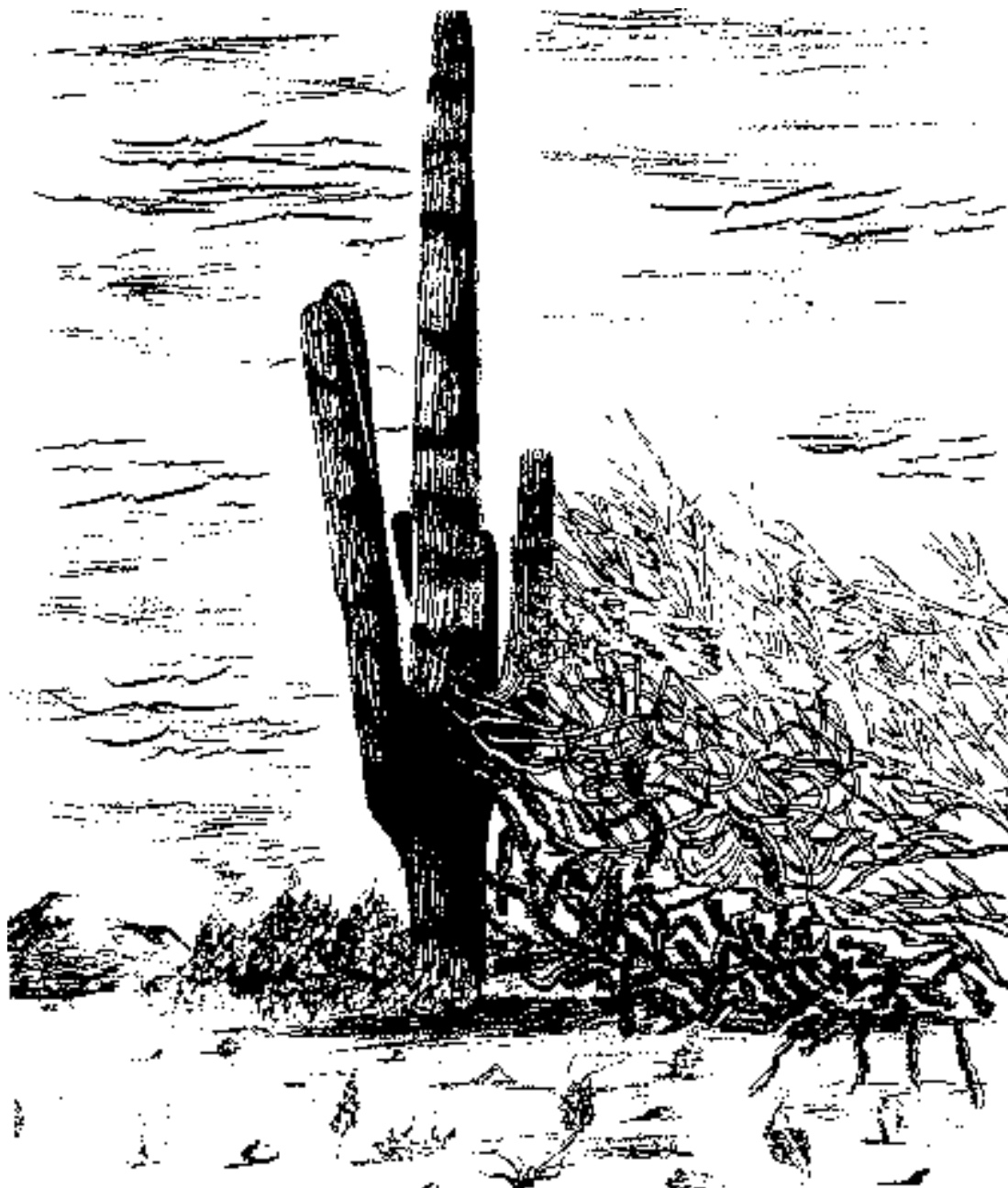


TEXAS REGISTER

Volume 26 Number 3 January 19, 2001

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Artist: *Tiffany Dallas*
11th grade
Forest Brook High School

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OFFICE OF THE ATTORNEY GENERAL

Under provisions set out in the Texas Constitution, the Texas Government Code, Title 4, §402.042, and numerous statutes, the attorney general is authorized to write advisory opinions for state and local officials. These advisory opinions are requested by agencies or officials when they are confronted with unique or unusually difficult legal questions. The attorney general also determines, under authority of the Texas Open Records Act, whether information requested for release from governmental agencies may be held from public disclosure. Requests for opinions, opinions, and open records decisions are summarized for publication in the *Texas Register*. The attorney general responds to many requests for opinions and open records decisions with letter opinions. A letter opinion has the same force and effect as a formal Attorney General Opinion, and represents the opinion of the attorney general unless and until it is modified or overruled by a subsequent letter opinion, a formal Attorney General Opinion, or a decision of a court of record. You may view copies of opinions at <http://www.oag.state.tx.us>. To request copies of opinions, please fax your request to (512) 462-0548 or call (512) 936-1730. To inquire about pending requests for opinions, phone (512) 463-2110.

Opinions

Opinion No. JC-0321

Ms. Sherry L. Lee Executive Director Texas State Board of Examiners of Psychologists 333 Guadalupe, Suite 2-450 Austin, Texas 78701

Re: Whether, under the Psychologists' Licensing Act, chapter 501 of the Occupations Code, the Board of Examiners of Psychologists may investigate the activity or service of a person who is licensed by the Board if the activity or service is performed within the scope of the person's employment by an "exempt facility," and related questions; re-considering Attorney General Opinion JM-1247 (1990) (RQ-0213-JC)

S U M M A R Y

Attorney General Opinion JM-1247 (1990), which concluded that the Psychologists' Licensing Act, chapter 501 of the Occupations Code, applies to a person who is employed to practice psychology for a governmental agency or regionally accredited institution of higher education (together, an "exempt facility") if the person has voluntarily obtained a license under the Act, is overruled. Rather, the Board of Examiners of Psychologists has jurisdiction of a licensee's activity or service only if the activity or service is beyond the scope of the licensee's employment by the exempt facility. See Tex. Occ. Code Ann. § 501.004(a) (Vernon 2000) ("Applicability"). The Board has no jurisdiction to investigate a complaint regarding the activity or service of a licensee employed by an exempt facility if the activity or service is within the scope of employment. Board policy should make clear that a licensee's activity or service, performed at an exempt facility but beyond the scope of the licensee's employment with the exempt facility, is subject to the Act and to investigation by the Board.

Opinion No. JC-0322

Mr. Wayne Thorburn Administrator Texas Real Estate Commission P.O. Box 12188 Austin, Texas 78711-2188

Re: Whether article 6573b of the Revised Civil Statutes is applicable to service contract providers required to register with the Texas Department of Licensing and Regulation under article 9034, Revised Civil Statutes (RQ-0261-JC)

S U M M A R Y

Article 6573b of the Revised Civil Statutes requires licensing with the Texas Real Estate Commission of persons offering contracts on residential property items or systems that are not issued by the actual seller or manufacturer of the items or systems. In contrast, article 9034, Revised Civil Statutes, requires registration with the Texas Department of Licensing and Regulation of persons offering contracts covering non-residential property items, residential property items issued by the seller or manufacturer of the item, or any other service contract not regulated by article 6573b. A person who provides contracts governed by both statutes is required to comply with article 6573b with respect to contracts governed by that statute and to comply with article 9034 with respect to contracts governed by that statute.

Opinion No. JC-0323

The Honorable Susan D. Reed Bexar County Criminal District Attorney Bexar County Justice Center 300 Dolorosa, Fifth Floor San Antonio, Texas 78205-3030

Re: Whether a county clerk must file stamp an instrument immediately upon its delivery and acceptance for filing, and related questions (RQ-0264-JC)

S U M M A R Y

While a county clerk is not expressly required by statute to file stamp the date and time an instrument arrives in the clerk's office for filing upon receiving and accepting the instrument, the county clerk must devise some method for immediately and accurately noting that date and time. Just as the clerk must develop a method for noting the date and time a particular instrument is delivered in person, so must the clerk develop a method for noting the date and time of delivery of an instrument that arrives in the mail.

A county clerk must obtain the approval of the judiciary he or she serves before changing the hours the clerk's office is open to the public.

Opinion No. JC-0324

Mr. Benny M. Mathis Executive Director Texas Structural Pest Control Board 1106 Clayton Lane, Suite 100 LW Austin, Texas 78723-1066

Re: Whether the Texas Structural Pest Control Board may regulate contract language, and related question (RQ-0272-JC)

S U M M A R Y

Except for language describing its jurisdiction and instructing consumers how to file a complaint, the Texas Structural Pest Control Board may not regulate the language of contracts between structural pest control service providers and consumers. See Tex. Rev. Civ. Stat. Ann. art. 135b-6, §§ 4(f), 4F(b)(1) (Vernon Supp. 2000). The Board may not require a licensee to perform services he or she contracted with a consumer to perform, although the Board may oversee informal settlement negotiations in which the parties agree to perform the contract. See id. § 9A(c).

Opinion No. JC-0325

The Honorable Pete P. Gallego Chair, Committee on General Investigating Texas House of Representatives P.O. Box 2910 Austin, Texas 78768-2910

Re: Whether a governmental body may prohibit the holder of a concealed handgun license from carrying a handgun onto property owned or controlled by the respective unit of government (RQ-0248-JC)

S U M M A R Y

A unit of government has statutory authority to bar entry to its property by a concealed handgun licensee carrying a weapon in the following manner: either by providing individualized verbal notice to the licensee or by erecting a sign or other written communication in compliance with section 30.06 of the Penal Code that furnishes statutory notice to concealed handgun licensees that entry on the property while carrying a concealed handgun is prohibited. However, a unit of government may not, merely by promulgating its own rules, regulations, or policies, bar the holder of a concealed handgun license from carrying his weapon onto property owned or controlled by the particular governmental unit.

Opinion No. JC-0326

The Honorable Jeff Wentworth Chair, Nominations Committee Texas State Senate P.O. Box 12068 Austin, Texas 78711-2068

Re: Legality of contract award by the City of San Antonio (RQ-0268-JC)

S U M M A R Y

Section 252.042 of the Local Government Code, which requires a city to treat offerors fairly and equally with respect to any opportunity for discussion and revision of proposals, applies only to requests for proposals made under section 252.021 of the Local Government Code.

Opinion No. JC-0327

The Honorable Bill R. Turner Brazos County District Attorney 300 East 26th Street, Suite 310 Bryan, Texas 77803

Re: Whether the board of the Bryan-College Station Economic Development Corporation is subject to the Open Meetings Act (RQ-0274-JC)

S U M M A R Y

The board of the Bryan-College Station Economic Development Corporation is not subject to the Open Meetings Act.

For further information, please call (512) 463-2110

TRD-200100186
Susan D. Gusky
Assistant Attorney General
Office of the Attorney General
Filed: January 10, 2001



PROPOSED RULES

Before an agency may permanently adopt a new or amended section or repeal an existing section, a proposal detailing the action must be published in the *Texas Register* at least 30 days before action is taken. The 30-day time period gives interested persons an opportunity to review and make oral or written comments on the section. Also, in the case of substantive action, a public hearing must be granted if requested by at least 25 persons, a governmental subdivision or agency, or an association having at least 25 members.

Symbology in proposed amendments. New language added to an existing section is indicated by the text being underlined. [Brackets] and ~~strike-through~~ of text indicates deletion of existing material within a section.

TITLE 1. ADMINISTRATION
PART 13. TEXAS INCENTIVE AND PRODUCTIVITY COMMISSION

CHAPTER 271. PROCEDURAL RULES

1 TAC §271.21

The Texas Incentive and Productivity Commission proposes new section 271.21 related to Historically Underutilized Businesses. The new rule conforms to Texas Government Code, §2161.003, which directs state agencies to adopt the rules of the General Services Commission (GSC) regarding historically underutilized businesses (HUBs) as the agency's own rules. Those rules apply to the Commission's purchase of goods and services paid for with appropriated money.

The GSC rules the Commission will adopt by reference provide for a policy and a purpose for the rules, definitions applicable to the HUB rules, annual procurement HUB utilization goals, subcontracting requirements, agency planning responsibilities, state agency reporting requirements, a HUB certification process, protests from denial of HUB applications, a HUB recertification process, revocation provisions, certification and compliance reviews, compilation of a HUB directory, HUB graduation procedures, review and revision of GSC's HUB program, a memorandum of understanding between GSC and the Texas Department of Economic Development concerning technical assistance and budgeting for the HUB program, HUB Coordinator responsibilities, HUB forum programs for state agencies, and a mentor-protégé program.

