plumbing Inc., Docket No. 2007-0635-PST-E on June 28, 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 reddy&family inc. dba Kwick Food Mart/Turbo Gas, Docket No. 2007-0629-PST-E on June 28, 2007 assessing \$3,500 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 Jesus Garcia, Docket No. 2006-0078-MSW-E on June 28, 2007 assessing \$3,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Mike Limos, Enforcement Coordinator at (512) 239-5839, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-200702935  
LaDonna Castañuela  
Chief Clerk  
Texas Commission on Environmental Quality  
Filed: July 11, 2007



### Notice of District Petition

Notices issued July 5, 2007 through July 6, 2007.

TCEQ Internal Control No. 05292007-D11; Mehrdad Moayedi, (Petitioner) filed a petition for creation of Valencia on the Lake WCID (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, Section 59 of the Constitution of the State of Texas; Chapters 49 and 51 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states the following: (1) the Petitioner is the owner of a majority in value of the land, consisting of one tract, to be included in the proposed District; (2) there is one lien holder, Wachovia Bank National Association, on the property to be included in the proposed District; (3) the proposed District will contain approximately 448.0 acres located in Denton County, Texas; and (4) the proposed District is within the extraterritorial jurisdiction of the town of Little Elm, Texas, and no portion of land within the proposed District is within the corporate limits or extraterritorial jurisdiction of any other city, town or village in Texas. By Ordinance No. 765, dated June 2006, the town of Little Elm, Texas, gave its consent to the creation of the proposed District. According to the petition, the Petitioner has conducted a preliminary investigation to determine the cost of the project and from the information available at the time, the cost of the project is estimated to be approximately \$20,695,093.

TCEQ Internal Control No. 12112006-D06; Katy-Hockley/Jack Associates L.P. (Petitioner) filed a petition for creation of Harris County Municipal Utility District No. 452 (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, Section 59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 TAC §293; and the procedural rules of the TCEQ. The petition states the following: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) the proposed District will contain approximately 444.19 acres located in Harris County, Texas; and (4) the proposed District is wholly within the extraterritorial jurisdiction of the City of Houston, Texas, and no portion of land within the proposed District is within the corporate limits or extraterritorial jurisdiction of any other city, town or village in Texas. Amegy Bank National Association is the only lien holder on the property to be included in the proposed District, and by separate affidavit, has consented to the creation of the proposed District. By Ordinance No. 2006-958, effective September 26, 2006, the City of Houston, Texas, gave its consent to the creation of the proposed District. According to the petition, the Petitioners have conducted a preliminary investigation to determine the cost of the project and from the information available at the time, the cost of the project is estimated to be approximately \$24,000,000.

### INFORMATION SECTION

To view the complete issued notice, view the notice on our web site at [www.tceq.state.tx.us/comm\\_exec/cc/pub\\_notice.html](http://www.tceq.state.tx.us/comm_exec/cc/pub_notice.html) or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the web site, type in the issued date range shown at the top of this document to obtain search results.

The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit

the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en Español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our web site at [www.tceq.state.tx.us](http://www.tceq.state.tx.us).

TRD-200702934  
LaDonna Castañuela  
Chief Clerk  
Texas Commission on Environmental Quality  
Filed: July 11, 2007



### Notice of Priority Groundwater Management Area Report Completion and Availability

The executive director of the Texas Commission on Environmental Quality (TCEQ or commission) in accordance with 30 TAC §294.41(i), gives notice of the completion, recommended action, and availability of the priority groundwater management area (PGMA) report entitled *Updated Evaluation for the North-Central Texas, Trinity and Woodbine Aquifers, Priority Groundwater Management Study Area*. In the report, the executive director recommends that the commission should designate a 13-county area as a PGMA and recommends that the creation of a regional, fee-funded groundwater conservation district represents the most feasible, economic, and practicable option for protection and management of the groundwater resources. The report was filed with the Chief Clerk of the TCEQ on June 26, 2007. The matter will be referred to the State Office of Administrative Hearings for a public hearing to be scheduled at a later date. Notice of the hearing will be provided in accordance with 30 TAC §294.42.

### EXECUTIVE SUMMARY OF REPORT

This report presents the updated PGMA study for the North-Central Texas - Trinity and Woodbine aquifer area, including Collin, Cooke, Dallas, Delta, Denton, Ellis, Fannin, Grayson, Hood, Hunt, Johnson, Kaufman, Lamar, Montague, Navarro, Parker, Red River, Rockwall, Tarrant, and Wise counties. The purpose of the study is to determine if all, part, or any of this area is experiencing or is expected to experience within the next 25-year period critical groundwater problems, and to recommend feasible and practicable groundwater management solutions if shortages of surface water or groundwater are occurring or are expected to occur.

In 1990, the Texas Water Commission (TCEQ predecessor agency) determined the North-Central Texas study area was not a PGMA, but requested the issue be studied and reconsidered again in the future. TCEQ efforts to reevaluate the study area were started again in 1998 and Texas Water Development Board (TWDB) and Texas Parks and Wildlife Department (TPWD) reports were completed in 1999. Shortly thereafter, the TCEQ chose to postpone the update effort until the 2001-2002 regional and state water planning cycle was completed. State law was then amended in 2003 to require TCEQ to complete this and several other similar PGMA studies.

This study evaluates regional water resource issues and summarizes and evaluates data and information that has been developed in the North-Central Texas study area over the past 15 years. For this study, TCEQ staff have considered data and information provided by the TWDB and the 2002 State Water Plan; stakeholders in the study area; the 2001 and 2006 Region B, Region C, Brazos G, and North East Texas Regional Water Plans; the TPWD; and from independent research.

Notice of the study was mailed to approximately 1,200 water stakeholders in the study area in July 2005 to solicit comments and water supply and management data. These stakeholders included municipal, county, and state officials; entities that supply public drinking water; river authorities; planning entities; nearby groundwater conservation districts; and other environmental and occupational interest groups. The overdraft of groundwater supplies, wise use of groundwater resources, surface water quality, and potential groundwater quantity and quality impacts from booming natural gas exploration and production activities were the concerns most often voiced by the respondents. A few respondents commented that some type of groundwater management or oversight in some parts of the study area may be warranted.

From 2000 to 2030, the population of this 20-county study area is projected to increase from just over 5.5 million people to almost 9.5 million residents. An estimated 1.36 million acre-feet (acft) of water was used in the study area in 2000, and the demand for water is projected to increase to almost 1.85 million acft/year by 2010 and to almost 2.46 million acft/year by 2030. Municipal use presently accounts for and will continue to account for about 87% of the total water use over the next 25 years in the area.

About 62% of the study area's total water supply is from in-area surface water reservoirs and another 26% is from out-of-area reservoirs. The principal regional water planning group strategies to address water shortages in the study area involve existing and new in- and out-of-area surface water supplies. The development of new reservoirs and the inundation of valuable land and limited habitat are the primary water-related natural resource concerns in the study area. The new Muenster Reservoir and the proposed Lake Ralph Hall (by 2020) will inundate some riparian habitat but otherwise have little environmental impact. The proposed Lower Bois d'Arc Creek Reservoir (by 2020) would inundate moderate value wetlands and moderate quality bottomland hardwoods, and the proposed Marvin Nichols Reservoir (by 2030) would inundate high value wetlands and excellent quality bottomland hardwoods. The Marvin Nichols Reservoir would also inundate lignite deposits and oil and gas wells in the proposed pool area, and negatively impact farming, ranching, and timber interests. If constructed, these proposed reservoirs are likely to disrupt instream flows and destroy terrestrial habitat, possibly including threatened or endangered species habitat. Mitigation allowances will be necessary to set aside other land as habitat. Reservoir operations will also be modified to reduce instream flow impacts.

The Trinity and Woodbine aquifers are the primary groundwater resources in the study area, and the Blossom and Nacatoch sands provide minor amounts of water in the northeastern part of the study area.

Together, these aquifers supply about 5% of the total water supply in the study area. Water-level declines including the associated reduction of artesian pressure caused by the continued removal of water from aquifer storage is a regional groundwater problem. This problem was reported in 1990 and remains the significant groundwater problem today. At present, water user groups in Ellis, Johnson, and Tarrant counties are collectively using the Trinity aquifer at quantities over regional water planning group estimates for the safe supply for each county, and water user groups in Collin, Cooke, Dallas, Denton, Fannin, Grayson, Hood, Parker, and Wise counties are using the Trinity aquifer at quantities near each county's estimated safe supply. Water user groups in Fannin and Johnson counties are also collectively using the Woodbine aquifer at quantities over the estimated safe supply for each county.

Over 200 water user groups in the study area anticipate the continued use of Trinity and Woodbine aquifer supplies at present levels and most are planning to drill supplemental or replacement wells to maintain their supply. Strategies to increase reliance on the Trinity and Woodbine aquifers have also been recommended for many water user groups in the study area. Overdrafting the Trinity aquifer through at least 2010, and adding new wells or increasing existing well production are regional water plan strategies for 41 water user groups in Collin, Cooke, Dallas, Denton, Ellis, Fannin, Grayson, Johnson, Montague, Parker, Tarrant, and Wise counties. Likewise, overdrafting the Woodbine aquifer through 2010, adding new Woodbine aquifer wells, and increasing existing Woodbine aquifer well production are regional water plan strategies for 23 water user groups in Collin, Denton, Ellis, Fannin, Grayson, and Hunt counties. Regional water plan strategies to reduce reliance on the Trinity and Woodbine aquifers are recommended for 33 water user groups in Collin, Cooke, Dallas, Denton, Ellis, Fannin, Grayson, and Wise counties. Even with these recommended reductions in pumpage or supply, the strategies to increase reliance on the Trinity and Woodbine aquifers result in collectively higher groundwater demand projections through 2010, for both aquifers and through 2030, for the Woodbine. By 2020, the reduced Trinity aquifer use strategies are projected to offset the new aquifer use strategies.

The water demands for the development of the Barnett Shale are not addressed or included in the regional water plans. Barnett Shale water use and demand projections developed in January 2007, when coupled with present groundwater use estimates, may collectively push Trinity aquifer use above the regional water plan estimates of reliable supply for Cooke, Denton, Parker, and Wise counties and add to ongoing aquifer overdraft in Ellis, Johnson, and Tarrant counties. Shortages are projected in the 2006 Region B, Region C, and Brazos G Water Plans for other mining user groups in Cooke, Denton, Hood, Johnson, Montague, Tarrant, and Wise counties. Recommended strategies to address the projected shortages include conservation, purchasing water from various suppliers, reuse of water, supplemental wells in the Trinity aquifer, overdrafting of the Trinity aquifer, and new wells in the Trinity and Woodbine aquifers.

The past and continued overdevelopment of aquifers from the continued urbanization of the area threatens water supplies for rural domestic, municipal, and small water providers who depend on groundwater resources. Some groundwater users on the fringes of the Dallas-Fort Worth urban core, including many municipalities, are or will be converting to surface water sources over the next 10 to 20 years. However, increased groundwater pumpage to keep pace with the growth around the metroplex and the growing suburban cities is anticipated to continue. Historically, regional groundwater pumpage has not lessened when local providers convert to surface water sources.

Preserving the ability to rely on the limited groundwater resource is and will remain a primary objective for remote rural water suppliers; individual businesses, industries, or landowners; and small municipal-

ities. Protecting existing groundwater supplies is a critical issue for these groundwater users because the delivery of alternative surface water supplies will not always be economically feasible. For these reasons, it is recommended that the following counties be designated as the Northern Trinity and Woodbine Aquifers Priority Groundwater Management Area: Collin, Cooke, Dallas, Denton, Ellis, Fannin, Grayson, Hood, Johnson, Montague, Parker, Tarrant, and Wise. Critical groundwater problems are not presently occurring or projected to occur in Delta, Hunt, Kaufman, Lamar, Navarro, Red River, or Rockwall counties within the next 25-year period and these counties should not be designated as part of the recommended Northern Trinity and Woodbine Aquifers Priority Groundwater Management Area.

One or more groundwater conservation districts (GCDs) created within Collin, Cooke, Dallas, Denton, Ellis, Fannin, Grayson, Hood, Johnson, Montague, Parker, Tarrant, and Wise counties would have the necessary authority to address the groundwater problems identified in the area, and financing groundwater management activities through well production fees is concluded to be the most viable alternative. A regional groundwater conservation district for these counties would include the greatest areal extent of the Trinity and Woodbine aquifers experiencing supply problems and would be the most cost effective. From a resource protection perspective, this option would be the most efficient by allowing for a single groundwater management program that would assure consistency across the area, providing a central groundwater management entity for decision-making purposes, and simplifying groundwater management planning responsibilities related to Groundwater Management Area #8.

The remote rural water suppliers; individual businesses, industries, or landowners; and small municipalities of these counties would benefit from groundwater management programs for the Trinity and Woodbine aquifers. The groundwater management programs should have the following goals: to quantify groundwater availability and quality and understand aquifer characteristics; to identify groundwater problems that should be addressed through aquifer- and area-specific research, monitoring, data collection, assessment, and education programs; to quantify aquifer impacts from pumpage and establish an overall understanding of groundwater use through a comprehensive water well inventory, registration, and permitting program; and to evaluate and understand aquifers sufficiently to establish spacing regulations to minimize drawdown of water levels and to prevent interference among neighboring wells would benefit groundwater users in these counties.

It is recommended that a regional, fee-funded groundwater conservation district for the conservation and management of the Trinity and Woodbine aquifers in Collin, Cooke, Dallas, Denton, Ellis, Fannin, Grayson, Hood, Johnson, Montague, Parker, and Wise counties represents the most feasible, economic, and practicable option for protection and management of the groundwater resources. Alternatively, it is recommended that three multi-county, fee-funded GCDs could be created based on (1) local initiative to establish economically viable and functional districts, (2) aquifer hydrology and present and projected use, and (3) other political or location considerations.

The use and application of the permissive authority granted to municipal and county platting authorities to require groundwater availability certification under the Local Government Code can also be an effective tool to help ensure that residents of new subdivisions with homes that will rely on individual wells will have adequate groundwater resources. It is recommended that local governments consider using this groundwater management tool to address water supply concerns in rapidly developing areas.

Over 30 stakeholders, many representing counties, cities, and water suppliers, provided written comments on a December 2006, draft of

this report and the executive director updated the report where new data and information was provided. The recommendation for the designation of the 13-county area was not changed because a dedicated aquifer monitoring and management program is needed to protect Trinity and Woodbine aquifer users. The recommendation for a multi-county, fee-funded GCD was refined because the Northern Trinity GCD was created in Tarrant County. The alternative recommendation for the creation of three multi-county, fee-funded GCD was added based on stakeholder comments and other local actions taken independently to create, subject to a confirmation election, the Upper Trinity GCD in Hood, Montague, Parker, and Wise counties.