Cindy Palmer, Staff Services Officer, has determined that for each year of the first five years the proposed sections will be in effect, there will be no fiscal impact to state and local governments as a result of the enforcement or administration of the rule. There will be no measurable effect on local employment or the local economy as a result of the proposal. Cindy Palmer, Staff Services Officer, has also determined that for each year of the first five years the sections are in effect, the public benefits anticipated as a result of the proposed section will be a more uniform

and consistent approach for procuring goods and services from HUB vendors. The new rule does not impose any new duties on small or micro businesses. There is no expected economic cost to persons who are required to comply with the rule. No economic cost to persons who are required to comply with the rule is anticipated. There is no anticipated difference in cost of compliance between micro, small, and large businesses and no anticipated economic cost for these entities.

Written comments on the proposal may be submitted within 30 days of publication in the Texas Register to Ed Bloom, Executive Director, Texas Incentive and Productivity Commission. Comments may be mailed to P.O. Box 12482, Austin, Texas 78711-2482; hand delivered to 920 Colorado, Room 401, Austin, Texas 78701; or faxed to (512) 475-4813.

Government Code §2161.003 requires that the Texas Incentive and Productivity Commission adopt the Commission's rules as its own rules.

Texas Government Code, §2161 is affected by this proposal.

§271.21. Historically Underutilized Business Program.

The Commission adopts by reference the rules promulgated by the General Services Commission (GSC) that are set forth at 1 TAC Chapter 111, Subchapter B, as amended, regarding the Historically Underutilized Business Program. A copy of the GSC rules may be obtained by writing to: Ed Bloom, Executive Director, Texas Incentive and Productivity Commission, P.O. Box 12482, Austin, Texas 78711-2482 or by accessing the Web site of the Secretary of State, at www.sos.state.tx.us/tac/.

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 January 3, 2001.

TRD-200100053

Ed Bloom
Executive Director
Texas Incentive and Productivity Commission
Proposed date of adoption: February 26, 2001
For further information, please call: (512) 475-4810

◆ ◆ ◆
TITLE 19. EDUCATION

**PART 7. STATE BOARD FOR
EDUCATOR CERTIFICATION**

**CHAPTER 227. PROVISIONS FOR EDUCATOR
PREPARATION STUDENTS**

**SUBCHAPTER A. ADMISSION TO AN
EDUCATOR PREPARATION PROGRAM**

19 TAC §§227.1, 227.10, 227.20

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

On November 17, 2000, the State Board for Educator Certification (SBEC) proposed the repeal of §§227.1, 227.10, and 227.20, relating to Admission to an Educator Preparation Program.

The purpose of the proposed new rules, conforming amendments, and repeals is to establish the Transitional Permit, which collapses the various types of permits and nonstandard certificates into a single temporary permit. The proposed new rule and accompanying changes to existing rules include the following major provisions: The proposed Transitional Permit rules are results oriented. Permit holders must pass a test demonstrating proficiency in the subject they are assigned to teach within one year to continue teaching. They also must pass tests demonstrating teaching skills and knowledge of students by the end of the third year. The proposed measure enhances local control by allowing school superintendents more flexibility to target the district's specific needs in hiring people who need only to be trained to teach subjects they already know. This will attract a new group of people into teaching, particularly mid-career changers. The proposed rules and amendments also simplify the permit structure by consolidating emergency permits, one-year and probationary certificates into one credential. This consolidation ensures that all permit holders meet the same standards.

The new Transitional Permit rules strengthen and expand the mentoring requirement for permit holders. The new rule requires that all teachers on transitional permits receive mentoring from an experienced teacher who has demonstrated excellence in teaching. Current rules require mentoring only for emergency permit holders. The proposed rule also requires school districts to provide time for mentoring. This provision ensures that all permit holders have a solid mentoring and support system. Transitional Permit holders would be required to enter an educator preparation program within 180 calendar days of the effective date of the permit (in most cases, the start of the school year).

The current statutory requirements relating to parental notification of uncertified or inappropriately certified teachers serving in the classroom would not be affected by the proposed new rules

and amendments. The new permit will require parental notification in the same circumstances as now exist for current temporary credentials.

The first new Transitional Permit would be issued beginning June 1, 2001. The proposed rules include transition language that would phase out existing provisions regarding the issuance of emergency permits and other types of temporary credentials. Holders of previously issued emergency permits and other temporary credentials, however, would be allowed to continue under them until they expire in accordance with current rules, as if they had not been repealed.

The proposed conforming amendments would delete current emergency permit provisions for classroom teachers and amend rules governing the certification of educators from other states and countries to conform with the new Transitional Permit rules.

Barry Alaimo, Director of Accounting and Financial Operations, has determined that for the first five-year period the sections are in effect the fee for the Transitional Permit would remain the same, \$75, as it is for the emergency permit. The \$75 fee would be a \$25 increase for the other temporary credentials the Transitional Permit is intended to replace—the probationary certificate for persons in alternative certification programs and the one-year certificate for educators from out of state. Unlike the emergency permit, the Transitional Permit would not be renewable, but SBEC does not now charge a fee to renew an emergency permit. SBEC charges a renewal fee for the probationary certificate and the one-year certificate, but the \$75 fee should cover any revenue lost as a result of not charging renewal fees on these temporary credentials. To the extent any related fiscal impact can be assessed at this time, implementation of the transitional permit should not significantly affect the revenues or expenditures of SBEC.

Dan Junell, General Counsel, State Board for Educator Certification, has determined that for the first five years the sections are in effect, the public benefit anticipated as a result of enforcing the sections will be that the Transitional Permit would achieve the following goals: focusing teacher training on the immediate needs of public school students; ensuring that the transitional permit holder has a positive beginning teaching experience through a quality mentoring and support system, thereby increasing the likelihood the teacher will stay in the profession and provide public school students the benefit of having an experienced teacher; and providing school districts with the flexibility to hire quality individuals with subject matter knowledge and life experiences relevant to the needs of the students and the teaching assignment.

The public should incur no additional costs as a result of the implementation of the proposed rules. There will be no effect on small businesses.

Interested persons wishing to comment on the proposed rules must submit their comments in writing to Dan Junell, General Counsel, State Board for Educator Certification, 1001 Trinity, Austin, Texas 78701-2603, within the 30-day comment period, which begins on the date of publication of this issue of the *Texas Register*. The comments should contain the following title or reference: "Comments on Proposed New 19 TAC Chapter 233 and Conforming Amendments related to the new Transitional Permit."

The repeals are proposed under the Texas Education Code (TEC) §21.044, which requires the State Board for Educator Certification to propose rules that establish training requirements a person must accomplish to obtain a certificate, enter an internship, or enter an induction-year program. The Board

shall specify the minimum academic qualifications required for a certificate.

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

§227.1. *General Provisions.*

§227.10. *Admission Criteria.*

§227.20. *Implementation Date.*

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 January 8, 2001.

TRD-200100090

Pamela B. Tackett

Executive Director

State Board for Educator Certification

Earliest possible date of adoption: February 18, 2001

For further information, please call: (512) 469-3011



CHAPTER 228. REQUIREMENTS FOR EDUCATOR PREPARATION PROGRAMS

On November 17, 2000, the State Board for Educator Certification (SBEC) proposed amendments to §§228.1, 228.10, and 228.30, repeal of §§228.2, 228.20, 228.40, and 228.60 and new §228.2, relating to requirements for Educator Preparation Programs.

The purpose of the proposed new rules, conforming amendments, and repeals is to establish the Transitional Permit, which collapses the various types of permits and nonstandard certificates into a single temporary permit. The proposed new rule and accompanying changes to existing rules include the following major provisions: The proposed Transitional Permit rules are results oriented. Permit holders must pass a test demonstrating proficiency in the subject they are assigned to teach within one year to continue teaching. They also must pass tests demonstrating teaching skills and knowledge of students by the end of the third year. The proposed measure enhances local control by allowing school superintendents more flexibility to target the district's specific needs in hiring people who need only to be trained to teach subjects they already know. This will attract a new group of people into teaching, particularly mid-career changers. The proposed rules and amendments also simplify the permit structure by consolidating emergency permits, one-year and probationary certificates into one credential. This consolidation ensures that all permit holders meet the same standards.

The new Transitional Permit rules strengthen and expand the mentoring requirement for permit holders. The new rule requires that all teachers on transitional permits receive mentoring from an experienced teacher who has demonstrated excellence in teaching. Current rules require mentoring only for emergency permit holders. The proposed rule also requires school districts to provide time for mentoring. This provision ensures that all permit holders have a solid mentoring and support system. Transitional Permit holders would be required to enter an educator preparation program within 180 calendar days of the effective date of the permit (in most cases, the start of the school year).

The current statutory requirements relating to parental notification of uncertified or inappropriately certified teachers serving in the classroom would not be affected by the proposed new rules and amendments. The new permit will require parental notification in the same circumstances as now exist for current temporary credentials.

The first new Transitional Permit would be issued beginning June 1, 2001. The proposed rules include transition language that would phase out existing provisions regarding the issuance of emergency permits and other types of temporary credentials. Holders of previously issued emergency permits and other temporary credentials, however, would be allowed to continue under them until they expire in accordance with current rules, as if they had not been repealed.

The proposed conforming amendments would delete current emergency permit provisions for classroom teachers and amend rules governing the certification of educators from other states and countries to conform with the new Transitional Permit rules.

Barry Alaimo, Director of Accounting and Financial Operations, has determined that the for the first five-year period the sections are in effect the fee for the Transitional Permit would remain the same, \$75, as it is for the emergency permit. The \$75 fee would be a \$25 increase for the other temporary credentials the Transitional Permit is intended to replace-the probationary certificate for persons in alternative certification programs and the one-year certificate for educators from out of state. Unlike the emergency permit, the Transitional Permit would not be renewable, but SBEC does not now charge a fee to renew an emergency permit. SBEC charges a renewal fee for the probationary certificate and the one-year certificate, but the \$75 fee should cover any revenue lost as a result of not charging renewal fees on these temporary credentials. To the extent any related fiscal impact can be assessed at this time, implementation of the transitional permit should not significantly affect the revenues or expenditures of SBEC.

Dan Junell, General Counsel, State Board for Educator Certification, has determined that for the first five years the sections are in effect, the public benefit anticipated as a result of enforcing the sections will be that the Transitional Permit would achieve the following goals: focusing teacher training on the immediate needs of public school students; ensuring that the transitional permit holder has a positive beginning teaching experience through a quality mentoring and support system, thereby increasing the likelihood the teacher will stay in the profession and provide public school students the benefit of having an experienced teacher; and providing school districts with the flexibility to hire quality individuals with subject matter knowledge and life experiences relevant to the needs of the students and the teaching assignment.

The public should incur no additional costs as a result of the implementation of the proposed rules. There will be no effect on small businesses.

Interested persons wishing to comment on the proposed rules must submit their comments in writing to Dan Junell, General Counsel, State Board for Educator Certification, 1001 Trinity, Austin, Texas 78701-2603, within the 30-day comment period, which begins on the date of publication of this issue of the *Texas Register*. The comments should contain the following title or reference: "Comments on Proposed New 19 TAC Chapter 233 and Conforming Amendments related to the new Transitional Permit."

19 TAC §§228.1, 228.2, 228.10, 228.30

The amendments and new section are proposed under the Texas Education Code (TEC) §21.044, which requires the Board to establish training requirements a person must accomplish to obtain a certificate; TEC §21.045, which requires the Board to propose rules establishing standards to govern the approval and continuing accountability of all educator preparation programs; TEC §21.047, which requires the Board to provide Centers for the Professional Development of Teachers; and TEC §21.049, which directs the Board to provide alternative routes to certification.

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

§228.1. General Provisions.

(a) To ensure the highest level of educator preparation and practice, the State Board for Educator Certification (SBEC) recognizes that the preparation of educators must be the joint responsibility of both educator certification [~~preparation~~] programs and the Prekindergarten-Grade 12 public and private schools of Texas. [~~Collaboration in the development, delivery, and evaluation of educator preparation will be required.~~]

(b) Consistent with the Texas Education Code (TEC) §21.047 and §21.049, the SBEC [~~SBEC's rules governing educator preparation are designed to~~] promotes [~~promote~~] flexibility and creativity in the design of programs, including [~~Centers for the Professional Development of Teachers and~~] alternative approaches [~~routes~~] to training and certification, in Pre-kindergarten-Grade 12 settings [~~to accommodate the unique characteristics and needs of different regions of the State as well as the diverse population of potential educators~~].

(c) An educator certification program is defined as an entity approved by the executive director of SBEC to recommend candidates for certification in one or more certification fields.

(d) An approved educator certification program shall publish and consistently apply academic criteria for entry into the program, including the requirement that each candidate possess or concurrently be working toward obtaining a baccalaureate degree with an academic major or interdisciplinary academic major, including reading, other than education that is related to the curriculum prescribed under Chapter 28, Subchapter A of the Texas Education Code.

(e) An approved educator certification program is responsible for recommending to SBEC those persons meeting all requirements for certification.

(f) [(e)] All educator certification entities [~~preparation programs~~] will be subject to the same standards of performance, as required under Chapter 229 of this title (relating to the Accountability System for Educator Preparation).

(g) Executives at the entities' highest levels shall support the educator certification programs and shall be accountable for the quality of the programs and the candidates recommended for certification.

(h) Preparation for the certification of educators may be delivered by institutions of higher education, regional education service centers, public school districts, or other entities approved by the executive director under §228.10 of this chapter (relating to Approval Process).

§228.2. Entry Requirements.

(a) Before allowing a person to enter its certification program, the entity shall:

(1) screen the candidate's appropriateness for the certification sought; and

(2) for the candidate seeking certification that requires a college degree, determine that the candidate possesses college level

skills in reading, appropriate communication modes, critical thinking, and mathematics.

(b) Certification programs may adopt requirements in addition to those explicitly required in this section.

(c) Each certification program must develop and implement specific criteria and procedures that allow individuals who enter the program to substitute experience and/or professional training directly related to the certificate being sought for part of the preparation requirements.

§228.10. Approval Process.

(a) Entities seeking approval to deliver educator certification programs shall address the following areas: [~~New Entity Approval. Entities seeking initial approval to deliver educator preparation shall submit a proposal in accordance with guidelines established by the Executive Director, with evidence indicating the ability to comply with the provisions of this chapter and Chapter 227 of this title (relating to Admission to an Educator Preparation Program). The proposal must also identify the certificates proposed to be offered by the entity. The proposal will be reviewed under procedures approved by the executive director, and the executive director shall recommend to the Board whether the entity should be approved or denied accreditation pursuant to Chapter 229, §229.3(e) of this title (relating to the Accreditation Process).~~]

(1) commitment to providing a quality certification program;

(2) criteria for entry into the program; and

(3) training and instruction aligned with the certificate standards.

(b) Approval is necessary for each specific class of certificate for which preparation will be delivered. For classroom teacher, the level(s) of certificate(s) must be identified.

[(b) Continuing Entity Approval. Entities approved by the State Board for Educator Certification under this chapter shall be reviewed at least once every five years under procedures approved by the executive director; however, a review may be conducted at any time at the discretion of the executive director. Entities accredited under a Texas State Partnership Agreement with a national accrediting body shall be considered to have met the cyclical review requirements, unless the executive director determines that a review conducted by the SBEC is appropriate.]

[(e) Addition of Certificate Fields.]

[(1) Preparation programs which are fully accredited may request by "letter of intent" additional certificate fields within the classes of certificates for which they have been previously approved by the Board. The Executive Director must approve the request.]

[(2) Preparation programs which are fully accredited may request the addition of certificate fields in a class of certificates that has not been previously approved by the Board. Under guidelines established by the Executive Director, the entity must present a full proposal for consideration and approval by the Board.]

(c) [(d)] Approval of all educator [~~education~~] certification [~~preparation~~] programs is in addition to requirements imposed by other governing bodies [~~by the Board or by the Executive Director, including each specific certificate field, is contingent upon approval by other lawfully established governing bodies~~], such as the Texas Higher Education Coordinating Board, the Texas Education Agency, boards of regents, or school district boards of trustees.

(d) ~~[(e) Denial of Approval.]~~ Entities that fail to meet the requirements of this chapter ~~[; Chapter 227 of this title (relating to Admission to an Educator Preparation Program);] or Chapter 229 of this title (relating to Accountability System for Educator Preparation), will not be approved to deliver educator preparation.~~

(e) Under guidelines established by the executive director, entities that are denied approval under the provisions of this section may appeal the executive director's decision directly to the Board.

(f) In addition to the grounds set out in Chapter 229 of this title (relating to Accountability System for Educator Preparation), the Board may revoke the program approval of an entity to deliver educator preparation for reasons including the following:

(1) falsification of data reported to SBEC;

(2) a rating of unaccredited or low-performing as a public school district by the Texas Education Agency; or

(3) noncompliance with other applicable rules or laws.

§228.30. Educator Certification Program Design and[Preparation] Curriculum.

(a) The educator knowledge and skills [proficiencies and] standards for certification adopted by the board shall be the curricular basis for all educator preparation and, for each certificate, address the relevant knowledge and skills adopted by the State Board for Educator Certification. [State Board of Education pursuant to the Texas Education Code (TEC) §28.002(e)-(d). In addition, the preparation of all candidates for certification must include the specified requirements for reading instruction adopted by the Board for each certificate.] Entities shall ensure that all preparation[- including field-based experiences,] complies [empty] with this subsection.

[(b) Educator preparation entities shall provide evidence of on-going and relevant field-based experiences, as determined by the collaborative, in a variety of educational settings with diverse student populations, including observation, modeling, and demonstration of promising practices to improve student learning.]

(b) [(e)] Prior to issuance of the Standard Certificate under Chapter 232, Subchapter M of this title (relating to the Types and Classes of Certificates Issued),[the preparation program] undergraduate certification programs shall require all candidates for certification to complete a minimum of 12 weeks of full-day teaching practicum. Candidates for certification must have experiences in a variety of educational settings with diverse student populations, including observation, modeling, and demonstration of promising practices to improve student learning.

(c) The preparation of educators shall be linked to the state-required curriculum of Texas Pre-kindergarten-Grade 12 public school students and the standards for certificates issued by SBEC.

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 January 8, 2001.

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Pamela B. Tackett

Executive Director

State Board for Educator Certification

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For further information, please call: (512) 469-3011

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19 TAC §§228.2, 228.20, 228.40, 228.60

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

The repeals are proposed under the Texas Education Code (TEC) §21.044, which requires the Board to establish training requirements a person must accomplish to obtain a certificate; TEC §21.045, which requires the Board to propose rules establishing standards to govern the approval and continuing accountability of all educator preparation programs; TEC §21.047, which requires the Board to provide Centers for the Professional Development of Teachers; and TEC §21.049, which directs the Board to provide alternative routes to certification.

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

§228.2. *Definitions.*

§228.20. *Governance, Design, and Delivery of Educator Preparation Programs.*

§228.40. *Assessment and Evaluation of Candidates for Certification and Program Improvement.*

§228.60. *Implementation Date.*

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

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CHAPTER 230. PROFESSIONAL EDUCATOR PREPARATION AND CERTIFICATION

On November 17, 2000, the State Board for Educator Certification (SBEC) proposed amendments to §§230.5, 230.413, 230.461-230.463, 230.501-230.507 and repeal of §§230.509-230.511, relating to Professional Educator Preparation and Certification. Section 230.601 is also being amended but due to a recent adoption to this section being filed with the Secretary of State's office, the current amendment will be filed after the previous adoption takes effect on January 23, 2001.

The purpose of the proposed new rules, conforming amendments, and repeals is to establish the Transitional Permit, which collapses the various types of permits and nonstandard certificates into a single temporary permit. The proposed new rule and accompanying changes to existing rules include the following major provisions: The proposed Transitional Permit rules are results oriented. Permit holders must pass a test demonstrating proficiency in the subject they are assigned to teach within one year to continue teaching. They also must pass tests demonstrating teaching skills and knowledge of students by the end of

the third year. The proposed measure enhances local control by allowing school superintendents more flexibility to target the district's specific needs in hiring people who need only to be trained to teach subjects they already know. This will attract a new group of people into teaching, particularly mid-career changers. The proposed rules and amendments also simplify the permit structure by consolidating emergency permits, one-year and probationary certificates into one credential. This consolidation ensures that all permit holders meet the same standards.

The new Transitional Permit rules strengthen and expand the mentoring requirement for permit holders. The new rule requires that all teachers on transitional permits receive mentoring from an experienced teacher who has demonstrated excellence in teaching. Current rules require mentoring only for emergency permit holders. The proposed rule also requires school districts to provide time for mentoring. This provision ensures that all permit holders have a solid mentoring and support system. Transitional Permit holders would be required to enter an educator preparation program within 180 calendar days of the effective date of the permit (in most cases, the start of the school year).

The current statutory requirements relating to parental notification of uncertified or inappropriately certified teachers serving in the classroom would not be affected by the proposed new rules and amendments. The new permit will require parental notification in the same circumstances as now exist for current temporary credentials.

The first new Transitional Permit would be issued beginning June 1, 2001. The proposed rules include transition language that would phase out existing provisions regarding the issuance of emergency permits and other types of temporary credentials. Holders of previously issued emergency permits and other temporary credentials, however, would be allowed to continue under them until they expire in accordance with current rules, as if they had not been repealed.

The proposed conforming amendments would delete current emergency permit provisions for classroom teachers and amend rules governing the certification of educators from other states and countries to conform with the new Transitional Permit rules.

Barry Alaimo, Director of Accounting and Financial Operations, has determined that for the first five-year period the sections are in effect the fee for the Transitional Permit would remain the same, \$75, as it is for the emergency permit. The \$75 fee would be a \$25 increase for the other temporary credentials the Transitional Permit is intended to replace—the probationary certificate for persons in alternative certification programs and the one-year certificate for educators from out of state. Unlike the emergency permit, the Transitional Permit would not be renewable, but SBEC does not now charge a fee to renew an emergency permit. SBEC charges a renewal fee for the probationary certificate and the one-year certificate, but the \$75 fee should cover any revenue lost as a result of not charging renewal fees on these temporary credentials. To the extent any related fiscal impact can be assessed at this time, implementation of the transitional permit should not significantly affect the revenues or expenditures of SBEC.

Dan Junell, General Counsel, State Board for Educator Certification, has determined that for the first five years the sections are in effect, the public benefit anticipated as a result of enforcing the sections will be that the Transitional Permit would achieve the following goals: focusing teacher training on the immediate needs of public school students; ensuring that the transitional permit

holder has a positive beginning teaching experience through a quality mentoring and support system, thereby increasing the likelihood the teacher will stay in the profession and provide public school students the benefit of having an experienced teacher; and providing school districts with the flexibility to hire quality individuals with subject matter knowledge and life experiences relevant to the needs of the students and the teaching assignment.

The public should incur no additional costs as a result of the implementation of the proposed rules. There will be no effect on small businesses.

Interested persons wishing to comment on the proposed rules must submit their comments in writing to Dan Junell, General Counsel, State Board for Educator Certification, 1001 Trinity, Austin, Texas 78701-2603, within the 30-day comment period, which begins on the date of publication of this issue of the *Texas Register*. The comments should contain the following title or reference: "Comments on Proposed New 19 TAC Chapter 233 and Conforming Amendments related to the new Transitional Permit."

SUBCHAPTER A. ASSESSMENT OF EDUCATORS

19 TAC §230.5

The amendment is proposed under the Texas Education Code (TEC), §21.045, which requires the State Board for Educator Certification to propose rules establishing standards to govern the continuing accountability of all educator preparation programs.

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

§230.5. *Educator Assessment.*

(a) Anyone seeking admittance to an approved educator certification [~~teacher preparation~~] program must be assessed for college level skills in reading, oral and written communication, and mathematics.

(b) Anyone seeking certification as an educator must pass [~~take~~] examinations required by the Texas Education Code (TEC), §21.048, and the State Board for Educator Certification.

(c) An educator certification program may not deny a person the opportunity to take certification examinations required by subsection (b) of this section if the person:

(1) has completed requirements for a bachelor's degree;
and

(2) has completed a preparation program, except for passing all certification examinations for the certificate sought.

~~[(c) Entities delivering educator preparation programs shall determine the readiness of their candidates to take the appropriate certification examinations required by subsection (b) of this section.]~~

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

(h) The following provisions concern test security and confidential integrity.

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

(5) Any educator who violates this subsection [~~(h) of this section~~] is subject to:

(A) (No change.)