#### REPORT AVAILABILITY

The executive director's report was filed on June 26, 2007, with TCEQ's Office of the Chief Clerk, located at 12100 Park 35 Circle, Building F, Room 1104, Austin, Texas. The report is available for public inspection at the following county clerk office locations: 200 S. McDonald, Ste. 120, McKinney; 100 S. Dixon, Gainesville; 509 Main St., Dallas; 1450 E. McKinney St., Denton; 117 W. Franklin St., Waxahachie; 101 E. Sam Rayburn Dr., Ste. 101, Bonham; 100 W. Houston, Ste. 17, Sherman; 100 W. Pearl St., Granbury; 204 S. Buffalo Ave., Cleburne; 101 E. Franklin, Montague; 1112 Santa Fe Dr., Weatherford; 100 W. Weatherford St., Fort Worth; and 200 N. Trinity, Decatur. The report is also available for inspection at the following libraries and locations: University of Texas at Arlington, 702 College St., Arlington; Dallas Public Library, 1515 Young St., Dallas; Southern Methodist University, Fondren Library, 6414 Hilltop Ln., Dallas; Texas Woman's University, Mary Evelyn Blagg-Huey Library, 1200 Frame St., Denton; University of North Texas, Willis Library, 1516 W. Highland St., Denton; Fort Worth Public Library, 500 W. Third St., Fort Worth; Texas Christian University, Mary Couts Burnett Library, 2913 Lowden St., Fort Worth; University of Texas at Dallas, Eugene McDermott Library, 2601 N. Floyd Rd., Richardson; Allen Public Library, 300 N. Allen Dr., Allen; Muenster Public Library, 418 N. Elm St., Muenster; Emily Fowler Central Library, 502 Oakland St., Denton; Ferris Public Library, 514 S. Mabel St., Ferris; Bonham Public Library, 305 E. 5th St., Bonham; Denison Public Library, 300 W. Gandy St., Denison; Hood County Public Library, 222 Travis St., Granbury; Burleson Public Library, 248 SW Johnson Ave., Burleson; Bowie Public Library, 301 W. Walnut St., Bowie; Weatherford Public Library, 1014 Charles St., Weatherford; The John A. & Katherine G. Jackson Public Library, 1700 S. FM 51, Decatur; Legislative Reference Library, Texas State Capitol Building, 1100 Congress Ave., Rm 2N.3, Austin; Texas State Library, 1201 Brazos, Austin; and, Texas A&M University - Commerce James G. Gee Library, 2600 S. Neal St., Commerce; Middle Trinity Groundwater Conservation District, 150 N. Harbin St., Ste. 434, Stephenville; Region B Water Planning Group - Red River Authority, 3000 Hammon Rd., Wichita Falls; Region C Water Planning Group - North Texas Municipal Water District, 505 E. Brown St., Wylie; Brazos G Water Planning Group - Brazos River Authority, 4600 Cobbs Dr., Waco; North East Texas Water Planning Group - Northeast Texas Municipal Water District, 4180 FM 250, Hughes Springs; TCEQ Region 3 Office, 1977 Industrial Blvd., Abilene; TCEQ Region 4 Office, 2309 Gravel Dr., Fort Worth; TCEQ Region 5 Office, 2916 Teague Dr., and on the commission's Web site at [http://www.tceq.state.tx.us/permitting/water\\_supply/groundwater/pgma.html](http://www.tceq.state.tx.us/permitting/water_supply/groundwater/pgma.html). Copies of the report may be obtained by contacting Mr. Kelly Mills at (512) 239-4512, by email at [kmills@tceq.state.tx.us](mailto:kmills@tceq.state.tx.us), or in writing to Mr. Kelly Mills, Texas Commission on Environmental Quality, Groundwater Planning and Assessment, MC 147, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-200702917

Robert Martinez  
Director, Environmental Law Division  
Texas Commission on Environmental Quality  
Filed: July 10, 2007



### Notice of Water Quality Applications

The following notices were issued during the period of July 5, 2007 through July 6, 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 the Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087, WITHIN 30 DAYS OF THE DATE OF NEWSPAPER PUBLICATION OF THE NOTICE.

AEP TEXAS NORTH COMPANY which operates the Rio Pecos Power Station has applied for a renewal of TPDES Permit No. WQ0000961000, which authorizes the discharge of cooling tower blowdown at a daily average flow not to exceed 864,000 gallons per day via Outfall 001, storm water on an intermittent and flow variable basis via Outfall 002, and storm water on an intermittent and flow variable basis via Outfall 003. The facility is located adjacent to the Upper Pecos River and 0.5 miles north of U.S. Highway 67 and approximately 3.0 miles northeast of the community of Girvin, Crockett County, Texas.

ALDINE INDEPENDENT SCHOOL DISTRICT has applied for a renewal of TPDES Permit No. WQ0012070002, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 60,000 gallons per day. The facility is located in the northeast corner of T. S. Grantham M. S. Campus at 13800 Chrisman Road, approximately 1350 feet east of Chrisman Road and approximately 1900 feet north of the intersection of Aldine Mail Road and Chrisman Road in Harris County, Texas.

CITY OF AUBREY has applied for a renewal of TPDES Permit No. 13647-001, 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 approximately 2,000 feet west of the intersection of U.S. Highway 377 and Farm-to-Market Road 428 in Denton County, Texas.

BEECHNUT MUNICIPAL UTILITY DISTRICT has applied for a renewal of TPDES Permit No. WQ0012258001, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 1,380,000 gallons per day. The facility is located 8401 Hemlock Hill Drive, approximately 1250 feet northwest of Eldridge Road and Beechnut Road and 3.4 miles southeast of the intersection of Farm-to-Market Road 1093 (Westheimer Road) and State Highway 6 in Harris County, Texas.

BLUE RIDGE WEST MUNICIPAL UTILITY DISTRICT has applied to the Texas Commission on Environmental Quality (TCEQ) for a renewal of TPDES Permit No. 11553-001, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 1,000,000 gallons per day. The facility is located approximately 1.2 miles southeast of Settegast Road and Farm-to-Market Road 2234 in Missouri City in Fort Bend County, Texas.

BRIARWOOD LUTHERAN MINISTRIES has applied for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0012605002, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 5,000 gallons per day. The facility was previously permitted under TPDES Permit No. 12605-002 which expired September 1, 2006. The facility is lo-

cated on Copper Canyon Road approximately one mile north of the intersection of Farm-to-Market Road 407 and Copper Canyon Road in Denton County, Texas.

CORINTHIAN POINT MUNICIPAL UTILITY DISTRICT NO. 2 has applied for a renewal of TPDES Permit No. WQ0011285001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 174,000 gallons per day. The facility is located approximately five miles northwest of the intersection of Farm-to-Market Road 1097 and Interstate Highway 45; 2,000 feet from the east shore of Lake Conroe approximately 11,000 feet north of Farm-to-Market Road 1097 and 3,000 feet south of Calvary Road in Montgomery County, Texas.

CITY OF CORPUS CHRISTI has applied for a major amendment to TPDES Permit No. WQ0010401003 to authorize the modification of the effluent limitation on copper and to remove the requirement to monitor dissolved oxygen in Oso Creek. The current permit authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 16,000,000 gallons per day. The TCEQ Executive Director has reviewed this action for consistency with the Texas Coastal Management Program goals and policies in accordance with the regulations of the Coastal Coordination Council, and has determined that the action is consistent with the applicable CMP goals and policies. The facility is located at 6541 Greenwood Drive, at the intersection of State Highway 357 (Saratoga Blvd.) and Greenwood Drive, about 1.5 miles south of South Padre Island Drive in the City of Corpus Christi in Nueces County, Texas.

CITY OF CROCKETT has applied for a renewal of TPDES Permit No. WQ0010154001, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 2,000,000 gallons per day. The application also includes a request for continuation of a temporary variance to the existing water quality standards for Town Branch and Hurricane Bayou. The receiving waters, Town Creek and Hurricane Bayou, have both been determined to be perennial streams supporting an intermediate aquatic life use with a 4.0 mg/l dissolved oxygen criterion; however, without a variance, the final effluent limits must meet at least a high aquatic life use (5.0 mg/l DO in both streams in accordance with 30 TAC (307.4(h)(1)). The temporary variance would allow time for consideration of a site specific standard which would be adopted in 30 TAC (307.10 Appendix D. The facility is located on the west bank of Town Branch; approximately 2,000 feet north of the intersection of the Missouri-Pacific Railroad with State Loop 304 in Houston County, Texas.

DOUBLE DIAMOND UTILITIES CO. has applied to the Texas Commission on Environmental Quality (TCEQ) for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014783001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 50,000 gallons per day. The facility will be located approximately 3.8 miles east of the community of Dexter and 12 miles north of the City of Whitesboro in Grayson County, Texas.

ENTERPRISE PRODUCTS OPERATING L.P. which operates a natural gas liquids fractionator, has applied for a major amendment to TPDES Permit No. WQ0002940000 to request a change in the limitations and monitoring requirements for Copper via Outfall 002. The current permit authorizes the discharge of treated process wastewater, treated storm water, cooling tower blowdown, and filter backwash at a daily average flow not to exceed 213,000 gallons per day via Outfall 001; non-contact cooling water, cooling tower blowdown and filter backwash at a daily average flow not to exceed 250,000 gallons per day via Outfall 002; and storm water on an intermittent and flow variable basis via Outfall 003. The facility is located at 10207 Farm-to-Market Road (FM) 1942 (approximately one mile west of State Highway 146,

bounded on the west side by Hatcherville Road, on the east side by the Southern Pacific Railroad, on the north by the CIWA Canal, and on the south by FM 1942), in the City of Mont Belvieu, Chambers County, Texas.

CITY OF EUSTACE has applied for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014789001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 125,000 gallons per day. The facility is located approximately 800 feet east of the intersection of Cornelius Lane and Smith Street, southeast of midtown Eustace in Henderson County, Texas.

FM 1417 LTD. has applied to the Texas Commission on Environmental Quality (TCEQ) for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014788001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 9,000 gallons per day. The facility was previously permitted under TPDES Permit No. 13325-001 which expired on December 1, 2005. The facility is located approximately 1,000 feet west and 1,800 feet north of the intersection of Farm-to-Market Road 1417 and Farm-to-Market Road 691 in Grayson County, Texas.

GULF REDUCTION CORPORATION which operates the Zinc Dust Division, a zinc dust manufacturing facility, has applied for a renewal of TPDES Permit No. WQ0003751000, which authorizes the discharge of storm water associated with industrial activity on an intermittent and flow variable basis via Outfall 001. The facility is located at 6020 Esperson Street, approximately 0.10 miles east of the intersection of Esperson Street and Greenwood Street in the City of Houston, Harris County, Texas.

HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 200 has applied for a renewal of TPDES Permit No. WQ0012294001, 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 at 13035 Kuykendahl Road approximately 4000 feet northwest of the intersection of Interstate Highway 45 and Rankin Road in Harris County, Texas.

CITY OF HOUSTON has applied for a renewal of TPDES Permit No. 10495-023, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 4,000,000 gallons per day. The facility is located at 5565 Kirkpatrick in the City of Houston in Harris County, Texas.

CITY OF HUNTSVILLE has applied to the Texas Commission on Environmental Quality (TCEQ) for a renewal of TPDES Permit No. 10781-004, 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 on Farm-to-Market Road 1374, approximately four miles south of the intersection of Interstate Highway 45 and Farm-to-Market Road 1374 in Walker County, Texas.

IGLOO PRODUCTS CORP. which operates a plastic container manufacturing plant, has applied for a renewal of TPDES Permit No. WQ0002229000, which authorizes the discharge of cooling tower blowdown, treated domestic wastewater, oil/water separator wastewater, and storm water on a continuous and flow variable basis via Outfall 001. The facility is located at 30603 Katy-Brookshire Road adjacent to and south of U.S. Highway 90, approximately 750 feet west of the Willow Fork of Buffalo Bayou, Waller County, Texas.

J&S WATER COMPANY, L.L.C. has applied for a renewal of TPDES Permit No. 12342-001 which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 45,000 gallons per day. The facility is located approximately 800 feet north of Zaka

Road, west of Windfern Road at the southeast corner of Maple Leaf Gardens in Harris County, Texas.

MARTIN PRODUCT SALES LLC 300 Christi Place, South Houston, Texas 77587, which operates Martin Asphalt-South Houston Plant, has applied for a renewal of TPDES Permit No. WQ0001058000, which authorizes the discharge of utility wastewater and storm water (process wastewater) at a daily average flow not to exceed 60,000 gallons per day via Outfall 001. The facility is located at 300 Christi Place, approximately 500 feet southeast of the intersection of State Highway 3 and College Street, in the City of South Houston, Harris County, Texas.

MESA VINEYARDS, L.P. which operates the St. Genevieve winery, has applied for a major amendment to Permit No. WQ0003177000 to authorize a change in seasonal arrangements and an increase in the daily average flow to 6,000 gallons per day for the months of November through March, 5,750 gallons per day for the months of April through June and 16,500 gallons per day for the months of July through October via evaporation. The current permit authorizes the disposal of treated process wastewater and domestic wastewater, at a daily average flow not to exceed 5,000 gallons per day for the months of October through June and 14,000 gallons per day for the months of July through September via evaporation. This permit will not authorize a discharge of pollutants into water in the State. The facility and evaporation ponds are located 25 miles east of the City of Fort Stockton on U.S. Interstate Highway 10, 1.5 miles south of exit marker 285, Pecos County, Texas.

MOTIVA ENTERPRISES LLC which operates a petroleum bulk storage terminal has applied for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0004813000 to authorize the discharge of steam condensate, hydrostatic test water, and storm water associated with industrial activity on an intermittent and flow variable basis via Outfalls 001, 002, and 003. The facility is located at 100 East Port Neches Avenue on the east side of Highway 136 between Highway 366 and the Neches River, in the City of Port Arthur, in Jefferson County, Texas.

NATIONAL OILWELL VARCO, L.P. which operates an oil and gas field equipment manufacturing and refurbishing facility, has applied for a renewal of TPDES Permit No. WQ0003994000, which authorizes the discharge of treated process wash water, domestic wastewater, and storm water at a daily average flow not to exceed 50,000 gallons per day via Outfall 001. The draft permit authorizes the discharge of treated process wash water and domestic wastewater at a daily average flow not to exceed 50,000 gallons per day via Outfall 001. The facility is located at 12950 West Little York Road, approximately one-quarter mile northwest of the intersection of Addicks Fairbanks Road and West Little York Road, Harris County, Texas.

NEW CANEY MUNICIPAL UTILITY DISTRICT has applied for a renewal of TPDES Permit No. WQ0012274001, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 4,000,000 gallons per day. The facility is located approximately 0.4 mile east and 1.6 miles south of the intersection of Caney Creek and State Highway 59 in Montgomery County, Texas.

CITY OF NOCONA has applied for a renewal of TPDES Permit No. 10355-002, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 126,000 gallons per day. The facility is located on the north side of Locust Street, approximately 0.75 mile northwest of the intersection of U.S. Highway 82, State Highway 175, and Farm-to-Market Road 103 in Montague County, Texas.

NORTH TEXAS MUNICIPAL WATER DISTRICT has applied for a major amendment to TPDES Permit No. WQ0010221001 to authorize an increase in the discharge of treated domestic wastewater from an annual average flow not to exceed 25,000,000 gallons per day to an annual average flow not to exceed 41,000,000 gallons per day. The

facility is located approximately 0.5 mile south of the intersection of Lawson Road and Cartwright Road in the southeast portion of the City of Mesquite in Dallas County, Texas.

NORTH TEXAS MUNICIPAL WATER DISTRICT has applied to the Texas Commission on Environmental Quality (TCEQ) for a major amendment to TPDES Permit No. 14245-001 to authorize the relocation of the point of discharge from the unnamed tributary to Panther Creek. The applicant has also requested seasonal effluent limits for Carbonaceous Biochemical Oxygen Demand and Ammonia Nitrogen. The existing permit authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 10,000,000 gallons per day. The facility will be located approximately one mile south of U.S. Highway 380 and 10,000 feet west of the Collin-Denton County Line on the south side of Panther Creek in Denton County, Texas.

OCEANEERING INTERNATIONAL, INC. has applied for a renewal of TPDES Permit No. 12466-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 12,000 gallons per day. The facility is located adjacent to Farm-to-Market Road 529 (Spencer Road), approximately one mile west of the intersection of Farm-to-Market Road 529 and U.S. Highway 290 in the City of Houston in Harris County, Texas.

ORANGE COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 1 has applied for a renewal of TPDES Permit No. 10875-004, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 670,000 gallons per day. The facility is located approximately 300 feet northwest of the intersection of Oak Lane and Ferndale Street in the City of Vidor in Orange County, Texas.

ORANGEFIELD WATER SUPPLY CORPORATION has applied for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014772001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 750,000 gallons per day. The facility will be located west of the City of Pinehurst and northwest of Bridge City, bounded on the north by Farm-to-Market Road 105, to the west by Farm-to-Market Road 408 (west boundary is approximately 276 feet from the center of Farm-to-Market Road 408) and to the south by Cormier Lane in Orange County, Texas. The TCEQ Executive Director has reviewed this action for consistency with the Texas Coastal Management Program goals and policies in accordance with the regulations of the Coastal Coordination Council, and has determined that the action is consistent with the applicable CMP goals and policies.

OXBOW CARBON & MINERALS LLC which operates a facility which stores and loads petroleum coke and coal, has applied for a major amendment to TPDES Permit No. WQ0002670000, to authorize expansion of the existing drainage ditches servicing the east and west stockpile areas; a new outlet structure that drains from Pond No. 1; and a modification of the requirement that all settling ponds shall be maintained such that the runoff from a 10-year 24-hour storm event can be contained to a requirement that all settling ponds shall be maintained such that the runoff from a 10-year 24-hour storm event can be treated. The current permit authorizes the discharge of storm water runoff, dust suppression water, and truck wash water on an intermittent and flow variable basis via Outfall 001. The facility is located on Loop 197 South, approximately 500 feet west of the Dock 40-41 Complex in the City of Texas City, Galveston County, Texas.

P CHEM, Inc. which operates a batch process chemical manufacturing facility primarily producing oilfield chemicals, has applied for a renewal of TPDES Permit No. WQ0002393000, which authorizes the discharge of storm water on an intermittent and flow variable basis via Outfall 001. The facility is located immediately west of the intersec-

tion of Farm-to-Market Road 2663 and U.S. Highway 287 North, at 100 Old Latexo Road in the City of Latexo, Houston County, Texas.

PINE COVE, INC. has applied to the Texas Commission on Environmental Quality (TCEQ) for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014779001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 10,000 gallons per day. The facility will be located 3.3 miles southeast of the intersection of State Highway 71 and Farm-to-Market Road 2503 in Colorado County, Texas.

PWT ENTERPRISES, INC. which operates King Kleen Car Wash, an automatic car wash, has applied for a renewal of TPDES Permit No. WQ0002642000, which authorizes the discharge of settled and equalized wastewater at a daily average flow not to exceed 3,000 gallons per day via Outfall 001. The facility is located at 1956 North Park Drive (in the rear of the Kingwood subdivision) which is about 1.5 miles east of U.S. Highway 59, Montgomery County, Texas.

SHELL OIL COMPANY AND DEER PARK REFINING LIMITED PARTNERSHIP which operates a petroleum refinery, has applied for a major amendment to TPDES Permit No. WQ0000403000 to authorize the reduction of monitoring frequencies for pollutants at Outfall 007; and to remove effluent monitoring requirements for copper at Outfalls 001, 002, 004, and 009. The current permit authorizes the discharge of utility wastewaters and storm water at a daily average dry weather flow not to exceed 2,300,000 gallons per day via Outfall 001; fire water and storm water on an intermittent and flow variable basis via Outfalls 002, 003, 004, 006, 008, 009; and treated process, sanitary, ballast, and utility wastewaters, and storm water at a daily average flow not to exceed 9.25 MGD via Outfall 007. The facility is located at 5900 State Highway 225, south of the Houston Ship Channel, west of Patrick Bayou, and north of State Highway 225 at Center Street in the City of Deer Park, Harris County, Texas.

SUNOCO PARTNERS MARKETING & TERMINALS, L.P. which operates Nederland Marine Terminal, has applied for a renewal of TPDES Permit No. WQ0001151000, which authorizes the discharge of treated ballast water, other terminal wastewaters, hydrostatic test water, and storm water at a daily maximum flow not to exceed 3,000,000 gallons per day via Outfall 001, and storm water on an intermittent and flow variable basis via Outfalls 002, 003, 004, and 005. The facility is located approximately one mile north of the City of Nederland and north of the intersection of State Highway 347 and Farm-to-Market Road 366, Jefferson County, Texas.

TEXAS TILE MANUFACTURING LLC which operates a floor tile manufacturing plant, has applied for a renewal of TPDES Permit No. WQ0000785000, which authorizes the discharge of process wastewater, utility wastewater, and storm water runoff on a continuous and flow variable basis via Outfall 001; and stormwater runoff on an intermittent and flow variable basis via Outfall 002. The facility is located at 1705 North Oliver Street in the City of Houston, Harris County, Texas.

TIN INC. which operates the Diboll Complex, a wood and wood products manufacturing complex, has applied for a renewal of TPDES Permit No. WQ0001153000, which authorizes the discharge of treated process wastewater and storm water at a daily average flow not to exceed 170,000 gallons per day via Outfall 001; the discharge of remediated ground water, utility wastewater, log deck spray water, external kiln condensate, wash water, and fire suppression water from a Regenerative Thermal Oxidizer (RTO) unit, and storm water runoff on an intermittent and flow variable basis via Outfall 003; boiler blowdown, cooling tower blowdown, steam condensate, miscellaneous washdown water, wash water and fire suppression water from a RTO unit, and storm water runoff on an intermittent and flow variable basis via Outfall 004; and storm water runoff from the plywood plant area on an

intermittent and flow variable basis via Outfall 006. The draft permit authorizes the discharge of treated process wastewater and storm water at a daily average flow not to exceed 170,000 gallons per day via Outfall 001; remediated ground water, utility wastewater, log deck spray water, external kiln condensate, fire control water from Lumber and Fiber Products operations and boiler areas, storm water runoff, excess reclaimed waters from the City of Diboll WWTP, wash water from an RTO unit, and occasional Outfall 004 wastewaters on a flow variable basis via Outfall 003; ; boiler blowdown, cooling tower blowdown, steam condensate, miscellaneous washdown water, wash water and fire suppression water from an RTO unit, and fire control water from Particleboard Operations, and storm water runoff on an intermittent and flow variable basis via Outfall 004, and storm water runoff from the north end of the laminating area and portions of the lumber operating area on an intermittent and flow variable basis via Outfall 006. The facility is located approximately 0.25 miles west of U.S. Highway 59, at the southwest quadrant of the intersection of Borden Drive and 1st Street, in the City of Diboll, Angelina County, Texas.

CITY OF VAN ALSTYNE has applied for a renewal of TPDES Permit No. WQ0010502001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 950,000 gallons per day. The facility is located 0.4 miles south of Farm-to-Market Road 121 and 1.55 miles east of the intersection of State Highway 5 and Farm-to-Market Road 121 in Grayson County, Texas.

VOPAK LOGISTICS SERVICES USA INC. which operates the Vopak Logistics Services USA, a rail car/tank truck cleaning operation and commercial waste disposal facility, has applied for a minor amendment to authorize the removal of a secondary biological treatment/clarification process from the wastewater treatment system (WWTS) without altering the permitted discharge limits. The existing permit authorizes the discharge of treated process wastewater, treated domestic wastewater, and storm water at a daily average flow not to exceed 300,000 gallons per day via Outfall 001. The daily maximum flow shall not exceed 810,000 gallons per day. The facility is located at 2759 Battleground Road in the City of Deer Park, Harris County, Texas.

WAL-MART STORES EAST, LP which operates a Wal-Mart warehouse distribution center, has applied for a renewal of TPDES Permit No. WQ0003597000, which authorizes the discharge of treated domestic wastewater and washdown water via Outfall 001 at a daily average flow not to exceed 30,000 gallons per day. The facility is located immediately north of U.S. Highway 79/84, east of Farm to Market Road 645 and west of County Road 2206, approximately seven miles southwest of the City of Palestine, Anderson County, Texas.

WE HEREFORD, LLC which proposes to operate an ethanol production facility, has applied for a new permit, Proposed Permit No. WQ0004827000 to authorize the disposal of cooling tower blowdown, boiler blowdown, and water treatment wastes at a daily average flow not to exceed 78,000 gallons per day via evaporation. The disposal site will consist of three evaporation ponds with a combined surface area and storage capacity of 23.49 acres and 58.3 acre-feet, respectively. This permit will not authorize a discharge of pollutants into water in the State. The facility will be located southeast of the intersection of Progressive Road and State Highway 60, Deaf Smith Texas. The proposed evaporation ponds are located offsite, approximately 1,000 feet south of the intersection of County Road 6A and FM Road 2943, Deaf Smith 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](http://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](http://www.tceq.state.tx.us). Si desea información en Español, puede llamar al 1-800-687-4040.

TRD-200702933

LaDonna Castañuela

Chief Clerk

Texas Commission on Environmental Quality

Filed: July 11, 2007



#### Proposal for Decision

The State Office of Administrative Hearings issued a Proposal for Decision and Order to the Texas Commission on Environmental Quality on July 6, 2007, in the matter of the Executive Director of the Texas Commission on Environmental Quality, Petitioner v. Clear Lake City Water Authority dba Robert T. Savely Water Reclamation Facility; SOAH Docket No. 582-07-0105; TCEQ Docket No. 2005-2018-MWD-E. The commission will consider the Administrative Law Judge's Proposal for Decision and Order regarding the enforcement action against Clear Lake City Water Authority dba Robert T. Savely Water Reclamation Facility on a date and time to be determined by the Office of the Chief Clerk in Room 201S of Building E, 12100 N. Interstate 35, Austin, Texas. This posting is Notice of Opportunity to Comment on the Proposal for Decision and Order. The comment period will end 30 days from date of this publication. Written public comments should be submitted to the Office of the Chief Clerk, MC-105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. If you have any questions or need assistance, please contact Paul Munguía, Office of the Chief Clerk, (512) 239-3300.

TRD-200702936

LaDonna Castañuela

Chief Clerk

Texas Commission on Environmental Quality

Filed: July 11, 2007



#### General Land Office

Emergency Order

STATE OF TEXAS

TEXAS GENERAL LAND OFFICE

JERRY E. PATTERSON, COMMISSIONER

IN RE: MODU *Zeus*

#### EMERGENCY ORDER

The Commissioner of the Texas General Land Office makes the following Findings of Fact and Conclusions of Law in support of this Emergency Order providing for the removal of the Mobil Offshore Drilling Unit *Zeus* (MODU *Zeus*) from state-owned submerged land in Brazoria County, Texas, pursuant to the authority granted in Texas Natural Resources Code §40.108.

#### Findings of Fact

1. The MODU *Zeus* is a wrecked, derelict, or substantially dismantled vessel that has been moored or left in place on state-owned submerged lands within the Freeport Ship Channel in Brazoria County,



Texas, without the consent of the Commissioner. The deteriorated and dilapidated condition of the MODU *Zeus* renders it unfit for its intended purpose, renders it unsafe due to falling debris and the potential discharge of oil, and constitutes a threat to public health, safety, or welfare.

2. The MODU *Zeus* has contaminated coastal public waters with oil. Approximately 848,000 gallons of oily/water mixture were filtered and discharged into the water, 307,700 gallons of oily/water mixture were disposed of offsite, and 237 cubic yards of sludge and debris were removed from the MODU *Zeus* as result of a clean-up project conducted by ESCO Marine, Inc., on behalf of Sanship, Inc., owner of the vessel.

3. The MODU *Zeus* has the immediate potential to further contaminate coastal public waters with oil as demonstrated by the continued discharge of oil from the MODU *Zeus* and the presence of oil and other hazardous substances remaining on the MODU *Zeus* despite the response activities undertaken by Sanship, Inc.

4. The U. S. Coast Guard has determined that collapse of the MODU *Zeus* represents a significant threat to navigation in the Freeport Ship Channel under severe weather conditions such as a hurricane or tornado. The economic impact to various port operations, including those of Conoco-Phillips Freeport, Dow Chemical Freeport, BASF Freeport, Port Freeport, would be significantly impacted if the MODU *Zeus* blocked deep draft vessel traffic in the Freeport Ship Channel.

#### Conclusions of Law

1. Texas Natural Resources Code §40.108 prohibits a person from leaving, abandoning, or maintaining any structure or vessel in a wrecked, derelict, or substantially dismantled vessel or structure in coastal public waters of the State of Texas if the commissioner finds the vessel or structure to be:

- (1) involved in an actual or threatened unauthorized discharge of oil;
- (2) a threat to public health, safety, or welfare;
- (3) a threat to the environment; or
- (4) a navigation hazard.