(B) voiding of any score from an examination in which violations in this subsection [~~(h) of this section~~] occurred; and

(C) (No change.)

(i) (No change.)

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

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SUBCHAPTER M. CERTIFICATION OF EDUCATORS IN GENERAL

19 TAC §230.413

The amendment is proposed under the Texas Education Code (TEC), §§21.041(b)(2) and (4), 21.044, 21.048, 21.050, and 22.082 which require the State Board for Educator Certification to propose rules that establish the academic, internship, and examination requirements for all candidates for certification; specify the classes of certificates offered; and to obtain all criminal history information that relates to an applicant for certification.

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

§230.413. *General Requirements.*

(a) (No change.)

(b) An applicant for a Texas educator certificate must:

(1) (No change.)

(2) not be disqualified or the subject of a pending proceeding under Chapter 249 of this title~~[-]~~ (relating to Disciplinary Proceedings, Sanctions, and Contested Cases), Including Enforcement of the Educator's Code of Ethics;

(3)-(7) (No change.)

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

~~{(e) A person who satisfies all requirements for initial teacher certification except successful completion of examination requirements prescribed by the SBEC and stipulated in §230.5 of this title (relating to Educator Assessment) may be assigned on a nonrenewable permit valid for no more than one year.}~~

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

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SUBCHAPTER O. TEXAS EDUCATOR CERTIFICATES BASED ON CERTIFICATION AND COLLEGE CREDENTIALS FROM OTHER STATES OR TERRITORIES OF THE UNITED STATES

19 TAC §§230.461 - 230.463

The amendments are proposed under the Texas Education Code (TEC), §21.041(b)(5) and §21.052 which require the State Board for Educator Certification to propose rules that provide for the issuance of an educator certificate to a person holding a similar certificate issued by another state.

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

§230.461. *General Provisions.*

(a) A Texas educator certificate may be issued to an individual who holds a college degree and an appropriate certificate or credential issued by the authorized licensing agency in another state or territory of the United States and who meets appropriate requirements specified in §230.413 of this title (relating to General Requirements), §230.5 of this title (relating to Educator Assessment,) and elsewhere in this subchapter.

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

(e) The certificate and areas of certification issued by the authorized licensing agency in another state or territory of the United States must be equivalent to a certificate and certification areas approved by the State Board for Educator Certification. The executive director of SBEC [board] shall identify the certification areas for which the applicant qualifies in Texas.

§230.462. *Requirements for Texas Certificates Based on Certification from Other States or Territories of the United States.*

(a) (No change.)

(b) If all certification requirements are met except the appropriate examination requirements, the applicant may be issued a transitional permit in accordance with Chapter 233 of this title (relating to Transitional Permit), upon recommendation by an employing school district [request issuance of a one-year certificate in one or more certification areas authorized on the out-of-state certificate]. The transitional permit may be issued in one or more certification areas identified on the out-of-state certificate.

~~{(1) An applicant who holds a special subject certificate issued in accordance with §230.461 of this title (relating to General Provisions) may be issued the equivalent Texas certificate in that special subject area.}~~

~~{(2) An applicant who holds a professional service certificate issued in accordance with §230.461 of this subchapter may be issued the equivalent Texas certificate in that professional service area. The applicant must verify three creditable years of public or private school experience, as defined in Subchapter Y of this chapter (relating to Definitions), in the professional service area.}~~

(c) An applicant who holds a class of certificate other than classroom teacher issued in accordance with §230.461 of this title (relating to General Provisions) may be issued the equivalent class of certificate in Texas. The applicant must verify three creditable years of public or private school experience, as defined in Subchapter Y of this chapter (relating to Definitions), specific to the class of certificate sought, unless they have completed requirements for a classroom teaching certificate.

(d) ~~[(e)]~~ After satisfying all requirements, including the examination requirements, the applicant is eligible to receive the Standard Certificate issued under Chapter 232, Subchapter M of this title (relating to the Types and Classes of Certificates Issued).

(e) ~~[(d)]~~ An applicant issued a transitional permit ~~[one-year certificate]~~ under Chapter 233 of this title (relating to Transitional Permits) ~~[this section]~~ who does not complete the appropriate examination requirements to establish eligibility for a Standard Certificate during the validity of the transitional permit ~~[one-year certificate]~~, is not eligible for any type of certificate or permit authorizing employment for the same certified level or areas until he or she has satisfied the appropriate examination requirements.

~~[(e)]~~ An employing superintendent may apply for a nonrenewable permit for a teacher who does not pass the professional development portion of the Examination for the Certification of Educators in Texas (ExCET) but does pass the appropriate content specialization portions of the exam during the validity of the one-year certificate. The nonrenewable permit shall be valid for no more than 12 months from the date the individual first attempts the professional development portion of the ExCET.]

(f) An applicant shall not be required to complete the content specialization portion of the certification examination ~~[ExCET]~~ in a certification area for which he or she does not seek standard certification.

~~[(g)]~~ An applicant issued a one-year certificate under this section who, during or subsequent to the validity of the certificate, establishes eligibility for a Standard Certificate may apply for: }

~~[(1)]~~ a new one-year certificate in another certification area based on an acceptable certificate from another state or territory of the United States; or

~~[(2)]~~ a second one-year certificate in an area previously authorized on a one-year certificate, provided the applicant was not assigned to the area and has not attempted the appropriate examination requirements for that area.]

§230.463. Requests for Review ~~[Evaluation]~~ of ~~[College]~~ Credentials.

(a) An applicant for a Texas certificate based on a certificate issued in accordance with §230.461 of this title (relating to General Provisions) may apply for a review of credentials by submitting the following items to the State Board for Educator Certification:

(1) a completed application;

(2) copies (front and back) of all appropriate out-of-state certificates;

(3) official transcripts of all college credits showing the appropriate degree(s) conferred; and

(4) a nonrefundable review fee as specified in §230.436 of this title (relating to Schedule of Fees for Certification Services).

(b) ~~[(a)]~~ Requests to evaluate an applicant's credentials for areas of certification that are not identified on the certificate issued in

accordance with §230.461 of this title (relating to General Provisions) must be directed to an approved Texas educator preparation program. The appropriate Texas certificate will be issued upon recommendation by the program.

(c) ~~[(b)]~~ An individual who does not hold a certificate issued in accordance with §230.461 of this title (relating to General Provisions) must have his or her credentials evaluated through an approved Texas educator preparation program and be recommended by the program for 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.

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SUBCHAPTER Q. PERMITS

19 TAC §§230.501 - 230.507

The amendments are proposed under the Texas Education Code (TEC), §21.041(b)(2), which requires the State Board for Educator Certification to propose rules that specify the classes of certificates offered.

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

§230.501. *General Provisions.*

(a) (No change.)

(b) Under this subchapter, a superintendent or designee who cannot secure an appropriately certified and qualified individual to fill a vacant position specified in §230.504 of this subchapter (relating to Specific Requirements for Initial Emergency Permits for Positions Other Than Classroom Teacher), including school counselor, school librarian, and educational diagnostician, may activate an emergency permit for an individual who does not have one of the appropriate credentials required for the assignment as specified in Subchapter U of this chapter (relating to Assignment of Public School Personnel). The superintendent or designee must:

(1) (No change.)

(2) apply for an emergency permit by submitting the required documentation to the appropriate education service center (ESC) when a vacant position is filled with an uncertified or inappropriately certified individual who will serve [as the teacher of record or serve] in the assignment for more than 30 consecutive instructional days. The application must be submitted within 45 instructional days of the date of assignment.

(3) verify that the district maintains a support system, has assigned a mentor, and will provide release time as needed to assist the individual serving on an emergency permit; ~~(A district shall not be required to provide a mentor for a degreed, certified teacher assigned on permit status if the teacher has one or more creditable years experience within the district, as defined in Subchapter Y of this Chapter (relating to Definitions)); and~~

(4) verify that the individual [teacher] for whom the permit is activated has been advised of State Board for Educator Certification (SBEC) rules regarding permits and permit renewal requirements in this subchapter.

[(c) The provisions of this subsection apply to a degreed, certified teacher who was employed by a district in the previous year or semester in an assignment for which he or she was fully certified.]

[(1) The teacher may not be assigned to a position that requires activating a permit unless:]

[(A) the teacher has given written consent to the activation of the permit; or]

[(B) because of fluctuations in enrollment or changes in course offerings, the teacher's previous assignment no longer exists and no alternative assignment for which the teacher is fully certified is available on that campus. If a permit is activated for a teacher under these circumstances, the teacher shall be offered the opportunity to return to his or her previous assignment or an alternative assignment for which the teacher is fully certified on that campus as soon as such an assignment is available. If a teacher accepts the assignment, the actual transfer of duties shall occur not later than the beginning of the next academic year.]

[(2) If a permit under this subsection is activated for a temporary staffing condition within 30 days of the opening of the school year or later during the contract year, the teacher is exempt from the requirement to complete additional coursework or examination requirements for certification for the remainder of the contract year for which the permit is activated. This exemption is not renewable, and a teacher continuing on an emergency permit for a second year must meet the full requirements of an emergency permit. A teacher who refuses to consent to activation of a permit under this subsection may not be terminated or nonrenewed or otherwise retaliated against because of the teacher's refusal to consent to the activation of the permit. However, a teacher's refusal to consent shall not impair a district's right to implement a necessary reduction in force or other personnel actions in accordance with local district policy.]

(c) [(d)] A permit is authorized for the school district for a specific assignment and is not the property of the individual for whom the permit was activated.

(d) [(e)] If a permit authorized by the SBEC is not used, the school district shall notify the appropriate education service center (ESC) in writing.

(e) [(f)] A permit may be authorized on a hardship basis for an individual who does not meet all permit requirements as listed in §230.503(1), §230.504, and §230.506 of this title (relating to General Eligibility Requirements for Emergency Permits, Specific Requirements for Initial Emergency Permits and Renewal Requirements) only if approval has been granted and written notification received from the SBEC or a designated representative. The district must:

(1) document local conditions requiring the assignment of an individual who does not meet permit requirements;

(2) verify that the deficiencies for the certificate sought do not exceed 36 semester hours; and

(3) verify that the individual will be enrolled in the first available course listed on the deficiency plan.

[(g) The district is not required to comply with the requirements of this subchapter if an uncertified individual is assigned for a

certified teacher that will be absent for more than 30 consecutive instructional days due to documented health-related reasons and has expressed the intention to return to the assignment. The district must comply with §230.532(e) of this title (relating to Required Parent Notification of Noncertified Teachers.)

§230.502. *Validity of Emergency Permits.*

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

(d) The employment of an individual on the basis of an emergency permit may not exceed three years in the same assignment. An individual may serve in a specific assignment no more than two additional school years beyond the initial emergency permit. To continue beyond the initial permit year, the individual must comply with the renewal provisions specified in §230.506 of this title (relating to Renewal Requirements). To continue employment in the assignment beyond the validity of the emergency permit, the individual must hold the appropriate certificate. An individual may not serve in an assignment on the basis of an emergency permit [as a classroom teacher of record in the Texas public schools] for more than three school years, without obtaining initial, standard certification.

§230.503. *General Eligibility Requirements for Emergency Permits for Positions Other Than Classroom Teacher.*

An individual for whom an emergency permit is activated must meet the following criteria.

(1) The individual must hold a bachelor's degree from an accredited institution of higher education.

[(A) For a career and technology assignment requiring certification based on both a bachelor's degree and experience in the occupational area to be taught, the individual must have completed the degree requirement and have specified work experience.]

[(B) For certain career and technology assignments requiring certification based on skill and experience, the individual must have specified work experience in lieu of a degree.]

(2) The individual must meet the requirements specified in §230.413 (b) (1)-(5) of this title (relating to General Requirements).

[(2) The individual must be at least 18.]

[(3) The individual must be able to speak and understand the English language sufficiently to use it easily and readily in conversation and teaching. The individual must be of good moral character.]

[(4) The SBEC may refuse to authorize an emergency permit for a person who has been convicted of a felony or misdemeanor crime that directly relates to the duties and responsibilities of the teaching profession.]

§230.504. *Specific Requirements for Initial Emergency Permits for Positions Other Than Classroom Teacher.*

(a) General Provisions. An individual for whom an emergency permit is activated must:

(1) have completed the appropriate semester hours [or equivalent contact hours] required for the permit sought as specified in this section; [or, for degreed, certified teachers, have passed the appropriate content specialization portions of the Examination for the Certification of Educators in Texas (ExCET) required for the target certificate;] and

(2) have satisfied the appropriate experience requirement specified in this section for the permit sought.