2. The MODU *Zeus* constitutes a potential source of an unauthorized discharge of oil, an imminent and unreasonable threat to public safety, health or welfare, a threat to the environment, and a hazard to navigation. Texas Natural Resources Code §40.108 authorizes the Commissioner to remove and dispose of or contract for the removal and disposal of such structures or vessels and to recover costs of removal and disposal from the owner or operator of the vessel or structure.

3. Title 31, Texas Administrative Code §17.44 authorizes the Commissioner to issue an order with an immediate effective date if an imminent peril to public health, safety, or welfare requires immediate effect of an order. The Findings of Fact and Conclusions of Law that the MODU *Zeus* constitutes a dangerous structure, an imminent and unreasonable threat to public safety, health or welfare, and a hazard to navigation, as set forth herein, require immediate effect of an order for removal of the MODU *Zeus*. No hearing is required prior to removal of a vessel or structure that is involved in an actual or threatened unauthorized discharge of oil.

It is accordingly **ORDERED** that:

1. The MODU *Zeus* shall be removed from state-owned submerged land and disposed of in a manner consistent with Texas Natural Resources Code §40.108. The owner and operator of the structure shall be liable for the costs of removal and disposal of the MODU *Zeus* and shall pay fines, penalties, fees, and expenses assessed on account of any further unauthorized discharge of oil from the MODU *Zeus* resulting from its removal and disposal.

2. This order is final and effective from and after the date signed. Should any part of this Emergency Order be determined by a court of competent jurisdiction to be invalid, the validity of the remaining parts of the Emergency Order shall remain unaffected.

SIGNED and effective this 5th day of July, 2007, in Austin, Texas.

JERRY E. PATTERSON

Commissioner, General Land Office

#### CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that a copy of this Order was placed in the U.S. Mail, postage prepaid, addressed to Emilio M. Sanchez, President of Sanship, Inc., P.O. Box 3111, Brownsville, Texas 78523, on the 5th day of July, 2007.

TRD-200702918

Larry L. Laine

Chief Clerk, Deputy Land Commissioner

General Land Office

Filed: July 10, 2007



#### Notice of Approval of Coastal Boundary Survey

Pursuant to §33.136 of the Natural Resources Code, notice is hereby given that Jerry Patterson, Commissioner of the General Land Office, approved a coastal boundary survey, Galveston County, Art.33.136 Sketch No. 47, submitted by Sidney Bouse, a Licensed State Land Surveyor, conducted in June 2006, locating the following shoreline boundary:

Isla Del Sol subdivision MHW survey of part of Section 4 of the Trimble and Lindsey survey of Galveston Island and being the Northerly shoreline of Isla Del Sol subdivision. For a copy of this survey contact Archives & Records, Texas General Land Office at (512) 463-5277.

TRD-200702926

Larry L. Laine

Chief Clerk, Deputy Land Commissioner

General Land Office

Filed: July 11, 2007



#### Texas Health and Human Services Commission

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

**Hearing.** The Texas Health and Human Services Commission will conduct a public hearing on August 7, 2007, at 9:00 a.m. to receive public comment on proposed rates for the Home and Community-based Services (HCS) and Texas Home Living (TxHmL) waiver programs. The HCS and TxHmL programs are operated by the Texas Department of Aging and Disability Services (DADS). The hearing will be held in compliance with Human Resources Code §32.0282 and Texas Administrative Code (TAC) Title 1, §355.105(g), which require public notice and hearings on proposed Medicaid reimbursements. The public hearing will be held in the Lone Star Conference Room of the Health and Human Services Commission, Braker Center, Building H, located at 11209 Metric Blvd, Austin, Texas. Entry is through Security at the main entrance of the building, which faces Metric Boulevard. Persons requiring Americans with Disability Act (ADA) accommodation or auxiliary aids or services should contact Kimbra Rawlings by calling (512) 491-1174, at least 72 hours prior to the hearing so appropriate arrangements can be made.

**Proposal.** HHSC proposes to adjust the rates for the HCS and TxHmL programs. The proposed payment rates will be available for public review on July 24, 2007. The proposed rates will be effective September 1, 2007.

**Methodology and Justification.** The proposed rates were determined in accordance with the rate setting methodology codified at Texas Administrative Code (TAC) Title 1, Chapter 355, Subchapter F, §355.723, Reimbursement Methodology for Home and Community-Based Services (HCS), as proposed to be amended, and §355.791, Reporting Costs and Reimbursement Methodology for the Texas Home Living (TxHmL) Program. The proposed amendment of §355.723, which appeared in the July 6, 2007, issue of the *Texas Register*, requires that the current modeled rates be updated based on audited cost reports to the extent possible within available appropriations. These rates were subsequently adjusted in accordance with 1 TAC Chapter 355, Subchapter A, §355.101 (relating to Introduction) and §355.109 (relating to Adjusting Reimbursement When New Legislation, Regulations or Economic Factors Affect Costs). These changes are being made in accordance with the 2008-09 General Appropriations Act (Article II, Special Provisions, Section 57, H.B. 1, 80th Legislature, Regular Session, 2007), which appropriated funds to DADS for the State Fiscal Year 2008-2009 biennium for Medicaid rate increases for the HCS and TxHmL programs.

**Briefing Package.** A briefing package describing the proposed payment rates will be available on July 24, 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](mailto: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](mailto: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.

TRD-200702927

Steve Aragón

Chief Counsel

Texas Health and Human Services Commission

Filed: July 11, 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	Amend-ment #	Date of Action
McAllen	RGV Preventive Care Inc	L06069	McAllen	00	06/04/07

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License #	City	Amend-ment #	Date of Action
Abilene	Cardinal Health DBA National Central Pharmacy	L04781	Abilene	27	06/08/07
Angleton	Isotherapeutics Group LLC	L05969	Angleton	03	06/08/07
Arlington	Texas Oncology PA DBA Texas Cancer Center Arlington	L05116	Arlington	17	06/06/07
Arlington	Arlington Memorial Hospital	L02217	Arlington	86	06/04/07
Corpus Christi	Cardiology Associates of Corpus Christi	L04611	Corpus Christi	26	06/07/07
Conroe	CHCA Conroe LP DBA Conroe Regional Medical Center	L01769	Conroe	71	06/07/07
Corpus Christi	Driscoll Children's Hospital	L04606	Corpus Christi	32	06/04/07
Corpus Christi	Spohn Hospital	L02495	Corpus Christi	90	06/05/07
Decatur	Wise Regional Health System	L02382	Decatur	28	06/07/07
Edinburg	McAllen Hospitals LP DBA Edinburg Regional Medical Center	L04262	Edinburg	18	06/12/07
El Paso	El Paso Healthcare System LP DBA Del Sol Diagnostic Center	L03395	El Paso	44	06/01/07
Fort Worth	Baylor All Saints Medical Center	L02212	Fort Worth	76	06/04/07
Fort Worth	Cooks Childrens Health Care System DBA Cook Childrens Medical Center	L04587	Fort Worth	10	06/06/07
Garland	Baylor Medical Center at Garland	L01565	Garland	45	06/04/07
Houston	Gulf Coast MRI & Diagnostic	L05333	Houston	11	06/07/07
Houston	Columbia/HCA Healthcare Corp DBA Spring Branch Medical Center	L02473	Houston	61	06/06/07
Houston	Houston Northwest Radiotherapy Center	L02416	Houston	33	06/08/07
Houston	Cardinal Health	L05536	Houston	21	06/04/07
Houston	Healthsouth Hospital for Specialized Surgery	L05164	Houston	05	06/04/07
Houston	Memorial Hermann Hospital System DBA Memorial Hospital Southwest	L00439	Houston	126	06/04/07
Kerrville	Kerrville Cardiovascular Center LTD	L05334	Kerrville	03	06/04/07
Lubbock	Covenant Health System DBA Joe Arrington Cancer Research and Treatment Center	L06028	Lubbock	06	06/06/07
Lufkin	Memorial Medical Center of East Texas	L01346	Lufkin	77	06/05/07
McKinney	Cancer Center Associates DBA Rena Tarbet Cancer Center	L05952	McKinney	03	06/12/07
Midland	The University of Texas System	L04648	Midland	10	06/04/07
Midland	Texas Oncology PA DBA Allison Cancer Center	L04905	Midland	10	06/07/07
Mount Pleasant	DX Imaging LTD DBA Open Imaging of Mount Pleasant	L05445	Mount Pleasant	11	06/05/07
Nacogdoches	Nacogdoches Medical Center	L02853	Nacogdoches	38	06/04/07

AMENDMENTS TO EXISTING LICENSES ISSUED (Continued):

Location	Name	License #	City	Amendment #	Date of Action
Pasadena	E+PET Imaging XVII LP PET Imaging of Houston Southeast	L05891	Pasadena	02	06/06/07
San Antonio	South Texas Radiology Imaging Centers	L00325	San Antonio	155	06/13/07
San Antonio	Metro North Cardiovascular Associates PA DBA Metro North Clinic	L05235	San Antonio	16	06/11/07
Sherman	Texas Oncology PA DBA Texas Cancer Center Sherman	L05019	Sherman	16	06/06/07
Throughout TX	Mactec Engineering and Consulting Inc	L05490	Addison	09	06/11/07
Throughout TX	Texas Department of Transportation	L00197	Austin	129	06/07/07
Throughout TX	Gulf Coast Weld Spec	L05426	Beaumont	58	06/13/07
Throughout TX	E I Dupont De Nemours & Co Inc	L00517	Beaumont	76	06/12/07
Throughout TX	Brazos Valley Inspection Services Inc	L02859	Bryan	56	06/11/07
Throughout TX	Mestena Uranium LLC	L05939	Encino	02	06/13/07
Throughout TX	Positron Corporation	L03806	Houston	28	06/06/07
Throughout TX	H & G Inspection Company Inc ADBA Statewide Maintenance Company	L02181	Houston	218	06/11/07
Throughout TX	Radiographic Specialists Inc	L02742	Houston	54	06/08/07
Throughout TX	Thrubit LLC	L06030	Houston	01	06/05/07
Throughout TX	Acuren Inspection Inc	L01774	La Porte	234	06/07/07
Throughout TX	Desert Industrial X-ray LP	L04590	Odessa	66	06/13/07
Throughout TX	Desert Industrial X-Ray LP	L04590	Odessa	65	06/05/07
Throughout TX	Fugro Consultants LP	L04322	Pasadena	87	06/12/07
Throughout TX	Conam Inspection & Engineering Inc	L05010	Pasadena	126	06/07/07
Throughout TX	Schlumberger Technology Corporation	L00764	Sugar Land	103	06/05/07
Throughout TX	Young Contractors Inc	L04095	Waco	19	06/05/07
Texarkana	New Hope Enterprises LTD DBA New Hope Cancer Institute	L05560	Texarkana	05	06/08/07
Texas City	Valero Refining Company	L02578	Texas City	32	06/06/07
The Woodlands	Memorial Hospital The Woodlands	L03772	The Woodlands	55	06/06/07
Webster	Beckman Coulter Inc DBA Diagnostic Systems Laboratories Inc	L03084	Webster	34	06/04/07
Webster	Cardiovascular Clinic	L05949	Webster	01	06/06/07
Wichita Falls	Andre P Desire MD PA	L06043	Wichita Falls	01	06/12/07

RENEWAL OF LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Houston	Caltex Holdings LP	L01793	Houston	31	06/12/07
Rockdale	TXU Generation Co LP DBA TXU Power	L04075	Rockdale	12	06/06/07
Throughout TX	Southern Services Inc DBA Southern Technical Services DBA BIX Testing Laboratories	L05270	Lake Jackson	48	06/05/07

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 49<sup>th</sup> Street, Austin, Texas 78756-3189. For information call (512) 834-6688.

TRD-200702931  
Lisa Hernandez  
Deputy General Counsel  
Department of State Health Services  
Filed: July 11, 2007

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**Texas Department of Insurance**

**Notice of Request for Qualifications for Special Deputies**

**RFQ-SDR-2007-1**

The Commissioner of Insurance will be accepting, from July 1, 2007, through July 31, 2007, applications from individuals or legal entities interested in admission to an already-existing pool of Approved Contractors eligible to submit competitive bids to provide services as a Special Deputy Receiver ("SDR"). Membership in the pool will terminate August 31, 2009, for all Approved Contractors, regardless of their date of admission.

An SDR acts on behalf of the Commissioner of Insurance in his capacity as the Receiver of an insurer that is placed in receivership by the courts for purposes of either rehabilitation or liquidation. Duties and activities under control of an SDR may include:

Obtaining control of the insurer's operation, and identifying and securing property and records

Marshalling and evaluating assets, including the liquidation of assets if appropriate

Evaluating the insurer's current work force to ensure proper staffing during rehabilitation or winding down of operations

Supervising litigation filed by and against the receivership estate

Operating information systems and extracting data

Investigating the liability of any parties responsible for the insurer's financial condition, including identification of any preferential transfers

Providing notice of the receivership to policyholders, claimants and interested parties

Handling claims against the receivership estate, including referral of claims to guaranty associations

Filing pleadings, business plans and other reports

Concluding receivership through release from rehabilitation or liquidation of assets and distribution to approved claimants

An Applicant's approval to be an Approved Contractor under this Request for Qualifications ("RFQ") will be effective on or about September 1, 2007, and expire on or about August 31, 2009. Following the expiration of this term, all Approved Contractors, regardless of admission date, will be required to re-qualify in accordance with a subsequent RFQ. The Texas Department of Insurance ("TDI") reserves the right to issue other RFQs for SDRs to add Approved Contractors, if needed, or to obtain bids for similar or related services, at any time during the term of this RFQ.

Admission to the pool of Approved Contractors does not constitute a contract to provide SDR services. SDRs are appointed only after a competitive bid process. In the event that the Commissioner determines that an SDR should be appointed in a receivership proceeding during the term of this RFQ, he will issue a Request for Proposals ("RFP"). *Only those individuals or legal entities that have been admitted to the pool of Approved Contractors will have an opportunity to submit a bid proposal in response to any RFP.*

NOTE: This RFQ affords an opportunity for qualified applicants to join an already-existing pool of Approved Contractors. Approved Contractors that qualified under RFQ-SDR-2006-1, issued in 2006, *do not need to re-apply under RFQ-SDR-2007-1.*

**Contact Information**

The RFQ and application forms will be published and posted on or shortly after June 29, 2007. The forms may be downloaded at that time from <http://www.tdi.state.tx.us/company/colr/sdrcontractadmn.html>. For a paper copy, contact Scott Kyle, Financial Program SDR Process, Texas Department of Insurance, P.O. Box 149104, Mail Code 305-2C, Austin, Texas 78714, telephone (512) 322-3467, e-mail [sdrcontracting@tdi.state.tx.us](mailto:sdrcontracting@tdi.state.tx.us). Questions and Answers regarding the RFQ will appear as needed on TDI's website at the address listed above.

**Evaluation Criteria**

Submissions will be evaluated on the basis of the criteria set forth in the RFQ.

**Closing Date**

Submissions must comply with all requirements of the RFQ, and must be received by the designated contact person no later than 3:00 p.m. on July 31, 2007. Submissions received after that time and date will not be considered.

**Note**

TDI reserves the right to accept or reject any or all submissions. TDI is under no legal or other obligation to execute a contract on the basis of this notice or the distribution of a subsequent RFP. TDI is not responsible for any costs incurred in responding to this RFQ or any subsequent RFP.

TRD-200702865  
Gene C. Jarmon  
Chief Clerk and General Counsel  
Texas Department of Insurance  
Filed: July 6, 2007

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**Texas Lottery Commission**

**Instant Game Number 791 "Wild Money"**

**1.0 Name and Style of Game.**

A. The name of Instant Game No. 791 is "WILD MONEY". The play style for this game is "key symbol match with doubler".

**1.1 Price of Instant Ticket.**

A. Tickets for Instant Game No. 791 shall be \$2.00 per ticket.

**1.2 Definitions in Instant Game No. 791.**

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: COOLER SYMBOL, UMBRELLA SYMBOL, TRUCK SYMBOL, TIKI SYMBOL, TENT SYMBOL, SUN SYMBOL, SHORTS SYMBOL, SHADES SYMBOL, PARROT SYMBOL, PALM SYMBOL, HAT SYMBOL, FISH SYMBOL, ELEPHANT SYMBOL, CAMERA SYMBOL, BOOT SYMBOL, BINOCULAR SYMBOL, BANANA

SYMBOL, WILD SYMBOL, \$2.00, \$4.00, \$5.00, \$10.00, \$20.00, \$50.00, \$250, \$2,500 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. 791 - 1.2D**

<b>PLAY SYMBOL</b>	<b>CAPTION</b>
COOLER SYMBOL	COOLER
UMBRELLA SYMBOL	UMBLA
TRUCK SYMBOL	TRUCK
TIKI SYMBOL	TIKI
TENT SYMBOL	TENT
SUN SYMBOL	SUN
SHORTS SYMBOL	SHORTS
SHADES SYMBOL	SHADES
PARROT SYMBOL	PARROT
PALM SYMBOL	PALM
HAT SYMBOL	HAT
FISH SYMBOL	FISH
ELEPHANT SYMBOL	ELPHNT
CAMERA SYMBOL	CAMERA
BOOT SYMBOL	BOOT
BINOCULAR SYMBOL	BNOCLR
BANANA SYMBOL	BANANA
WILD SYMBOL	DOUBLE
\$2.00	TWO\$
\$4.00	FOUR\$
\$5.00	FIVE\$
\$10.00	TEN\$
\$20.00	TWENTY
\$50.00	FIFTY
\$250	TWO FTY
\$2,500	25 HUND
\$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. 791 - 1.2E**

<b>CODE</b>	<b>PRIZE</b>
<b>TWO</b>	<b>\$2.00</b>
<b>FOR</b>	<b>\$4.00</b>
<b>FIV</b>	<b>\$5.00</b>
<b>TEN</b>	<b>\$10.00</b>
<b>TWN</b>	<b>\$20.00</b>

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, \$4.00, \$5.00, \$10.00 or \$20.00.

H. Mid-Tier Prize - A prize of \$50.00 or \$250.

I. High-Tier Prize - A prize of \$2,500 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 (791), a seven (7) digit pack number, and a three (3) digit ticket number. Ticket numbers start with 001 and end with 125 within each pack. The format will be: 791-0000001-001.

L. Pack - A pack of "WILD MONEY" Instant Game tickets contains 125 tickets, packed in plastic shrink-wrapping and fanfolded in pages of two (2). One ticket will be folded over to expose a front and back of one ticket on each pack. Please note the books will be in an A, B, C and D configuration.

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 "WILD MONEY" Instant Game No. 791 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 "WILD MONEY" Instant Game is determined once the latex on the ticket is scratched off to expose 22 (twenty-two) Play

Symbols. If a player matches any of YOUR SYMBOLS play symbols to either of the WINNING SYMBOLS play symbols, the player wins PRIZE shown for that symbol. If a player reveals a "WILD" play symbol, the player wins DOUBLE the PRIZE shown. No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly 22 (twenty-two) 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 22 (twenty-two) 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 22 (twenty-two) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 22 (twenty-two) 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. Non-winning prize symbols will not match a winning prize symbol on a ticket.

C. No three or more identical non-winning prize symbols on a ticket.

D. No duplicate WINNING SYMBOLS play symbols on a ticket.

E. There will be no correlation between the matching symbols and the prize amounts.

F. The "wild" (DOUBLER) play symbol will be used an approximately even number of times in each of the 10 play spots.

G. The "wild" (DOUBLER) play symbol will only appear on winning tickets as dictated by the prize structure.

H. The \$2,500 and \$25,000 prize symbols will both appear on all tickets unless otherwise restricted.

#### 2.3 Procedure for Claiming Prizes.

A. To claim a "WILD MONEY" Instant Game prize of \$2.00, \$4.00, \$5.00, \$10.00, \$20.00, \$50.00 or \$250, 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 or \$250 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 "WILD MONEY" Instant Game prize of \$2,500 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 "WILD MONEY" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;

2. delinquent in making child support payments administered or collected by the Attorney General;

3. delinquent in reimbursing the Texas Health and Human Services Commission for a benefit granted in error under the food stamp program or the program of financial assistance under Chapter 31, Human Resources Code;

4. in default on a loan made under Chapter 52, Education Code; or

5. in default on a loan guaranteed under Chapter 57, Education Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "WILD MONEY" 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 "WILD MONEY" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code Section 466.408. Any prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed. An Instant Game ticket may continue to be sold even when all the top prizes have been claimed.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 7,080,000 tickets in the Instant Game No. 791. The approximate number and value of prizes in the game are as follows:

Figure 3: GAME NO. 791 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in**
\$2	892,080	7.94
\$4	495,600	14.29
\$5	84,960	83.33
\$10	84,960	83.33
\$20	42,480	166.67
\$50	31,270	226.42
\$250	5,546	1,276.60
\$2,500	44	160,909.09
\$25,000	10	708,000.00

\*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 4.33. 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. 791 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. 791, 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-200702914  
 Kimberly L. Kiplin  
 General Counsel  
 Texas Lottery Commission  
 Filed: July 10, 2007



Instant Game Number 802 "Cash Explosion"

1.0 Name and Style of Game.

A. The name of Instant Game No. 802 is "CASH EXPLOSION". The play style is "key number match with tripler".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 802 shall be \$1.00 per ticket.

1.2 Definitions in Instant Game No. 802.

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, MONEYBAG SYMBOL, \$1.00, \$2.00, \$4.00, \$5.00, \$10.00, \$20.00, \$50.00, \$100, \$500, or \$1,000.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 802 - 1.2D

<b>PLAY SYMBOL</b>	<b>CAPTION</b>
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
<b>MONEYBAG SYMBOL</b>	<b>TPL</b>
\$1.00	ONE\$
\$2.00	TWO\$
\$4.00	FOUR\$
\$5.00	FIVE\$
\$10.00	TEN\$
\$20.00	TWENTY
\$50.00	FIFTY
\$100	ONE HUND
\$500	FIV HUND
\$1,000	ONE THOU

E. Retailer Validation Code - Three (3) letters found under the removable scratch-off covering in the play area, which retailers use to verify and validate instant winners. These three (3) small letters are for val-

idation purposes and cannot be used to play the game. The possible validation codes are:

**Figure 2: GAME NO. 802 - 1.2E**

<b>CODE</b>	<b>PRIZE</b>
ONE	\$1.00
TWO	\$2.00
THR	\$3.00
FOR	\$4.00
FIV	\$5.00
TEN	\$10.00
TWN	\$20.00

Low-tier winning tickets use the required codes listed in Figure 2. Non-winning tickets and high-tier tickets use a non-required combination of the required codes listed in Figure 2 with the exception of Ø, which will only appear on low-tier winners and will always have a slash through it.

F. Serial Number - A unique 13 (thirteen) digit number appearing under the latex scratch-off covering on the front of the ticket. There is a boxed four (4) digit Security Number placed randomly within the Serial Number. The remaining nine (9) digits of the Serial Number are the Validation Number. The Serial Number is positioned beneath the bottom row of play data in the scratched-off play area. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

G. Low-Tier Prize - A prize of \$1.00, \$2.00, \$3.00, \$4.00, \$5.00, \$10.00 or \$20.00.

H. Mid-Tier Prize - A prize of \$50.00, \$100 or \$500.

I. High-Tier Prize - A prize of \$1,000.

J. Bar Code - A 22 (twenty-two) character interleaved two (2) of five (5) bar code which will include a three (3) digit game ID, the seven (7) digit pack number, the three (3) digit ticket number and the nine (9) digit Validation Number. The bar code appears on the back of the ticket.

K. Pack-Ticket Number - A 13 (thirteen) digit number consisting of the three (3) digit game number (802), a seven (7) digit pack number, and a three (3) digit ticket number. Ticket numbers start with 001 and end with 150 within each pack. The format will be: 802-0000001-001.

L. Pack - A pack of "CASH EXPLOSION" Instant Game tickets contains 150 tickets, packed in plastic shrink-wrapping and fanfolded in pages of five (5). Tickets 001 to 005 will be on the top page; tickets 006 to 010 on the next page; etc.; and tickets 146 to 150 will be on the last page with backs exposed. Ticket 001 will be folded over so the front of ticket 001 and 010 will be exposed.

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 "CASH EXPLOSION" Instant Game No. 802 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 "CASH EXPLOSION" Instant Game is determined once the latex on the ticket is scratched off to expose 10 (ten) Play Symbols. If a player matches any of YOUR NUMBERS play symbols to either of the WINNING NUMBERS play symbols, the player wins the prize shown. If a player reveals a moneybag symbol, the player wins TRIPLE the prize shown. No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly 10 (ten) 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 10 (ten) 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 10 (ten) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 10 (ten) Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The ticket must have been received by the Texas Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket, solely at the Executive Director's discretion.

#### 2.2 Programmed Game Parameters.

A. Consecutive non-winning tickets will not have identical play data, spot for spot.

B. No duplicate non-winning prize symbols.

C. No duplicate non-winning play symbols.

D. A non-winning prize symbol will never be the same as the winning prize symbol(s).

E. The "moneybag" TRIPLER symbol will appear according to the prize structure and will only appear once on a ticket.

F. No prize amount in a non-winning spot will correspond with the YOUR NUMBERS play symbol (i.e. 5 and \$5).

G. The top prize will appear on every ticket unless otherwise restricted.

#### 2.3 Procedure for Claiming Prizes.

A. To claim a "CASH EXPLOSION" Instant Game prize of \$1.00, \$2.00, \$3.00, \$4.00, \$5.00, \$10.00, \$20.00, \$50.00, \$100 or \$500, a

claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, 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 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 "CASH EXPLOSION" Instant Game prize of \$1,000 the claimant must sign the winning ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "CASH EXPLOSION" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;

2. delinquent in making child support payments administered or collected by the Attorney General;

3. delinquent in reimbursing the Texas Health and Human Services Commission for a benefit granted in error under the food stamp program or the program of financial assistance under Chapter 31, Human Resources Code;

4. in default on a loan made under Chapter 52, Education Code; or

5. in default on a loan guaranteed under Chapter 57, Education Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "CASH EXPLOSION" 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 "CASH EXPLOSION" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code Section 466.408. Any prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed. An Instant Game

ticket may continue to be sold even when all the top prizes have been claimed.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 10,080,000 tickets in the Instant Game No. 802. The approximate number and value of prizes in the game are as follows:

Figure 3: GAME NO. 802 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in**
\$1	1,243,200	8.11
\$2	386,400	26.09
\$3	151,200	66.67
\$4	100,800	100.00
\$5	67,200	150.00
\$10	67,200	150.00
\$20	67,200	150.00
\$50	9,030	1,116.28
\$100	1,680	6,000.00
\$500	78	129,230.77
\$1,000	148	68,108.11

\*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 4.81. 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. 802 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. 802, 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-200702863

Kimberly L. Kiplin  
General Counsel  
Texas Lottery Commission  
Filed: July 6, 2007



Instant Game Number 811 "\$100,000 Golden Ticket"

1.0 Name and Style of Game.

A. The name of Instant Game No. 811 is "\$100,000 GOLDEN TICKET". The play style is "key number match with doubler".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 811 shall be \$10.00 per ticket.

1.2 Definitions in Instant Game No. 811.

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, GOLD SYMBOL, \$10.00, \$20.00, \$50.00, \$100, \$200, \$1,000, \$5,000, \$10,000 or \$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. 811 - 1.2D

<b>PLAY SYMBOL</b>	<b>CAPTION</b>
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
<b>GOLD SYMBOL</b>	<b>DBL</b>
\$10.00	TEN\$
\$20.00	TWENTY
\$50.00	FIFTY
\$100	ONE HUND
\$200	TWO HUND
\$1,000	ONE THOU
\$5,000	FIV THOU
\$10,000	10 THOU
\$100,000	HUN 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. 811 - 1.2E**

<b>CODE</b>	<b>PRIZE</b>
<b>TEN</b>	<b>\$10.00</b>
<b>TWN</b>	<b>\$20.00</b>

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 \$40.00, \$50.00, \$100, \$200 or \$500.

I. High-Tier Prize - A prize of \$1,000, \$5,000, \$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 (811), a seven (7) digit pack number, and a three (3) digit ticket number. Ticket numbers start with 001 and end with 50 within each pack. The format will be: 811-0000001-001.

L. Pack - A pack of "\$100,000 GOLDEN TICKET" Instant Game tickets contains 50 tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). Ticket back 001 and 050 will both be exposed.