[(b) Assignments to elementary grades (regular students).]

[(1) Self-contained classroom, Grades 1-6: The individual must have completed 12 semester hours in a combination of subjects

directly related to the elementary curriculum, or 12 semester hours in elementary education, or any combination of these areas of study.]

[(2) Self-contained classroom, prekindergarten-kindergarten.]

[(A) An individual who is not certified must have completed 12 semester hours emphasizing instructional areas for early childhood education.]

[(B) An individual who is certified must hold an elementary, special education, or vocational home economics certificate (degree required).]

[(3) Foreign language in the elementary grades.]

[(A) An individual must have current secondary certification with a teaching field in the language to be taught.]

[(B) An individual must have completed six semester hours of elementary education before the assignment is continued.]

[(C) Continued assignment must be documented on the individual's teacher service record.]

[(D) Requirements specified in §230.506 of this subchapter (relating to Renewal Requirements) do not apply to this assignment.]

[(e) Assignments to secondary grades (regular students).]

[(1) An emergency permit may be activated for an individual not certified at the secondary level provided the individual has completed:]

[(A) 24 semester hours in the subject to be taught; or]

[(B) 24 semester hours toward a composite teaching field appropriate for the assignment, including at least six semester hours in the subject to be taught.]

[(2) A temporary classroom assignment permit (TCAP) may be activated for a teacher certified at the secondary level assigned to a subject area not covered by the certificate. The district is not required to file the TCAP with the State Board for Educator Certification (SBEC) or appropriate education service center (ESC). The TCAP must be maintained in the district personnel records.]

[(A) A TCAP must be activated for an individual who is assigned to one or more class periods in an area not covered by the certificate. The individual must have completed six semester hours in the specific subject area(s) to be taught. A TCAP may be activated for no more than four class periods.]

[(B) The TCAP is valid for one school year and is not renewable in the event that the TCAP was issued for fewer than 90 days before the last day of student instruction in the prior school year.]

[(d) Technology Applications in Grades 7 and 8.]

[(1) If an individual is not certified, he or she must have completed 24 semester hours in computer science.]

[(2) If an individual is currently certified based on a bachelor's degree, he or she must:]

[(A) have completed three semester hours directly related to information processing technologies; or]

[(B) have achieved computing competency by having completed any combination of vendor-provided training, ESC workshops, or higher education course work.]

[(e) Assignments to all grade levels (regular students).]

[(1) An individual must have completed 24 semester hours in the subject area, including six semester hours directly related to elementary grades and six semester hours directly related to secondary grades.]

[(2) Assignments in this category are limited to the areas of art, music, physical education, and speech communication-theater arts.]

[(f) Assignments to career and technology programs.]

[(1) Agricultural science and technology assignments. The following provisions apply to assignments to agricultural vocational education for the handicapped (VEH); agricultural preemployment laboratory (PELE); and agricultural cooperative training (CO-OP).]

[(A) An individual must be currently certified in agricultural science.]

[(B) No previous work experience is required.]

[(C) One permit may be authorized to allow the teacher to attend a summer workshop or to complete six semester hours of upper-level specified technical agriculture courses in the area of specialization approved by the SBEC.]

[(2) Health science technology assignments. An individual must:]

[(A) hold one of the following:]

[(i) a bachelor's degree, preferably in allied health, from an accredited institution; or]

[(ii) an associate's degree in allied health from an accredited institution;]

[(B) be currently licensed, certified, or registered (requiring two years of formal education) by a state-authorized or nationally recognized accrediting agency as a professional practitioner in one or more health occupations for which instruction is offered; and]

[(C) have an approved statement of qualifications verifying two years of full-time employment in a licensed hospital or other health services agency beyond that required to become registered or certified.]

[(3) Home economics assignments.]

[(A) Home economics.]

[(i) An individual must hold a bachelor's degree in home economics from an accredited institution.]

[(ii) No previous work experience is required.]

[(B) Occupational home economics. An individual must satisfy one of the following requirements:]

[(i) An individual must:]

[(I) be certified in home economics; and]

[(II) have completed six semester hours of home economics education, emphasizing an all industry approach, designed to build instructional competencies in occupational home economics; or]

[(ii) an individual must:]

[(I) be certified in home economics with eligibility to teach specialized areas through CO-OP, PELE, coordinated vocational-academic education (CVAE), or VEH instructional settings; and]

[(H)] have completed three semester hours of home economics education, emphasizing an all industry approach, designed to build instructional competencies in occupational home economics.]

[(4) Marketing education assignments. An individual must:]

[(A) hold a bachelor's degree from an accredited institution; and]

[(B) have an approved statement of qualifications verifying two years of full-time wage-earning experience in marketing occupations for which training is offered at the secondary level.]

[(5) Career orientation assignments. An individual must:]

[(A) hold a bachelor's degree from an accredited institution; and]

[(B) have an approved statement of qualifications verifying two years of full-time wage-earning experience in occupations other than teaching for which career and technology education may be taught.]

[(6) Business education assignments (for any instructional arrangement). An individual must:]

[(A) hold a bachelor's degree in business/business education or have completed the equivalent of a minor in the course area to be taught; and]

[(B) have one of the following:]

[(i)] an approved statement of qualifications verifying two years of full-time wage-earning experience in office occupations; or]

[(ii)] verification of approval to complete a business internship approved by the certification officer of a college approved to prepare teachers for office education.]

[(7) Trades and industry assignments:]

[(A) Cooperative training. An individual must:]

[(i)] hold a bachelor's degree from an accredited institution; and]

[(ii)] have an approved statement of qualifications verifying three years of full-time wage-earning experience in one or more approved occupations for which instruction is offered. The individual must be continuously employed for one of the three years in a single occupation or trade area.]

[(B) Preemployment laboratory.]

[(i)] Option I. An individual must:]

[(I)] hold a bachelor's degree from an accredited institution; and]

[(II)] have an approved statement of qualifications verifying three years of full-time wage-earning experience in the occupation or skilled trade to be taught, two years of which must be in the predominant subject area.]

[(ii)] Option II. An individual must:]

[(I)] hold a high school diploma or the equivalent; and]

[(II)] have an approved statement of qualifications verifying five years of full-time wage-earning experience in the

occupation or skilled trade to be taught, three years of which must be in the predominant subject area.]

[(iii)] Additional requirements. Cosmetology teachers approved under Options I or II must:]

[(I)] have three years of full-time wage-earning experience as a licensed cosmetologist; and]

[(II)] be currently licensed as a cosmetology instructor by the Texas Cosmetology Commission.]

[(g) Assignments for special populations:]

[(1) Students with limited English proficiency (LEP):]

[(A) Bilingual education:]

[(i)] An individual who holds a bachelor's degree from an accredited institution and is certified at the appropriate level must:]

[(I)] have completed six semester hours in an approved bilingual education program; and]

[(II)] have completed six semester hours in the language of the target population; or have demonstrated proficiency in oral communication skills in the language of the target population by achieving a score of "intermediate mid" (level 2) or higher on the Texas Oral Proficiency Test (TOPT).]

[(ii)] An individual who holds a bachelor's degree from an accredited institution but is not certified must:]

[(I)] meet the requirements for the level of assignment;]

[(II)] be currently enrolled in an approved college program for bilingual education; and]

[(III)] have satisfied one of the following requirements:]

[(a)] have completed 12 semester hours in the language of the target population, bilingual education, or a combination of the two subject areas; or]

[(b)] have demonstrated proficiency in oral communication skills in the language of the target population by achieving a score of "intermediate mid" (level 2) or higher on the TOPT.]

[(B) English as a second language (ESL). An individual must:]

[(i)] be currently certified for the grade level based on a bachelor's degree; and]

[(ii)] have satisfied one of the following requirements:]

[(I)] have completed six semester hours in an approved ESL program; or]

[(II)] have one creditable year of classroom teaching experience, as defined in Subchapter Y of this title (relating to Definitions).]

[(2) Students with special learning needs:]

[(A) Hearing impaired. An individual must:]

[(i)] hold a bachelor's degree from an accredited institution;]

[(ii)] have completed six semester hours directly related to teaching the hearing impaired;]

~~[(iii) have demonstrated competence in the specific communication method used in the classroom setting with students who are deaf; and]~~

~~[(iv) have verified that the employing district, cooperative, or ESC has one or more fully certified teachers for the hearing impaired serving in this instructional program.]~~

~~[(B) Visually handicapped. An individual must:]~~

~~[(i) be currently certified in elementary, secondary, or special education;]~~

~~[(ii) have satisfied one of the following requirements:]~~

~~[(I) have completed six semester hours directly related to teaching the visually handicapped; or]~~

~~[(II) have one creditable year of classroom teaching experience, as defined in Subchapter Y of this Chapter;]~~

~~[(iii) have demonstrated competency in literary braille and/or other special braille notations; and]~~

~~[(iv) have verified that the employing district, cooperative, or ESC has one or more fully certified teachers for the visually handicapped serving in this instructional program.]~~

~~[(C) Homebound or hospitalized. An individual must:]~~

~~[(i) be currently certified based on a bachelor's degree; and]~~

~~[(ii) have one creditable year of teaching experience, as defined in Subchapter Y of this Chapter.]~~

~~[(D) Other special learning needs (resource room/categorically defined).]~~

~~[(i) An individual who holds a bachelor's degree from an accredited institution and is certified at the appropriate level must:]~~

~~[(I) have completed six semester hours directly related to teaching children with special learning needs; or]~~

~~[(II) have one creditable year of classroom teaching experience, as defined in Subchapter Y of this Chapter.]~~

~~[(ii) An individual who holds a bachelor's degree from an accredited institution, but is not certified must:]~~

~~[(I) for elementary assignments, meet requirements for the level of assignment as stated in subsection (b) of this section and have completed 18 semester hours directly related to teaching children with special learning needs; or]~~

~~[(II) for secondary assignments, have completed 24 semester hours directly related to teaching children with special learning needs.]~~

~~(b) [(h) Assignments to positions other than classroom teacher [for other instructional and support personnel].~~

~~(1) School Counselors.~~

~~(A) Regular programs. An individual must:~~

~~(i) be currently certified at the level of assignment based on a bachelor's degree;~~

~~(ii) have 24 semester hours of graduate-level credit, including 12 semester hours in guidance and counseling; and~~

~~(iii) have three creditable years of classroom teaching experience, as defined in Subchapter Y of this Chapter.~~

~~(B) Special education programs. An individual must:~~

~~(i) be currently certified at the level of assignment based on a bachelor's degree;~~

~~(ii) have 24 semester hours of graduate-level credit, including 12 semester hours in guidance and counseling and three semester hours in special education; and~~

~~(iii) have three creditable year of classroom teaching experience, as defined in Subchapter Y of this Chapter.~~

~~(C) Career and technology programs. An individual must:~~

~~(i) be currently certified based on a bachelor's degree;~~

~~(ii) have 12 semester hours of graduate-level credit in guidance and counseling; and~~

~~(iii) have satisfied one of the following requirements:~~

~~(I) have two creditable years of acceptable teaching experience, as defined in Subchapter Y of this Chapter, in an approved career and technology program that prepares students for gainful employment; or~~

~~(II) have a combination of three years of experience that may include creditable teaching experience but must include at least one year of experience in an occupation or trade area for which career and technology education is offered. To establish acceptability of work experience other than teaching, a statement of qualifications must be approved by the certification officer of an institution approved to prepare career and technology counselors.~~

~~(2) Educational diagnosticians. An individual must:~~

~~(A) be currently certified based on a bachelor's degree;~~

~~(B) have 30 semester hours of graduate-level credit in the field of education or a related field, including six semester hours in tests and measurements, at least three of which emphasized individualized testing;~~

~~(C) have completed six semester hours directly related to teaching individuals with special learning needs; and~~

~~(D) have three creditable years of teaching experience, as defined in Subchapter Y of this Chapter.~~

~~(3) School Librarians [Learning resources personnel]. An individual must:~~

~~(A) be currently certified based on a bachelor's degree;~~

~~(B) have completed six semester hours directly related to the basic competencies required of school librarians [learning resources personnel]; and~~

~~(C) have one creditable year of teaching experience, as defined in Subchapter Y of this Chapter.~~

~~[(4) Reserve Officers' Training Corps (ROTC) instructors.]~~

~~[(A) An individual must verify that he or she has satisfied the requirements and been approved to serve by the ROTC.]~~