M. Non-Winning Ticket - A ticket which is not programmed to be a winning ticket or a ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

N. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "\$100,000 GOLDEN TICKET" Instant Game No. 811 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 "\$100,000 GOLDEN TICKET" Instant Game is determined once the latex on the ticket is scratched off to expose 37 (thirty-seven) Play Symbols. If a player matches any of YOUR NUMBERS play symbols to any of the GOLDEN NUMBERS play symbols, the player wins the prize shown for that number. If the player reveals a

GOLD SYMBOL, the player wins DOUBLE the prize shown for that symbol instantly. BONUS SPOT: The player adds the 2 numbers in the play area. If the total is 7 or 11, the player wins \$50 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 37 (thirty-seven) 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 37 (thirty-seven) 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 37 (thirty-seven) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 37 (thirty-seven) 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 "gold" (DOUBLER) symbol will only appear on intended winning tickets and only as dictated by the prize structure.

C. No more than three (3) matching non-winning prize symbols will appear on a ticket.

D. No duplicate GOLDEN NUMBERS play symbols on a ticket.

E. No duplicate non-winning YOUR NUMBERS play symbols on a ticket.

F. Non-winning prize symbols will never be the same as the winning prize symbol(s).

G. No prize amount in a non-winning spot will correspond with the YOUR NUMBERS play symbol (i.e. 10 and \$10).

H. The \$100,000 prize symbol will appear at least once on every ticket unless otherwise restricted.

## 2.3 Procedure for Claiming Prizes.

A. To claim a "\$100,000 GOLDEN TICKET" Instant Game prize of \$10.00, \$20.00, \$40.00, \$50.00, \$100, \$200 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 \$40.00, \$50.00, \$100, \$200 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 "\$100,000 GOLDEN TICKET" Instant Game prize of \$1,000, \$5,000 \$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 "\$100,000 GOLDEN TICKET" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;

2. delinquent in making child support payments administered or collected by the Attorney General;

3. delinquent in reimbursing the Texas Health and Human Services Commission for a benefit granted in error under the food stamp program or the program of financial assistance under Chapter 31, Human Resources Code;

4. in default on a loan made under Chapter 52, Education Code; or

5. in default on a loan guaranteed under Chapter 57, Education Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

- A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

- B. if there is any question regarding the identity of the claimant;

- C. if there is any question regarding the validity of the ticket presented for payment; or

- D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "\$100,000 GOLDEN TICKET" 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 "\$100,000 GOLDEN TICKET" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code Section 466.408. Any prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed. An Instant Game ticket may continue to be sold even when all the top prizes have been claimed.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 3,000,000 tickets in the Instant Game No. 811. The approximate number and value of prizes in the game are as follows:

Figure 3: GAME NO. 811 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in**
\$10	360,000	8.33
\$20	450,000	6.67
\$40	10,000	300.00
\$50	55,000	54.55
\$100	17,625	170.21
\$200	3,500	857.14
\$500	2,025	1,481.48
\$1,000	175	17,142.86
\$5,000	100	30,000.00
\$10,000	50	60,000.00
\$100,000	6	500,000.00

\*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 3.34. 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. 811 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. 811, 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-200702864  
 Kimberly L. Kiplin  
 General Counsel  
 Texas Lottery Commission  
 Filed: July 6, 2007



Instant Game Number 843 "Break the Bank"

1.0 Name and Style of Game.

A. The name of Instant Game No. 843 is "BREAK THE BANK". The play style is "key number match with auto win".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 843 shall be \$2.00 per ticket.

1.2 Definitions in Instant Game No. 843.

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 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, \$2.00, \$4.00, \$6.00, \$10.00, \$20.00, \$50.00, \$200, \$1,000, \$3,000, \$30,000, and MONEystack SYMBOL.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 843 - 1.2D

<b>PLAY SYMBOL</b>	<b>CAPTION</b>
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
\$2.00	TWO\$
\$4.00	FOUR\$
\$6.00	SIX\$
\$10.00	TEN\$
\$20.00	TWENTY
\$50.00	FIFTY
\$200	TWO HUND
\$1,000	ONE THOU
\$3,000	THR THOU
\$30,000	30 THOU
MONEystack SYMBOL	WIN\$

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. 843 - 1.2E

CODE	PRIZE
TWO	\$2.00
FOR	\$4.00
SIX	\$6.00
EGT	\$8.00
TEN	\$10.00
TWL	\$12.00
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, \$4.00, \$6.00, \$8.00, \$10.00, \$12.00 or \$20.00.

H. Mid-Tier Prize - A prize of \$50.00 or \$200.

I. High-Tier Prize - A prize of \$1,000, \$3,000 or \$30,000.

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 (843), a seven (7) digit pack number, and a three (3) digit ticket number. Ticket numbers start with 001 and end with 125 within each pack. The format will be: 843-0000001-001.

L. Pack - A pack of "BREAK THE BANK" Instant Game tickets contains 125 tickets, packed in plastic shrink-wrapping and fanfolded in pages of two (2). One ticket will be folded over to expose a front and back of on ticket on each pack. Please note the books will be in an A, B, C and D configuration.

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 "BREAK THE BANK" Instant Game No. 843 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 "BREAK THE BANK" Instant Game is determined once the latex on the ticket is scratched off to expose 19 (nineteen) play symbols. If the player matches any of YOUR NUMBERS play symbols to any of the 3 LUCKY NUMBERS play symbols, the player wins the prize shown for that number. If the player reveals a "moneystack" symbol, the player wins the 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:

- Exactly 19 (nineteen) Play Symbols must appear under the latex overprint on the front portion of the ticket;
- Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
- Each of the Play Symbols must be present in its entirety and be fully legible;
- Each of the Play Symbols must be printed in black ink except for dual image games;
- The ticket shall be intact;
- The Serial Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;
- The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;
- The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
- The ticket must not be counterfeit in whole or in part;
- The ticket must have been issued by the Texas Lottery in an authorized manner;
- The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;
- The Play Symbols, Serial Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;
- The ticket must be complete and not miscut, and have exactly 19 (nineteen) 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 19 (nineteen) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 19 (nineteen) 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. Non-winning prize symbols will not match a winning prize symbol on a ticket.

C. No duplicate Lucky Numbers play symbols on a ticket.

D. There will be no correlation between the matching symbols and the prize amount.

E. The auto win symbol will never appear more than once on a ticket.

F. No duplicate non-winning play symbols on a ticket.

#### 2.3 Procedure for Claiming Prizes.

A. To claim a "BREAK THE BANK" Instant Game prize of \$2.00, \$4.00, \$6.00, \$8.00, \$10.00, \$12.00, \$20.00, \$50.00 or \$200, 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 or \$200 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 Lot-

tery. 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 2.3.C of these Game Procedures.

B. To claim a "BREAK THE BANK" Instant Game prize of \$1,000, \$3,000 or \$30,000, the claimant must sign the winning ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "BREAK THE BANK" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;

2. delinquent in making child support payments administered or collected by the Attorney General; or

3. delinquent in reimbursing the Texas Health and Human Services Commission for a benefit granted in error under the food stamp program or the program of financial assistance under Chapter 31, Human Resource 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 "BREAK THE BANK" 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 "BREAK THE BANK" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code Section 466.408. Any prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed. An Instant Game ticket may continue to be sold even when all the top prizes have been claimed.

3.0 Instant Ticket Ownership.

Figure 3: GAME NO. 843 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in**
\$2	4,536,000	11.11
\$4	2,923,200	17.24
\$6	806,400	62.50
\$8	201,600	250.00
\$10	504,000	100.00
\$12	604,800	83.33
\$20	302,400	166.67
\$50	186,900	269.66
\$200	41,580	1,212.12
\$1,000	1,050	48,000.00
\$3,000	154	327,272.73
\$30,000	26	1,938,461.54

\*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 4.99. 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.

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. 843 without advance notice, at which point no further tickets in that game may be sold.

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 50,400,000 tickets in the Instant Game No. 843. The approximate number and value of prizes in the game are as follows:

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. 843, 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-200702915

Kimberly L. Kiplin  
General Counsel  
Texas Lottery Commission  
Filed: July 10, 2007



Instant Game Number 844 "\$250,000 Bingo"

1.0 Name and Style of Game.

A. The name of Instant Game No. 844 is "\$250,000 BINGO". The play style for the game SLOTS is "key symbol match". The play style for the game INSTANT BONUS is "auto win" The play style for the game BINGO is "bingo".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 844 shall be \$10.00 per ticket.

1.2 Definitions in Instant Game No. 844.

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: \$10.00, \$20.00, \$50.00, \$100, \$500, CHERRIES SYMBOL, LEMON SYMBOL, STACK OF BILLS SYMBOL, CROWN SYMBOL, HORSESHOE SYMBOL, SHAMROCK SYMBOL, POT OF GOLD SYMBOL, GOLD BAR SYMBOL, BELL SYMBOL, TEN SYMBOL, TWENTY SYMBOL, FIFTY SYMBOL, SVY FIV SYMBOL, ONE HUN SYMBOL, TWO FTY SYMBOL, FIV HUN SYMBOL, TRY AGAIN SYMBOL, PLAY AGAIN SYMBOL, B01, B02, B03, B04, B05, B06, B07, B08, B09, B10, B11, B12, B13, B14, B15, I16, I17, I18, I19, I20, I21, I22, I23, I24, I25, I26, I27, I28, I29, I30, N31, N32, N33, N34, N35, N36, N37, N38, N39, N40, N41, N42, N43, N44, N45, G46, G47, G48, G49, G50, G51, G52, G53, G54, G55, G56, G57, G58, G59, G60, O61, O62, O63, O64, O65, O66, O67, O68, O69, O70, O71, O72, O73, O74, O75, 01, 02, 03, 04, 05, 06, 07, 08, 09, 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, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75 and FREE.

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. 844 - 1.2D

<b>PLAY SYMBOL</b>	<b>CAPTION</b>
\$10.00	TEN\$
\$20.00	TWENTY
\$50.00	FIFTY
\$100	ONE HUN
\$500	FIV HUN
CHERRIES SYMBOL	CHERRY
LEMON SYMBOL	LEMON
STACK OF BILLS SYMBOL	BILLS
CROWN SYMBOL	CROWN
HORSESHOE SYMBOL	HRSHOE
SHAMROCK SYMBOL	SHMRCK
POT OF GOLD SYMBOL	GOLD
GOLD BAR SYMBOL	BAR
BELL SYMBOL	BELL
TEN SYMBOL	DOLLARS
TWENTY SYMBOL	DOLLARS
FIFTY SYMBOL	DOLLARS
SVY FIV SYMBOL	DOLLARS
ONE HUN SYMBOL	DOLLARS
TWO FTY	DOLLARS
FIV HUN	DOLLARS
TRY	AGAIN
PLAY	AGAIN
B01	
B02	
B03	
B04	
B05	
B06	
B07	
B08	
B09	
B10	
B11	
B12	
B13	
B14	
B15	
I16	
I17	
I18	
I19	



I20	
I21	
I22	
I23	
I24	
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G59	
G60	
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FREE	

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. 844 - 1.2E**

<b>CODE</b>	<b>PRIZE</b>
<b>TEN</b>	<b>\$10.00</b>
<b>TWN</b>	<b>\$20.00</b>

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 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, \$75.00, \$100, \$125, \$175, \$250 or \$500.

I. High-Tier Prize - A prize of \$750, \$1,000, \$2,500, \$10,000 or \$250,000.

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 (844), 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: 844-0000001-001.

L. Pack - A pack of "\$250,000 BINGO" Instant Game tickets contains 50 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 "\$250,000 BINGO" Instant Game No. 844 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 "\$250,000 BINGO" Instant Game is determined once the latex on the ticket is scratched off to expose 193 (one hundred

ninety-three) play symbols. For the game SLOTS, if a player reveals 3 matching play symbols in any one PULL, the player wins PRIZE for that PULL. For the game INSTANT BONUS, if a player reveals a prize amount play symbol, the player wins that amount instantly. For the game BINGO, the player must scratch off the CALLER'S CARD area to reveal 30 (thirty) Bingo Numbers. The player must scratch all the Bingo Numbers on CARDS 1 through 6 that match the Bingo Numbers on the CALLER'S CARD. Each CARD has a corresponding prize legend. Players win by matching those same numbers on the six Player's Cards. If the player finds a diagonal, vertical or horizontal straight line, the four corners of the grid, or an X pattern, the player wins a prize according to the legend of the respective playing grid. Examples of play: If a player matches all bingo numbers plus the Free Space in a complete horizontal, vertical or diagonal line pattern in any one card, the player wins prize according to the legend of the respective playing card. If the player matches all bingo numbers in all four (4) corners pattern in any one card, the player wins prize according to the legend of the respective playing card. If the player matches all bingo numbers plus Free Space to make a complete "X" pattern in any one card, the player wins prize according to the legend of the respective playing card. 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 193 (one hundred ninety-three) 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 193 (one hundred ninety-three) 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 193 (one hundred ninety-three) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures.

17. Each of the 193 (one hundred ninety three) 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. A ticket will win as indicated by the prize structure.

C. A ticket can win up to three times.

D. BINGO: There will never be more than one win on a single Bingo Card.

E. BINGO: The highest prize won per card will be paid.

F. BINGO: No duplicate numbers will appear on the CALLER'S CARD.

G. BINGO: No duplicate numbers will appear on each individual Bingo Card.

H. BINGO: The number range used for each letter will be as follows: B: 01-15; I: 16-30; N: 31-45; G: 46-60; O: 61-75.

I. BINGO: Each Player's Card on the same ticket must be unique.

J. BINGO: The 30 CALLER'S CARD numbers will match 53 to 83 numbers per ticket.

K. BINGO: The 'near wins' are to be distributed approximately equally in the six Player's Cards.

L. BINGO: There will be at least one (1) 'near win' on each of the six (6) Player's Cards on each non-winning ticket.

M. BINGO: A 'near win' is one number short of a complete horizontal, vertical, diagonal line or 4 corners, except for the 'X' where there are two numbers less, one in each diagonal line (one of which must be a corner).

N. SLOTS: The Play area consists of nine (9) play symbols and three (3) PRIZE symbols.

O. SLOTS: There will never be three (3) identical symbols in a vertical or diagonal line.

P. SLOTS: No prize amount will appear more than once in this play area except as required on multiple win tickets.

Q. SLOTS: Non-winning tickets will never contain more than two (2) of the same play symbols over the entire play area.

R. SLOTS: Consecutive non-winning tickets within a book will not have identical PULLS. For instance if the first ticket contains CHERRIES, CROWN, POT OF GOLD in any PULL then the next ticket may not contain CHERRIES, CROWN and POT OF GOLD in any row in any order.

S. SLOTS: Non-winning tickets will not have identical games. For example if PULL 1 is CHERRIES, CROWN, and POT OF GOLD then PULL 2 and PULL 3 will not contain CHERRIES, CROWN, and POT OF GOLD in any order.

T. SLOTS: Winning tickets will contain three (3) matching Play Symbols in a horizontal row.

U. SLOTS: Players can win as per the prize structure.

V. SLOTS: On winning tickets, non-winning games will have different prize amounts from the winning prize amounts in this play area.

W. INSTANT BONUS: The Play area consists of one (1) Play Symbol.

X. INSTANT BONUS: Tickets that do not win in the Bonus Area will display one of the non-winning play symbols. Each of the non-winning play symbols will appear approximately evenly.

Y. INSTANT BONUS: Winning tickets will display a prize amount: TEN DOLLARS, TWENTY DOLLARS, FIFTY DOLLARS, SVY FIV DOLLARS, ONE HUN DOLLARS, TWO FTY DOLLARS OR FIV HUN DOLLARS.

## 2.3 Procedure for Claiming Prizes.

A. To claim a "\$250,000 BINGO" Instant Game prize of \$10.00, \$20.00, \$30.00, \$50.00, \$75.00, \$100, \$125, \$175, \$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 \$30.00, \$50.00, \$75.00, \$100, \$125, \$175, \$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 "\$250,000 BINGO" Instant Game prize of \$750, \$1,000, \$2,500, \$10,000 or \$250,000, 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 "\$250,000 BINGO" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;
2. delinquent in making child support payments administered or collected by the Attorney General; or
3. delinquent in reimbursing the Texas Health and Human Services Commission for a benefit granted in error under the food stamp program or the program of financial assistance under Chapter 31, Human Resources Code;
4. in default on a loan made under Chapter 52, Education Code; or
5. in default on a loan guaranteed under Chapter 57, Education Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

- A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;
- B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "\$250,000 BINGO" 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 "\$250,000 BINGO" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code Section 466.408. Any prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed. An Instant Game ticket may continue to be sold even when all the top prizes have been claimed.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 3,120,000 tickets in the Instant Game No. 844. The approximate number and value of prizes in the game are as follows:

Figure 3: GAME NO. 844 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in**
\$10	686,400	4.55
\$20	187,200	16.67
\$30	13,000	240.00
\$50	67,600	46.15
\$75	7,800	400.00
\$100	13,000	240.00
\$125	5,200	600.00
\$175	5,200	600.00
\$250	4,225	738.46
\$500	3,055	1,021.28
\$750	143	21,818.18
\$1,000	18	173,333.33
\$2,500	5	624,000.00
\$10,000	4	780,000.00
\$250,000	5	624,000.00

\*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 3.14. The individual odds of winning for a particular prize level may vary based on sales, distribution, 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. 844 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. 844, 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-200702916  
 Kimberly L. Kiplin  
 General Counsel  
 Texas Lottery Commission  
 Filed: July 10, 2007



**Texas Parks and Wildlife Department**

Notice of Emergency Gulf Shrimp Season Opening

The Executive Director of the Texas Parks and Wildlife Department hereby orders that the Gulf shrimp season open on July 15, 2007. Based on sound biological data, the executive director has determined that optimum migration of small brown shrimp from the bays to the Gulf of Mexico will occur approximately on the July 15 opening date established by rule. Sound biological data indicate that by July 15, 2007, most of the shrimp on the Gulf fishing grounds will be of satisfactory size to achieve maximum benefits from the resource.

The purpose of the closed Gulf season is to protect brown shrimp during their major period of emigration from the bays to the Gulf of Mexico until they reach a larger, more valuable size before harvest and to prevent waste caused by the discarding of smaller individuals. The season closed 30 minutes after sunset, May 15, 2007.

This action is pursuant to the authority of Parks and Wildlife Code, §77.062, which authorizes the commission to change the opening and closing dates of the June 1 to July 15 closed season to provide for an earlier, later, or longer season not to exceed 60 days, to change the closing date with 72 hours public notice, to reopen the season with 24 hours notice, and to delegate to the director the duties and responsibilities of opening and closing the shrimping season.

TRD-200702872

Ann Bright  
General Counsel  
Texas Parks and Wildlife Department  
Filed: July 6, 2007



Notice of Proposed Real Estate Transaction and Opportunity  
for Comment

Acceptance of Conservation Easement - Burnet County

On August 23, 2007, the Texas Parks and Wildlife Commission (the Commission) will consider the acceptance of a conservation easement on 12.65 acres adjacent to Park Road 4 in exchange for a driveway permit in Burnet County. The meeting will start at 9:00 a.m. at 4200 Smith School Road, Austin, Texas. Before taking action, the Commission will take public comment regarding the proposed transaction. Public comment may be submitted to Corky Kuhlman, Land Conservation, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744 or by email at corky.kuhlmann@tpwd.state.tx.us or made in person at time of meeting.

TRD-200702942  
Ann Bright  
General Counsel  
Texas Parks and Wildlife Department  
Filed: July 11, 2007



Notice of Proposed Real Estate Transaction and Opportunity  
for Comment

Acceptance of Land Donation - Gonzales County

On August 23, 2007, the Texas Parks and Wildlife Commission (the Commission) will consider accepting the donation of a 1.35-acre tract of land adjacent to Palmetto State Park. The meeting will start at 9:00 a.m. at 4200 Smith School Road, Austin, Texas. Before taking action, the Commission will take public comment regarding the proposed transaction. Public comment may be submitted to Corky Kuhlman, Land Conservation, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744 or by email at corky.kuhlmann@tpwd.state.tx.us or made in person at time of meeting.

TRD-200702940  
Ann Bright  
General Counsel  
Texas Parks and Wildlife Department  
Filed: July 11, 2007



Notice of Proposed Real Estate Transaction and Opportunity  
for Comment

Land Acquisition - Brazoria County

On August 23, 2007, the Texas Parks and Wildlife Commission (the Commission) will consider the acquisition of a 20-acre inholding at the Nanny M. Stringfellow Wildlife Management Area in Brazoria County. The meeting will start at 9:00 a.m. at 4200 Smith School Road, Austin, Texas. Before taking action, the Commission will take public comment regarding the proposed transaction. Public comment may be submitted to Ted Hollingsworth, Land Conservation, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744

or by email at ted.hollingsworth@tpwd.state.tx.us or made in person at time of meeting.

TRD-200702938  
Ann Bright  
General Counsel  
Texas Parks and Wildlife Department  
Filed: July 11, 2007



Notice of Proposed Real Estate Transaction and Opportunity  
for Comment

Land Acquisition - Jefferson County

On August 23, 2007, the Texas Parks and Wildlife Commission (the Commission) will consider the purchase of a 62' x 92' inholding at the J.D. Murphree Wildlife Management Area in Jefferson County. The meeting will start at 9:00 a.m. at 4200 Smith School Road, Austin, Texas. Before taking action, the Commission will take public comment regarding the proposed transaction. Public comment may be submitted to Ted Hollingsworth, Land Conservation, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744 or by email at ted.hollingsworth@tpwd.state.tx.us or made in person at time of meeting.

TRD-200702939  
Ann Bright  
General Counsel  
Texas Parks and Wildlife Department  
Filed: July 11, 2007



Notice of Proposed Real Estate Transaction and Opportunity  
for Comment

Lease of Easement - Jefferson County

On August 23, 2007, the Texas Parks and Wildlife Commission (the Commission) will consider recommending to the General Land Office the lease of a pipeline easement to Golden Pass LNG at the J.D. Murphree Wildlife Management Area in Jefferson County. The meeting will start at 9:00 a.m. at 4200 Smith School Road, Austin, Texas. Before taking action, the Commission will take public comment regarding the proposed transaction. Public comment may be submitted to Ted Hollingsworth, Land Conservation, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744 or by email at ted.hollingsworth@tpwd.state.tx.us or made in person at time of meeting.

TRD-200702941  
Ann Bright  
General Counsel  
Texas Parks and Wildlife Department  
Filed: July 11, 2007



**Public Utility Commission of Texas**

Announcement of Application for an Amendment to a  
State-Issued Certificate of Franchise Authority

The Public Utility Commission of Texas received an application on July 6, 2007, for an amendment to a state-issued certificate of franchise authority (CFA), pursuant to §§66.001 - 66.016 of the Public Utility Regulatory Act (PURA).



Project Title and Number: Application of Marcus Cable Associates, L.L.C. d/b/a Charter Communications for an Amendment to a State-Issued Certificate of Franchise Authority, Project Number 34491 before the Public Utility Commission of Texas.

Information on the application may be obtained by contacting the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All inquiries should reference Project Number 34491.

TRD-200702919  
Adriana A. Gonzales  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: July 10, 2007



#### Announcement of Application for an Amendment to a State-Issued Certificate of Franchise Authority

The Public Utility Commission of Texas received an application on July 6, 2007, for an amendment to a state-issued certificate of franchise authority (CFA), pursuant to §§66.001 - 66.016 of the Public Utility Regulatory Act (PURA).

Project Title and Number: Application of Charter Communications VI, L.L.C. d/b/a Charter Communications for an Amendment to a State-Issued Certificate of Franchise Authority, Project Number 34492 before the Public Utility Commission of Texas.

Information on the application may be obtained by contacting the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All inquiries should reference Project Number 34492.

TRD-200702920  
Adriana A. Gonzales  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: July 10, 2007



#### Notice of Application for a Certificate to Provide Retail Electric Service

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on July 9, 2007, for retail electric provider (REP) certification, pursuant to §§39.101 - 39.109 of the Public Utility Regulatory Act (PURA).

Docket Title and Number: Application of Ready Power, LLC for Retail Electric Provider (REP) Certification, Docket Number 34495 before the Public Utility Commission of Texas.

Applicant's requested service area by geography includes the entire State of Texas.

Persons wishing to comment upon the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477 no later than July 27, 2007. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at

(512) 936-7136 or toll free at 1-800-735-2989. All comments should reference Docket Number 34495.

TRD-200702921  
Adriana A. Gonzales  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: July 10, 2007



#### Announcement of Application for State-Issued Certificate of Franchise Authority

The Public Utility Commission of Texas received an application on July 3, 2007, for a state-issued certificate of franchise authority (CFA), pursuant to §§66.001 - 66.016 of the Public Utility Regulatory Act (PURA).

Project Title and Number: Application of BYOTV Media Corporation for a State-Issued Certificate of Franchise Authority, Project Number 34484 before the Public Utility Commission of Texas.

Applicant intends to provide video service. The requested CFA service area includes the entire State of Texas.

Information on the application may be obtained by contacting the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All inquiries should reference Project Number 34484.

TRD-200702867  
Adriana A. Gonzales  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: July 6, 2007



#### Notice of Application for Designation as an Eligible Telecommunications Carrier Pursuant to P.U.C. Substantive Rule §26.418

Notice is given to the public of an application filed with the Public Utility Commission of Texas on July 28, 2007, for designation as an eligible telecommunications carrier (ETC) pursuant to P.U.C. Substantive Rule §26.418.

Docket Title and Number: Application of CGKC&H #1 Rural Limited Partnership d/b/a Five Star Wireless for Designation as an Eligible Telecommunications Carrier (ETC) Pursuant to P.U.C. Substantive Rule §26.418. Docket Number 34447.

The Application: The company is requesting ETC designation in order to be eligible to receive federal universal service support throughout the rural telephone company study area of Windstream Communications Kerrville, L.P., and within certain non-rural telephone company wire centers of Verizon Southwest. 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.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas by August 9, 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 34447.

TRD-200702866  
Adriana A. Gonzales  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: July 6, 2007



#### Notice of Application to Amend a Certificate of Convenience and Necessity for a Proposed Transmission Line in Bell and Williamson Counties, Texas

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) an application on July 10, 2007, to amend a certificate of convenience and necessity for a proposed transmission line in Bell and Williamson Counties, Texas.

Docket Style and Number: Application of Oncor Electric Delivery Company to Amend a Certificate of Convenience and Necessity for a Proposed Transmission Line within Bell and Williamson Counties. Docket Number 34440.

The Application: The application of Oncor Electric Delivery Company (Oncor) for a proposed transmission line is designated as the Salado-Hutto 345 kV Transmission Line Project. Oncor stated that the proposed transmission line project is a new 345 kV double-circuit transmission line connecting the Oncor Salado Switching Station located north of the Village of Salado along Rose Lane in Bell County, to the Hutto Switching Station located northwest of the City of Hutto along County Road 119, north of US 79, in Williamson, County. The miles of right-of-way for this project will be approximately 36.4 miles. The estimated date to energize facilities is May 2010.

Persons wishing to intervene or comment on the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free at 1-888-782-8477. The deadline for intervention in this proceeding is August 24, 2007. 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 34440.

TRD-200702932  
Adriana Gonzales  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: July 11, 2007



#### Notice of Petition of the Electric Reliability Council of Texas for Approval of Amended and Restated Bylaws

On June 21, 2007, the Electric Reliability Council of Texas (ERCOT) filed with the Public Utility Commission of Texas (commission) a petition seeking approval of amended and restated bylaws.

Docket Style and Number: Petition of the Electric Reliability Council of Texas for Approval of Amended and Restated Bylaws, Docket Number 34427.

The Application: ERCOT proposes to adopt revised amended and restated bylaws approved by the ERCOT Board of Directors and the Cor-

porate Members of ERCOT. The proposed changes enable the creation and operation of the Texas Regional Entity (TRE), an independent division of ERCOT established pursuant to the Delegation Agreement between the North American Electric Reliability Corporation and TRE. The petition also requests approval of some non-TRE-related bylaws revisions.

ERCOT has posted a copy of its petition on its web site at <http://www.ercot.com/Participants/Legal.htm>. Interested parties may also access ERCOT's petition through the Public Utility Commission's web site at <http://www.puc.state.tx.us> under Docket Number 34427.

Initial written comments regarding the petition should be submitted by August 2, 2007, and reply comments by August 9, 2007, to the Public Utility Commission of Texas at P.O. Box 13326, Austin, Texas 78711-3326. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. Comments should contain a concise position regarding the application, a concise statement of each question of fact, law, or policy. All comments should reference Docket Number 34427.

TRD-200702922  
Adriana A. Gonzales  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: July 10, 2007



### Texas Residential Construction Commission

#### Notice of Application for Designation as a "Texas Star Builder"

The commission adopted rules regarding the procedures for designation as a "Texas Star Builder" at 10 TAC §303.300. The rules were adopted pursuant to §416.011, Property Code (Act effective September 1, 2003), which provides that the commission shall establish rules and procedures through which a builder can be designated as a "Texas Star Builder." The commission rules for application for designation can be found on the commission's website at [www.trcc.state.tx.us](http://www.trcc.state.tx.us).