~~[(B) Requirements specified in §230.506 of this subchapter (relating to Renewal Requirements) do not apply to this assignment.]~~

{(C) Continued assignment must be documented on the individual's teacher service record.}

{(5) Supervisors.}

{(A) Regular programs. An individual must:}

{(i) be currently certified based on a bachelor's degree;}

{(ii) have 24 semester hours of graduate-level credit, including six semester hours of educational leadership and supervision; and}

{(iii) have three creditable years of classroom teaching experience, as defined in Subchapter Y of this Chapter.}

{(B) Special education programs. An individual must:}

{(i) be currently certified based on a bachelor's degree;}

{(ii) have satisfied one of the following requirements:}

{(I) be currently certified in a special education area and have completed six semester hours in educational leadership or supervision; or}

{(II) be currently certified in supervision or administration and have completed six semester hours in special education, including a survey of individual exceptionalities;}

{(iii) have 24 semester hours of graduate-level credit in education or a related field; and}

{(iv) have three creditable years of classroom teaching experience, as defined in Subchapter Y of this Chapter, including at least one year in a special education setting

{(C) Career and technology programs. An individual must:}

{(i) hold a bachelor's degree and be currently certified, consistent with the supervisory assignment, for the grade level or programs; and}

{(ii) have satisfied one or a combination of the following requirements:}

{(I) have three creditable years of teaching experience, as defined in Subchapter Y of this Chapter, in an approved career and technology education program adopted by the State Board of Education under the Texas Education Code (TEC), §28.002(b); or}

{(II) have three creditable years of public school experience, as defined in Subchapter Y of this Chapter, as a certified career and technology counselor. Permit applicants for career and technology supervisor assignments are not required to submit a statement of qualifications.}

{(6) Visiting teachers.}

{(A) Regular programs. An individual must:}

{(i) be currently certified based on a bachelor's degree;}

{(ii) have 15 semester hours of graduate-level credit in the social or behavioral sciences, including six semester hours of specific preparation in studies of the emotional and cultural development of individuals; and}

{(iii) have satisfied one or a combination of the following requirements:}

{(I) have three creditable years of teaching experience, as defined in Subchapter Y of this Chapter; or}

{(II) have three years of experience in a social welfare agency approved by the State Board for Educator Certification.}

{(B) Special education programs. An individual must:}

{(i) be currently certified based on a bachelor's degree;}

{(ii) have 30 semester hours of graduate-level credit in social or behavioral sciences, including specific preparation to serve individuals with special learning needs; and}

{(iii) have three creditable years of teaching experience, as defined in Subchapter Y of this Chapter.}

§230.505. Procedures for Activation of Initial Emergency Permits for Positions Other Than Classroom Teacher.

{(a) For all assignments (except career and technology assignments based on skill and experience.) The employing superintendent or designee or authorized representative must verify the individual's eligibility for the permit as described in §230.503 (relating to General Eligibility Requirements for Emergency Permits) and §230.504 (relating to Specific Requirements for Initial Emergency Permits) of this subchapter and submit the following items to the appropriate education service center (ESC) within 45 instructional days of assignment:

(1) an emergency permit application;

(2) a certification plan from an approved Texas educator preparation program listing the preparation and/or assessment activities required to obtain certification in the assignment for which the emergency permit application has been submitted; and

{(2) one of the following:}

{(A) a deficiency plan from an approved Texas educator preparation program verifying that the individual meets the grade point average required for admission to the teacher education program and listing the preparation, student teaching/internship, and/or assessment activities required to obtain certification in the assignment for which the emergency permit application has been submitted; or}

{(B) for an individual who holds a bachelor's degree from an accredited institution, is certified, and is placed in an assignment requiring a classroom teaching certificate or endorsement, verification of registration for either the October or February administration of the appropriate content specialization portion of the Examination for the Certification of Educators in Texas (ExCET); and}

(3) the appropriate fee (payable by the school district).

{(b) For career and technology assignments based on skill and experience. The employing superintendent or designee or authorized representative must verify the individual's eligibility for the permit as described in §230.503 and §230.504 of this title and submit the following items to the appropriate ESC within 45 instructional days of assignment:}

{(1) an emergency permit application;}

{(2) a copy of the individual's statement of qualifications, approved by the employing superintendent or designee or certification officer of an institution approved to prepare career and technology teachers, verifying appropriate work experience in the occupation or trade area to be taught. For the purpose of approving work experience, 12 months of wage-earning experience consisting of at least 40 hours per week shall equal one year of full-time experience. Wage-earning experience consisting of less than 40, but at least 20, hours per

week, shall be calculated at a 50% rate in determining years of full-time equivalent experience. Wage-earning experience consisting of less than 20 hours per week shall not be considered acceptable in determining full-time equivalent experience.}]

{(3) a deficiency plan from an approved Texas educator preparation program for the career and technology certificate appropriate for the assignment; and}

{(4) the appropriate fee (payable by the school district).}

§230.506. Renewal of Emergency Permits for Positions Other Than Classroom Teacher [Requirements].

(a) General provisions.

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

(3) The total of semester hours or the equivalent contact hours required to obtain certification appropriate for the assignment shall determine the number of permit renewals for which the individual may be eligible. The following schedule shall determine eligibility for permit renewal.

(A) (No change.)

{(B) For six semester hours or less, appropriate examination requirements, and teaching two years on an emergency permit in lieu of student teaching, one renewal, provided the individual completes all coursework during the first year. }

{(C) For 7-12 semester hours plus appropriate examination requirements, an individual is eligible for one renewal.

{(D) For more than 12 semester hours plus appropriate examination requirements, an individual is eligible for two renewals.

(4) (No change.)

(b) Renewal procedures.

{(1) Before an emergency permit for a noncertified individual is renewed for the first time, the superintendent or designee or authorized representative must verify that a noncertified teacher has satisfied the admission requirements of an educator preparation program in the areas of reading, oral and written communication, and mathematics.}

{(2) No permit renewal will be authorized for a teacher who does not satisfy the admission requirements of an educator preparation program specified in paragraph (1) of this subsection.}

(1) {(3)} The superintendent or designee or authorized representative may renew an emergency permit provided the following requirements and procedures are met.

(A) The permit must be renewed for the same assignment in the same school district.

(B) Official transcripts verifying completion of a minimum of six semester hours or documentation of completion of equivalent contact hours toward the appropriate target certificate must be placed in the individual's personnel file.

(C) The appropriate renewal section of the original permit application must be completed prior to the beginning date of duties for the current school year.

(2) {(4)} Requests for emergency permit renewal must be submitted to the appropriate education service center (ESC) for authorization when:

(A) an individual has failed to demonstrate progress toward correcting a deficiency by completing the appropriate renewal requirements specified in subsection (a) of this section;

(B) the renewal is for a change of assignment or school district; or

(C) the renewal is for nonconsecutive years.

(3) {(5)} The following materials must be submitted when requesting authorization for permit renewal from the appropriate ESC:

(A) an emergency permit application, indicating the appropriate renewal, completed before the continued assignment;

(B) official transcripts of all course work or documentation of equivalent contact hours completed since authorization of the initial permit; and

(C) the appropriate fee (payable by the school district).

§230.507. Nonrenewable Permits for Positions Other Than Classroom Teacher.

(a) The superintendent or designee of a public school district may activate a nonrenewable permit for an individual who has not completed the appropriate examination requirements specified in §230.5 of this title (relating to Educator Assessment) for a class of certificate other than classroom teacher.

(b) A nonrenewable permit may be activated for an individual in one or more of the following categories:

(1) an individual who has completed all course and degree requirements specified in Subchapter J of this chapter (relating to Certification Requirements for Educators Other Than Classroom Teachers and Educational Aides), except for successful completion of all appropriate examination requirements. Nonrenewable permits activated for individuals in this category expire 12 months from the date of activation;

(2) an individual who holds a Texas educator [teacher] certificate other than classroom teacher with an effective date before February 1, 1986, but has not revalidated the certificate for employment purposes by passing an examination specified in this chapter. The individual must not have been employed in a Texas public school during the 1985-1986 school year or since. A nonrenewable permit activated for an individual in this category expires six months from the date of activation or at the end of the school year, whichever is less. [; ¶]

{(3) an individual who has served on a temporary certificate under Subchapter O of this chapter (relating to Texas Certificates Based on Certification and College Credentials from Other States) and passed the appropriate content specialization portions of the Examination for the Certification of Educators in Texas (ExCET) but did not pass the professional development portion of the examination while the temporary certificate was valid. A nonrenewable permit activated for an individual in this category expires 12 months from the date the individual first attempted the professional development portion of the ExCET.}

(c) A nonrenewable permit may not be activated for an individual in the same assignment area for which another permit or non-standard certificate had previously been authorized.

(d) (No change.)

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

Filed with the Office of the Secretary of State, on January 8, 2001.

TRD-200100096

Pamela B. Tackett
Executive Director

State Board for Educator Certification

Earliest possible date of adoption: February 18, 2001

For further information, please call: (512) 469-3011



19 TAC §§230.509 - 230.511

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

The repeals are proposed under the Texas Education Code (TEC), §21.041(b)(2), which requires the State Board for Educator Certification to propose rules that specify the classes of certificates offered.

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

§230.509. *Policy.*

§230.510. *Exchange Teachers.*

§230.511. *Teachers for Bilingual Education Programs.*

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

Filed with the Office of the Secretary of State, on January 8, 2001.

TRD-200100097

Pamela B. Tackett
Executive Director

State Board for Educator Certification

Earliest possible date of adoption: February 18, 2001

For further information, please call: (512) 469-3011



CHAPTER 233. TRANSITIONAL PERMITS

On November 17, 2000, the State Board for Educator Certification (SBEC) proposed new 19 Texas Administrative Code Chapter 233, §§233.1-233.10 and 233.21, relating to the Transitional Permit.

The purpose of the proposed new rules, conforming amendments, and repeals is to establish the Transitional Permit, which collapses the various types of permits and nonstandard certificates into a single temporary permit. The proposed new rule and accompanying changes to existing rules include the following major provisions: The proposed Transitional Permit rules are results oriented. Permit holders must pass a test demonstrating proficiency in the subject they are assigned to teach within one year to continue teaching. They also must pass tests demonstrating teaching skills and knowledge of students by the end of the third year. The proposed measure enhances local control by allowing school superintendents more flexibility to target the district's specific needs in hiring people who need only to be trained to teach subjects they already know. This will attract a new group

of people into teaching, particularly mid-career changers. The proposed rules and amendments also simply the permit structure by consolidating emergency permits, one-year and probationary certificates into one credential. This consolidation ensures that all permit holders meet the same standards.

The new Transitional Permit rules strengthen and expand the mentoring requirement for permit holders. The new rule requires that all teachers on transitional permits receive mentoring from an experienced teacher who has demonstrated excellence in teaching. Current rules require mentoring only for emergency permit holders. The proposed rule also requires school districts to provide time for mentoring. This provision ensures that all permit holders have a solid mentoring and support system. Transitional Permit holders would be required to enter an educator preparation program within 180 calendar days of the effective date of the permit (in most cases, the start of the school year).

The current statutory requirements relating to parental notification of uncertified or inappropriately certified teachers serving in the classroom would not be affected by the proposed new rules and amendments. The new permit will require parental notification in the same circumstances as now exist for current temporary credentials.

The first new Transitional Permit would be issued beginning June 1, 2001. The proposed rules include transition language that would phase out existing provisions regarding the issuance of emergency permits and other types of temporary credentials. Holders of previously issued emergency permits and other temporary credentials, however, would be allowed to continue under them until they expire in accordance with current rules, as if they had not been repealed.

The proposed conforming amendments would delete current emergency permit provisions for classroom teachers and amend rules governing the certification of educators from other states and countries to conform with the new Transitional Permit rules.

Barry Alaimo, Director of Accounting and Financial Operations, has determined that for the first five-year period the sections are in effect the fee for the Transitional Permit would remain the same, \$75, as it is for the emergency permit. The \$75 fee would be a \$25 increase for the other temporary credentials the Transitional Permit is intended to replace—the probationary certificate for persons in alternative certification programs and the one-year certificate for educators from out of state. Unlike the emergency permit, the Transitional Permit would not be renewable, but SBEC does not now charge a fee to renew an emergency permit. SBEC charges a renewal fee for the probationary certificate and the one-year certificate, but the \$75 fee should cover any revenue lost as a result of not charging renewal fees on these temporary credentials. To the extent any related fiscal impact can be assessed at this time, implementation of the transitional permit should not significantly affect the revenues or expenditures of SBEC.

Dan Junell, General Counsel, State Board for Educator Certification, has determined that for the first five years the sections are in effect, the public benefit anticipated as a result of enforcing the sections will be that the Transitional Permit would achieve the following goals: focusing teacher training on the immediate needs of public school students; ensuring that the transitional permit holder has a positive beginning teaching experience through a quality mentoring and support system, thereby increasing the likelihood the teacher will stay in the profession and provide public school students the benefit of having an experienced teacher;

and providing school districts with the flexibility to hire quality individuals with subject matter knowledge and life experiences relevant to the needs of the students and the teaching assignment.

The public should incur no additional costs as a result of the implementation of the proposed rules. There will be no effect on small businesses.

Interested persons wishing to comment on the proposed rules must submit their comments in writing to Dan Junell, General Counsel, State Board for Educator Certification, 1001 Trinity, Austin, Texas 78701-2603, within the 30-day comment period, which begins on the date of publication of this issue of the *Texas Register*. The comments should contain the following title or reference: "Comments on Proposed New 19 TAC Chapter 233 and Conforming Amendments related to the new Transitional Permit."

SUBCHAPTER A. TRANSITIONAL PERMITS FOR CLASSROOM TEACHERS

19 TAC §§233.1 - 233.10

The new sections are proposed under the authority of the following provisions of the Texas Education Code: §4.001(b), which states that one of the objectives of public education in the State of Texas is to recruit, develop, and retain qualified and highly effective personnel; §21.003, which prohibits a person from being employed as a teacher by a school district unless the person holds an appropriate certificate or permit issued as provided by Texas Education Code Chapter 21, Subchapter B; §21.031, which authorizes the board to regulate and oversee all aspects of the certification of public school educators and to ensure that all candidates for certification demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of this state; §21.039(3), which authorizes the executive director of the board to issue the transitional certificate under this chapter; §21.041(b)(2), which requires the board to specify the classes of educator certificates to be issued, including emergency certificates; §21.044, which requires the board to establish the training requirements a person must accomplish to obtain a certificate and to specify the minimum academic qualifications required for a certificate; §21.049, which requires the board provide for educator certification programs as an alternative to traditional educator certification programs, without requiring a demonstrated shortage of educators in a school district or subject area to obtain such certification; and §21.041(b)(5) and §21.052, which require the board to propose rules that provide for the issuance of an educator certificate to a person holding a similar certificate issued by another state or country.

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

§233.1. Purpose, Scope, and Authority.

(a) A superintendent must obtain a transitional permit for a person who -

(1) will serve as a classroom teacher for more than 30 consecutive instructional days in the same assignment; and

(2) does not hold the appropriate standard certificate or its equivalent for the assignment or is not otherwise authorized to be employed in Texas public schools under this title or the Texas Education Code, including persons who hold a Texas teacher certificate with an effective date prior to February 1, 1986, but have not revalidated the certificate for employment purposes by passing the examination(s) prescribed by §230.5(d) of this title (relating to General Eligibility Requirements).

(b) A transitional permit is not required to employ a person to replace a full-time, certified classroom teacher who has been given a leave of absence in accordance with federal or state law or local district policy, not to exceed 100 instructional days.

(1) During the entire period of employment, a school district shall provide a trained mentor for the person employed under this subsection to help the person perform effectively in the assignment.

(2) This subsection no longer applies on the date the superintendent determines the teacher on leave will not resume his or her regular duties, either by notice from the teacher or by operation of law, contract, or school district policy.

(c) Subject to the provisions of this subsection, a transitional permit is required for a classroom teacher who holds a standard certificate or its equivalent but who is assigned outside of his or her certified area for more than two school years.

(1) A school district may assign a certified classroom teacher outside of his or her certified area, as needed, for no more than a total of two school years without obtaining a transitional permit for the teacher. The two-year limit applies during the whole period of the teacher's employment with the district and regardless of whether the two years assigned out of the certificate area are served consecutively or intermittently.

(2) The school district must determine that the teacher has the necessary subject matter knowledge for the assignment. Factors that may be considered include, but are not limited to, academic coursework or work experiences related to the assignment.

(3) The school district must provide the certified teacher with a trained mentor as specified in §233.6 of this subchapter (relating to Mentoring and Training of Teachers) from the beginning of the period during which the teacher is assigned outside of his or her certified area, or until the certified teacher evidences content knowledge by performing successfully on the appropriate certification examination specified in §230.5 of this title (relating to Educator Assessment), whichever comes first.

(d) The State Board for Educator Certification authorizes the executive director to exercise reasonable discretion in achieving substantial compliance with these rules in issuing transitional permits. The executive director may authorize one or more designees to aid him or her in the general administration of this chapter.

(e) Not later than November 1 of each year, the executive director shall provide to the board data and other information regarding the implementation of this subchapter, including the number and nature of any exceptions granted under subsection (d) of this section.

(f) This chapter is adopted under the authority of the following provisions of the Texas Education Code:

(1) Section 4.001(b), which states that one of the objectives of public education in the State of Texas is to recruit, develop, and retain qualified and highly effective personnel;

(2) Section 21.003, which prohibits a person from being employed as a teacher by a school district unless the person holds an appropriate certificate or permit issued as provided by Texas Education Code, Chapter 21, Subchapter B;

(3) Section 21.031, which authorizes the board to regulate and oversee all aspects of the certification of public school educators and to ensure that all candidates for certification demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of this state;

(4) Section 21.039(3), which authorizes the executive director of the board to issue the transitional certificate under this chapter;

(5) Section 21.041(b)(2), which requires the board to specify the classes of educator certificates to be issued, including emergency certificates;

(6) Section 21.044, which requires the board to establish the training requirements a person must accomplish to obtain a certificate and to specify the minimum academic qualifications required for a certificate;

(7) Section 21.049, which requires the board provide for educator certification programs as an alternative to traditional educator certification programs, without requiring a demonstrated shortage of educators in a school district or subject area to obtain such certification; and

(8) Sections 21.041(b)(5) and 21.052, which require the board to propose rules that provide for the issuance of an educator certificate to a person holding a similar certificate issued by another state or country.

(g) Individuals serving on a transitional permit are deemed to be 'inappropriately certified' under Texas Education Code (TEC), §21.057, relating to Parental Notification, unless the statute specifically provides otherwise.

(h) The rules in this chapter prevail in the event of a conflict with any other board rule under this title.

§233.2. Definitions.

When used in this chapter, the following words, terms, phrases, and their variations shall have the following meanings, unless the context clearly indicates otherwise.

(1) Board - The State Board for Educator Certification.

(2) Classroom teacher - A person employed by a school district and who, not less than an average of four hours each day, teaches in an academic instructional setting or a career and technology instructional setting.

(3) Class of certificate or permit - Has the same meaning as defined in Chapter 232, Subchapter M, of this title (relating to Types and Classes of Certificates).

(4) Educator - A person who is required to hold a certificate issued under Chapter 21, Subchapter B, of the Texas Education Code.

(5) Executive director - The executive director employed by the board. The term includes a designee of the executive director.

(6) Superintendent - The superintendent of the employing school district requesting the transitional certificate. The term includes a designee of the superintendent.

(7) Trained mentor - An experienced teacher who holds a valid master, standard, or provisional certificate issued under Texas Education Code Chapter 21, Subchapter B, or its predecessor, and who:

(A) is provided sufficient time, in addition to classroom planning time, to plan, observe, and collaborate with each transitional permit holder;

(B) has demonstrated the necessary skills to guide the development of a beginning teacher; and

(C) has demonstrated excellence in teaching.

§233.3. Validity of the Transitional Permit.

(a) A transitional permit issued under this chapter is valid for a period of three consecutive calendar years from the date of issuance and may not be renewed or reissued for the same class of certificate.

(b) The effective date of a transitional permit shall be the beginning date of the classroom teacher's assignment in the employing school district. The effective date of a transitional permit shall not precede the date eligibility requirements were completed.

(c) Once issued, a transitional permit is in effect and expires three calendar years from the effective date of its issuance regardless of whether or not the educator is employed continuously during the validity of the permit.

(d) Notwithstanding the provisions of subsection (a) of this section, a transitional permit expires one calendar year from its effective date unless the permit holder has passed the appropriate subject matter examination(s) for the assignment(s) and the certificate(s) sought by that time.

(e) The transitional permit is issued to the person who is employed under it. During the period of permit validity, the holder may be employed under the transitional permit at a school district other than the one whose superintendent initially requested its issuance.

§233.4. Conditions for Issuance.

The executive director shall issue a transitional permit for a person if the following conditions are satisfied:

(1) the superintendent of the employing school district has requested a transitional permit for the person;

(2) in applying for the transitional permit, the superintendent has affirmed compliance with §233.6 of this subchapter (relating to Mentoring and Training of Teachers);

(3) the superintendent has shown the executive director that the person meets the eligibility requirements specified in §233.5 of this subchapter (relating to General Eligibility Requirements), except subsection (a)(4) of that section, and has complied with all other applicable provisions of this chapter;

(4) the executive director has determined the person is not disqualified under subsection (a)(4) of §233.5 of this subchapter (relating to General Eligibility Requirements); and

(5) the requested transitional permit is not of the same class as a nonstandard certificate or permit previously issued to the person.

§233.5. General Eligibility Requirements.

(a) To be eligible for a transitional permit, a person must meet the following requirements:

(1) The individual must hold at least a bachelor's degree from an accredited institution of higher education, except for certain internship programs approved under Chapter 228 of this title (relating to Requirements for Educator Preparation Programs), or non-degreed career and technology assignments allowing skill and experience in lieu of a bachelor's degree. For non-degreed career and technology assignments, the teacher is required to hold the appropriate industry certificate or have at least three years of related work experience if no industry certificate exists for the assignment.

(2) The school district must determine that the teacher has the necessary subject matter knowledge for the assignment. Factors that may be considered include, but are not limited to, academic coursework or work experiences related to the assignment.

(3) The person must meet the following requirements specified in §230.413 of this title (relating to General Requirements):

(A) be at least 18 years of age;

(B) be willing to support and defend the constitutions of the United States and Texas; and

(C) be able to speak and understand the English language sufficiently to use it easily and readily in conversation and teaching or to otherwise communicate effectively with the students being taught.

(4) The individual must not be disqualified or be the subject of a pending proceeding that could result in disqualification under provisions of any of the following:

(A) federal or state law, including disqualification to hold a certificate related to guaranteed student loan default, child support arrears, or unqualified alien status; or

(B) Chapter 249 of this title (relating to Disciplinary Proceedings, Sanctions, and Contested Cases), Including Enforcement of the Educator's Code of Ethics.

(b) To be eligible for a transitional permit as a special education or bilingual classroom teacher, a person must meet the applicable requirements specified in §233.7 of this title (relating to Special Education Teachers), or §233.8 of this title (relating to Bilingual Education Teachers), in addition to meeting the requirements of this section.

§233.6. Mentoring and Training of Teachers.

The executive director may not issue a transitional permit under this subchapter until the superintendent verifies the following:

(1) that each transitional permit holder in the school district is provided with a trained mentor and appropriate professional development during the entire period of employment to help the person perform effectively in the assignment; and

(2) that each transitional permit holder who has not completed an educator certification program will enter a board-approved certification program within 180 calendar days of issuance of the transitional permit.

§233.7. Special Education Teachers.

(a) The executive director may not issue a transitional permit for a special education classroom teacher until the superintendent verifies the following:

(1) the district's efforts to recruit certified and qualified special education teachers exists in the geographical area where the employing school district is located; and

(2) the transitional permit candidate is the most qualified person available.

(b) In addition to meeting other applicable provisions in this chapter, persons assigned to teach designated categories of students with special learning needs may satisfy either the specific requirements of this subsection before a transitional permit can be issued or be screened by the superintendent to determine their appropriateness for the assignment and certificate sought. Candidates for the auditory or visually impaired certificate, however, must meet the requirements of paragraphs (1) and (2) of this subsection before they may be issued a transitional permit.

(1) Auditory Impaired. A person must:

(A) have completed six semester hours or the equivalent directly related to teaching the auditory impaired;

(B) have demonstrated competence in the specific communication method used in the classroom setting with students with auditory impairments; and

(C) in accordance with §233.6(1) of this subchapter (relating to Mentoring and Training of Teachers) have a trained mentor certified to teach students with auditory impairments.