10 TAC §303.300(i)(2) requires the commission to publish in the *Texas Register* notice of the application of each person seeking to become designated as a "Texas Star Builder" registered under this subchapter. The commission will accept public comment on each application for 21 days after the date of publication of the notice. Information provided in response to this notice will be utilized in evaluating the applicants for approval. The Texas Star Builder designation requires that a builder or remodeler demonstrate that its education, experience and commitment to professionalism sets the builder or remodeler apart from its peers and offers some assurance to its customers that its quality of service and construction will be above average.

Pursuant to 10 TAC §303.300(i)(2) the commission hereby notices the application for designation as a "Texas Star Builder" of:

Tim Jackson Custom Homes, L.P., 650 Maple Creek Drive, Fairview, Texas 75069; TRCC builder registration certificate #4316; and the registered agent is Tim Jackson.

Interested persons may send written comments regarding this application to Susan K. Durso, General Counsel, Texas Residential Construction Commission, P.O. Box 13144, Austin, Texas 78711-3144. Comments regarding this application 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-200702846

Susan K. Durso  
General Counsel  
Texas Residential Construction Commission  
Filed: July 3, 2007

◆ ◆ ◆  
**Texas Department of Transportation**

**Aviation Division - Request for Proposal for Aviation Engineering Services**

Moore 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: Moore County, Moore County Airport. TxDOT CSJ No.: 0704DUMAS. Scope: Provide engineering/design services to rehabilitate, widen, extend, and mark runway 1-19, install new medium intensity runway lights runway 1-19, replace PLASIs with PAPI-4s runway 1-19, adjust gas line, relocate farm road, install fence, overlay apron and construct turnaround at new runway 1 end.

The HUB goal is set at 9%. TxDOT Project Manager is Alan Schmidt, 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](http://www.dot.state.tx.us/avn/avninfo/notice/consult/index.htm) by selecting "Moore 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 e-mailed by request or downloaded from the TxDOT web site at [www.dot.state.tx.us/services/aviation/consultant.htm](http://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:**

Six completed, unfolded copies of Form AVN-550 **must be received** by TxDOT Aviation Division at 150 East Riverside Drive, 5th Floor, South Tower, Austin, Texas 78704 no later than August 10, 2007, 4:00 p.m. Electronic facsimiles or forms sent by e-mail 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 local government members. The final selection by the committee will generally be made following the completion of review of proposals. The committee will review all proposals and rate and rank each. The criteria for 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 Alan Schmidt, Project Manager for technical questions at 1-800-68-PILOT (74568).

TRD-200702862  
Bob Jackson  
General Counsel  
Texas Department of Transportation  
Filed: July 6, 2007

◆ ◆ ◆  
**Request for Proposal - Outside Counsel**

The Texas Department of Transportation (department) requests proposals from law firms interested in representing the department in environmental law matters. This request for proposals (RFP) is issued for the purpose of identifying qualified law firms able to provide legal representation required by the department and the Texas Transportation Commission (commission) on matters related to compliance with environmental laws, regulations and rules, both state and federal, affecting the department. Selection of outside counsel will be made by the department's General Counsel. The Office of the Attorney General must approve the General Counsel's selection before outside counsel may be employed.

Description: The department is a state agency that is responsible for planning, designing, constructing, operating, and maintaining the state's transportation system. In connection with these responsibilities, the department must deal with various environmental matters. These matters include, but are not limited to, the following: satisfying environmental review requirements under the National Environmental Policy Act and similar state law; obtaining appropriate permits; answering queries and complaints from state and federal regulatory authorities; complying with environmental laws, rules, and regulations, both state and federal, on an ongoing basis; appearing before administrative and judicial tribunals, both state and federal, to answer charges of a civil and criminal nature, both state and federal; and generally complying with state and federal laws, rules, and regulations applicable to the responsibilities discharged by a state department of transportation. The department intends to engage outside counsel to represent the agency in these matters. In particular, the department intends to rely on outside counsel to represent the department in criminal cases related to these matters. Accordingly, the department invites responses to this RFP from firms that are qualified to perform these legal services. Outside counsel engaged by the department must have considerable prior experience with, as well as extensive knowledge of, these subjects. The firm should be experienced in the matter of criminal defense work involving alleged violations of both state and federal environmental laws, rules and regulations.

Responses: Responses to the RFP may be submitted by an individual law firm, attorney or joint venture between two or more law firms and/or attorneys. Responses to the RFP should include at least the following information: (1) a description of the firm's qualifications for performing legal work in the matters described previously, the names, experience, education, and expertise of the attorneys who will be assigned to work on such matters, the availability of the lead attorney and other firm personnel who will be assigned to work on these matters, and appropriate information regarding efforts made by the firm to encourage and develop the participation of minorities and women in the provision of these legal services; (2) information relative to the ca-

pabilities, location(s), and resources of the firm's offices which might serve the department's requirements, including a summary of physical resources that would be assigned to the department, and an organizational chart indicating the relevant areas of responsibility of each attorney assigned to work on these matters; (3) the submission of fee information (either in the form of hourly rates for each attorney and paralegal who will be assigned to perform services in relation to these matters, comprehensive flat fees, or other fee arrangements directly related to the achievement of specific goals and cost controls) and billable expenses; (4) an abstract of the firm's cost control procedures and how it charges for its services; (5) a comprehensive description of the procedures used by the firm to supervise the provision of legal services in a timely and cost effective manner; (6) disclosure of conflicts of interest (identifying each and every matter in which the firm has, within the past calendar year, represented any entity or individual with an interest adverse to the department or to the State of Texas or any of its agencies); and (7) confirmation of willingness to comply with the rules, policies, directives, and guidelines of the department, the commission, and the Attorney General of the State of Texas.

Note: The department is particularly concerned with issues pertaining to any conflict of interest. Respondents are admonished to make all practicable efforts to fully investigate, disclose, and address such conflicts.

Format and Person to Contact: Two copies of the proposal are requested. The proposal should be typed, preferably double spaced, on 8 1/2 by 11 inch paper with all pages sequentially numbered and either stapled or bound together. It should be sent by mail or delivered in person, marked "Response to Request for Proposal," and addressed to General Counsel, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483. For questions, contact Angie Parker in the Office of General Counsel at (512) 463-8630.

Deadline for Submission of Response: All proposals must be received by the General Counsel, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483, no later than 5:00 p.m. on August 17, 2007.

TRD-200702923

Bob Jackson

General Counsel

Texas Department of Transportation

Filed: July 10, 2007



### Request for Proposals - Outside Counsel

The Texas Department of Transportation (department) issues this request for proposals (RFP) for the purpose of identifying qualified law firms interested in providing legal representation to the department and the Texas Transportation Commission (commission) on matters relating to the acquisition, lease, maintenance, construction, operation, and management of railroad lines and other rail facilities, including, but not limited to, abandoned railroad lines and acquisition of rail corridors and railroad rights of way for rail, highway, or other transportation facilities. Selection of outside counsel will be made by the department's General Counsel. The Office of the Attorney General must approve the General Counsel's selection before outside counsel may be employed.

Description: The department is a state agency that is obligated by state law to consider the advisability of acquiring rail lines that have been proposed for abandonment or discontinuance of service or taking other action necessary to provide for continued rail or other transportation uses over the rail lines. Additionally, the department regularly considers acquiring rail corridors, rail facilities, and railroad rights of way for rail, highway, or other transportation projects. The department is au-

thorized under state law to acquire, finance, construct, maintain, and operate a passenger or freight rail facility, individually or as one or more systems. The department intends to engage outside counsel to advise and represent the agency on matters relating to the acquisition, lease, maintenance, construction, operation, and management of railroads and other rail facilities, including trackage rights and service issues, and the acquisition of rail corridors, rail facilities, and railroad rights of way. Outside counsel will provide legal advice concerning the department's rights and obligations with respect to a rail carrier's abandonment of or discontinuance of service on a rail line, including requirements relating to interim trail use, rail banking, and termination of trail use under 16 U.S.C. §1247(d) and implementing regulations, as well as the handling of claims resulting from rail banking and termination of trail use. Counsel will also be expected to advise and perform work for the department generally regarding the department's responsibilities under applicable federal and state laws relative to rail and rail transportation, including reviewing legislation and administrative rules when requested by the department. Outside counsel will represent the department in any necessary proceeding before the Surface Transportation Board and in negotiations with rail operators, construction companies, financial institutions, maintenance companies, and lessees as well as advise the department and the Transportation Division of the Office of Attorney General on matters relating to proceedings before the Federal Court of Claims. Accordingly, the department invites responses to this RFP from firms that are qualified to perform these legal services. Outside counsel engaged by the department must have considerable prior experience with, as well as extensive knowledge of, these subjects.

Responses: Responses to the RFP may be submitted by an individual law firm, attorney, or joint venture between two or more law firms and/or attorneys. Responses to the RFP should include at least the following information: (1) a description of the firm's qualifications for performing legal work in the matters described previously, the names, experience, education, and expertise of the attorneys who will be assigned to work on such matters, the availability of the lead attorney and other firm personnel who will be assigned to work on these matters, and appropriate information regarding efforts made by the firm to encourage and develop the participation of minorities and women in the provision of these legal services; (2) information relative to the capabilities, location(s), and resources of the firm's offices that might serve the department's requirements, including a summary of physical resources that would be assigned to the department, and an organizational chart indicating the relevant areas of responsibility of each attorney assigned to work on these matters; (3) the submission of fee information (either in the form of hourly rates for each attorney and paralegal who will be assigned to perform services in relation to these matters, comprehensive flat fees, or other fee arrangements directly related to the achievement of specific goals and cost controls) and billable expenses; (4) an abstract of the firm's cost control procedures and how it charges for its services; (5) a comprehensive description of the procedures used by the firm to supervise the provision of legal services in a timely and cost effective manner; (6) disclosure of conflicts of interest (identifying each and every matter in which the firm has, within the past calendar year, represented any entity or individual with an interest adverse to the department or to the State of Texas or any of its agencies); and (7) confirmation of willingness to comply with the rules, policies, directives, and guidelines of the department, the commission, and the Attorney General of the State of Texas.

Note: The department is particularly concerned with issues pertaining to any conflict of interest. Respondents are admonished to make all practicable efforts to fully investigate, disclose, and address such conflicts.

Format and Person to Contact: Two copies of the proposal are requested. The proposal should be typed, preferably double spaced, on 8 1/2 by 11 inch paper with all pages sequentially numbered and either stapled or bound together. It should be sent by mail or delivered in person, marked "Response to Request for Proposal," and addressed to General Counsel, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483. For questions, contact Angie Parker in the Office of General Counsel at (512) 463-8630.

Deadline for Submission of Response: All proposals must be received by the General Counsel, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483, no later than 5:00 p.m. on August 17, 2007.

TRD-200702924

Bob Jackson

General Counsel

Texas Department of Transportation

Filed: July 10, 2007



### Request for Proposal - Outside Counsel

The Texas Department of Transportation (department) requests proposals from law firms interested in representing the department in a variety of intellectual property matters related to patent, trademark and copyright preparation/prosecution, licensing, opinion work, and litigation support. This request for proposals (RFP) is issued for the purpose of identifying qualified law firms able to provide legal representation required by the department and the Texas Transportation Commission (commission) on matters related to the protection of the department's intellectual property. Selection of outside counsel will be made by the department's General Counsel. The Office of the Attorney General must approve the General Counsel's selection before outside counsel may be employed.

Description: The department is a state agency that is responsible for planning, designing, constructing, operating, and maintaining the state's transportation system. The department continues to develop patentable machines and processes as well as trademarks, service marks, trade secrets, slogans, and copyrighted materials in the course of performing its statutory duties. The department intends to engage outside counsel to advise and represent the agency on matters related to its intellectual property, including, but not limited to, securing state and federal certifications, patents, and registrations, protecting the department's property rights while registrations are pending, and advising or assisting with any matter directly related to securing registration and international protection of the department's interest in its intellectual property when appropriate. With respect to intellectual property and patent/trademark/copyright issues, outside counsel, in consultation with department staff, will prepare all legal documents required by the U.S. Patent and Trademark Office, the Texas Secretary of State's Office, international registration authorities or other governmental entities, and render opinions on the legality of pending, existing, or proposed patents, trademarks, or copyrighted materials. In addition, counsel shall perform other legal services that do not come within the function of registration or certification, but are necessary for the implementation and administration of the department's intellectual property, such as advising on potential claims against other parties by the department in relation to its intellectual property. Accordingly, the department invites responses to this RFP from firms that are

qualified to perform these legal services. Outside counsel engaged by the department must have considerable prior experience with, as well as extensive knowledge of, federal, state, and international patent, trademark, and copyright law.

Responses: Responses to the RFP may be submitted by an individual law firm, attorney, or joint venture between two or more law firms and/or attorneys. Responses to the RFP should include at least the following information: (1) a description of the firm's qualifications for performing legal work in the matters described previously, the names, experience, education, and expertise of the attorneys who will be assigned to work on such matters, the availability of the lead attorney and other firm personnel who will be assigned to work on these matters, and appropriate information regarding efforts made by the firm to encourage and develop the participation of minorities and women in the provision of these legal services; (2) information relative to the capabilities, location(s), and resources of the firm's offices which might serve the department's requirements, including a summary of physical resources that would be assigned to the department, and an organizational chart indicating the relevant areas of responsibility of each attorney assigned to work on these matters; (3) the submission of fee information (either in the form of hourly rates for each attorney and paralegal who will be assigned to perform services in relation to these matters, comprehensive flat fees, or other fee arrangements directly related to the achievement of specific goals and cost controls) and billable expenses; (4) an abstract of the firm's cost control procedures and how it charges for its services; (5) a comprehensive description of the procedures used by the firm to supervise the provision of legal services in a timely and cost effective manner; (6) disclosure of conflicts of interest (identifying each and every matter in which the firm has, within the past calendar year, represented any entity or individual with an interest adverse to the department or to the State of Texas or any of its agencies); and (7) confirmation of willingness to comply with the rules, policies, directives, and guidelines of the department, the commission, and the Attorney General of the State of Texas.

Note: The department is particularly concerned with issues pertaining to any conflict of interest. Respondents are admonished to make all practicable efforts to fully investigate, disclose, and address such conflicts.

Format and Person to Contact: Two copies of the proposal are requested. The proposal should be typed, preferably double spaced, on 8 1/2 by 11 inch paper with all pages sequentially numbered and either stapled or bound together. It should be sent by mail or delivered in person, marked "Response to Request for Proposal," and addressed to General Counsel, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483. For questions, contact Angie Parker in the Office of General Counsel at (512) 463-8630.

Deadline for Submission of Response: All proposals must be received by the General Counsel, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483, no later than 5:00 p.m. on August 17, 2007.

TRD-200702925

Bob Jackson

General Counsel

Texas Department of Transportation

Filed: July 10, 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).