(2) Visually Impaired. A person must:

(A) hold a valid classroom teaching certificate;

(B) have completed six semester hours or the equivalent directly related to teaching the visually impaired;

(C) have demonstrated competency in literary Braille;
and

(D) in accordance with §233.6(1) of this subchapter, have a trained mentor certified to teach students with visual impairments.

(3) For other special education instruction in the elementary grades, the individual must:

(A) Have completed nine semester hours directly related to teaching children with special education needs or the equivalent directly related to teaching children with disabilities, including:

(i) three semester hours in reading instruction;

(ii) three semester hours in behavior intervention;
and

(iii) three semester hours in a basic foundational course for teaching elementary students with disabilities, and

(B) In accordance with §233.6(1) of this subchapter, have a trained mentor certified to teach students with special education needs.

(4) For other special education instruction in the secondary grades, the individual must:

(A) Have completed nine semester hours directly related to teaching secondary level students with special education needs or the equivalent directly related to teaching students with disabilities, including:

(i) three semester hours in reading instruction;

(ii) three semester hours in behavior intervention;
and

(iii) three semester hours in a basic foundational course for teaching secondary students with disabilities, and

(B) In accordance with §233.6(1) of this subchapter, have a trained mentor certified to teacher students with special education needs.

§233.8. Bilingual Education Teachers.

The executive director may not issue a transitional permit for a bilingual education classroom teacher until the superintendent verifies that the person is proficient in oral and written communication skills for the language of the target student population.

§233.9. Application Procedures.

In addition to other submittals required under this subchapter, the superintendent must submit the following items to the executive director within 60 calendar days of assignment:

(1) a completed application; and

(2) the appropriate fee as specified in §230.436 of this title (relating to Schedule of Fees for Certification Services).

§233.10. Implementation of the Transitional Permit.

(a) This chapter becomes effective June 1, 2001.

(b) An individual who was issued an emergency permit or certificate, one-year certificate or probationary certificate under this title prior to the effective date of this rule, may have that permit or certificate renewed, extended or reissued under the provisions of Chapter 230, Subchapters Q and O of this title (relating to Permits, and Texas Educator Certificates Based on Certification and College Credentials from Other States and Territories of the United States); Chapter 232 Subchapter M of this title (relating to Types and Classes of Certificates); and Chapter 245 of this title (relating to Certification of Educators from Other Countries), as those rules existed on September 1, 2000. This subsection expires July 1, 2003.

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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Pamela B. Tackett
Executive Director

State Board for Educator Certification

Earliest possible date of adoption: February 18, 2001

For further information, please call: (512) 469-3011



SUBCHAPTER B. TRANSITIONAL PERMITS FOR EDUCATORS CERTIFIED OUTSIDE TEXAS

19 TAC §233.21

The new section is proposed under the authority of the following provisions of the Texas Education Code: §4.001(b), which states that one of the objectives of public education in the State of Texas is to recruit, develop, and retain qualified and highly effective personnel; §21.003, which prohibits a person from being employed as a teacher by a school district unless the person holds an appropriate certificate or permit issued as provided by Texas Education Code Chapter 21, Subchapter B; §21.031, which authorizes the board to regulate and oversee all aspects of the certification of public school educators and to ensure that all candidates for certification demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of this state; §21.039(3), which authorizes the executive director of the board to issue the transitional certificate under this chapter; §21.041(b)(2), which requires the board to specify the classes of educator certificates to be issued, including emergency certificates; §21.044, which requires the board to establish the training requirements a person must accomplish to obtain a certificate and to specify the minimum academic qualifications required for a certificate; §21.049, which requires the board provide for educator certification programs as an alternative to traditional educator certification programs, without requiring a demonstrated shortage of educators in a school district or subject area to obtain such certification; and §21.041(b)(5) and §21.052, which require the board to propose rules that provide for the issuance of an educator certificate to a person holding a similar certificate issued by another state or country.

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

§233.21. Transitional Permits Based on Credentials from Other Jurisdictions.

(a) This subchapter applies to a transitional permit for a person holding a standard educator's credential issued by a jurisdiction other than the State of Texas. The provisions of this subchapter are in addition to those in Subchapter A of this chapter (relating to Transitional Permits for Classroom Teachers) and prevail in the event of a conflict with them.

(1) Applicable standard certification requirements for credential holders from other jurisdictions are located in this title under Chapter 230, Subchapter O of this title (relating to Texas Certificates Based on Certification and College Credentials from Other States or Territories of the United States), and Chapter 245 of this title (relating to Certification of Educators from Other Countries).

(2) In addition to the authorities cited in Subchapter A of this chapter, this subchapter is adopted under the authority of §21.041(b)(5) and §21.052 of the Texas Education Code, which require the State Board for Educator Certification to propose rules that provide for the issuance of an educator certificate to a person holding a similar certificate issued by another state or country.

(b) A superintendent must obtain a transitional permit for a person who:

(1) will serve as an educator for more than 30 consecutive instructional days in the same assignment or role;

(2) holds a standard educator's credential issued by a jurisdiction other than the State of Texas; and

(3) does not hold the appropriate standard or equivalent Texas certification required for the role or is not otherwise authorized to be employed in the role under this title or the Texas Education Code.

(c) If the holder of an educator's credential from another jurisdiction meets all applicable Texas certification requirements under this title except the appropriate examination requirements, the superintendent shall request issuance of a transitional permit under this subchapter. The transitional permit shall be issued for the class of certificate identified on the out-of-state credential.

(d) An educator issued a transitional permit under this subchapter does not have to enter an educator certification program under §233.6 of this chapter (relating to Mentoring and Training of Teachers).

(e) Temporary foreign teachers/residents. Pursuant to a lawful foreign exchange or other agreement between the appropriate Texas educational authorities and those of another country, a transitional permit shall be issued for a qualified classroom teacher from another country who is not seeking standard Texas 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 January 8, 2001.

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Pamela B. Tackett
Executive Director

State Board for Educator Certification

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CHAPTER 245. CERTIFICATION OF EDUCATORS FROM OTHER COUNTRIES

19 TAC §245.5, §245.10

On November 17, 2000, the State Board for Educator Certification (SBEC) proposed amendments to §245.5 and §245.10, relating to Certification of Educators from other Countries.

The purpose of the proposed new rules, conforming amendments, and repeals is to establish the Transitional Permit, which collapses the various types of permits and nonstandard certificates into a single temporary permit. The proposed new rule and accompanying changes to existing rules include the following major provisions: The proposed Transitional Permit rules are results oriented. Permit holders must pass a test demonstrating proficiency in the subject they are assigned to teach within one year to continue teaching. They also must pass tests demonstrating teaching skills and knowledge of students by the end of the third year. The proposed measure enhances local control by allowing school superintendents more flexibility to target the district's specific needs in hiring people who need only to be trained to teach subjects they already know. This will attract a new group of people into teaching, particularly mid-career changers. The proposed rules and amendments also simplify the permit structure by consolidating emergency permits, one-year and probationary certificates into one credential. This consolidation ensures that all permit holders meet the same standards.

The new Transitional Permit rules strengthen and expand the mentoring requirement for permit holders. The new rule requires that all teachers on transitional permits receive mentoring from an experienced teacher who has demonstrated excellence in teaching. Current rules require mentoring only for emergency permit holders. The proposed rule also requires school districts to provide time for mentoring. This provision ensures that all permit holders have a solid mentoring and support system. Transitional Permit holders would be required to enter an educator preparation program within 180 calendar days of the effective date of the permit (in most cases, the start of the school year).

The current statutory requirements relating to parental notification of uncertified or inappropriately certified teachers serving in the classroom would not be affected by the proposed new rules and amendments. The new permit will require parental notification in the same circumstances as now exist for current temporary credentials.

The first new Transitional Permit would be issued beginning June 1, 2001. The proposed rules include transition language that would phase out existing provisions regarding the issuance of emergency permits and other types of temporary credentials. Holders of previously issued emergency permits and other temporary credentials, however, would be allowed to continue under them until they expire in accordance with current rules, as if they had not been repealed.

The proposed conforming amendments would delete current emergency permit provisions for classroom teachers and amend rules governing the certification of educators from other states and countries to conform with the new Transitional Permit rules.

Barry Alaimo, Director of Accounting and Financial Operations, has determined that for the first five-year period the sections are in effect the fee for the Transitional Permit would remain the same, \$75, as it is for the emergency permit. The \$75 fee would be a \$25 increase for the other temporary credentials the

Transitional Permit is intended to replace the probationary certificate for persons in alternative certification programs and the one-year certificate for educators from out of state. Unlike the emergency permit, the Transitional Permit would not be renewable, but SBEC does not now charge a fee to renew an emergency permit. SBEC charges a renewal fee for the probationary certificate and the one-year certificate, but the \$75 fee should cover any revenue lost as a result of not charging renewal fees on these temporary credentials. To the extent any related fiscal impact can be assessed at this time, implementation of the transitional permit should not significantly affect the revenues or expenditures of SBEC.

Dan Junell, General Counsel, State Board for Educator Certification, has determined that for the first five years the sections are in effect, the public benefit anticipated as a result of enforcing the sections will be that the Transitional Permit would achieve the following goals: focusing teacher training on the immediate needs of public school students; ensuring that the transitional permit holder has a positive beginning teaching experience through a quality mentoring and support system, thereby increasing the likelihood the teacher will stay in the profession and provide public school students the benefit of having an experienced teacher; and providing school districts with the flexibility to hire quality individuals with subject matter knowledge and life experiences relevant to the needs of the students and the teaching assignment.

The public should incur no additional costs as a result of the implementation of the proposed rules. There will be no effect on small businesses.

Interested persons wishing to comment on the proposed rules must submit their comments in writing to Dan Junell, General Counsel, State Board for Educator Certification, 1001 Trinity, Austin, Texas 78701-2603, within the 30-day comment period, which begins on the date of publication of this issue of the *Texas Register*. The comments should contain the following title or reference: "Comments on Proposed New 19 TAC Chapter 233 and Conforming Amendments related to the new Transitional Permit."

The amendments are proposed under the Texas Education Code (TEC), §21.041(b)(5) and §21.052, which require the State Board for Educator Certification to propose rules that provide for the issuance of an educator certificate to a person holding a degree and a similar certificate or other credential issued by another country.

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

§245.5. Requirements for Issuance of a Texas Certificate Based on Certification from Another Country.

(a) The Standard Certificate issued under Chapter 232, Subchapter M of this title (relating to the Types and Classes of Certificates Issued), may be issued to an applicant holding a certificate or other credential and college degree as specified in §245.1 of this chapter (relating to General Provisions).

{(1) An applicant who holds a certificate or other credential that is equivalent to a certification area listed in Chapter 230, Subchapter G of this title (relating to Certification Requirements for Classroom Teachers) and that was issued in accordance with §245.1 of this chapter may be issued the equivalent Texas certificate.}

{(2) An applicant who holds a certificate or other credential that is equivalent to a certification area listed in Chapter 230, Subchapter J of this title (relating to Certification Requirements for Educators Other Than Classroom Teachers and Educational Aides) and that was

issued in accordance with §245.1 of this chapter may be issued the equivalent Texas certificate, provided the applicant:}

{(A) has completed requirements for a classroom teacher certificate; or}

{(B) can verify three creditable years of public or private school experience, as defined in Chapter 230, Subchapter Y of this title (relating to Definitions), in the certification area.}

(b) An applicant who holds a certificate or other credential that is equivalent to a class of certificate other than classroom teacher and that was issued in accordance with §245.1 of this chapter may be issued the equivalent class of Texas certificate, provided the applicant:

(1) has completed requirements for a classroom teacher certificate; or

(2) can verify three creditable years of public or private school experience, as defined in Chapter 230, Subchapter Y of this title (relating to Definitions), specific to the class of certificate sought.

(c) An applicant for a Texas standard educator certificate based on a certificate issued in accordance with §245.1 of this chapter, must pass the appropriate examination requirements specified in §230.5 of this title (relating to Educator Assessment).

(d) ~~{(b)}~~ If all certification requirements are met except successful completion of the appropriate certification examination(s), the applicant may be issued a transitional permit in accordance with Chapter 233 of this title (relating to Transitional Permits), upon recommendation of an employing school district. The temporary certificate will be issued in one or more certification areas identified on the certificate from another country. ~~[request issuance of a one-year certificate in one or more of the certification areas authorized by the certificate from another country.]~~

{(1) An applicant issued a one-year certificate under this section who does not satisfy the appropriate examination requirements during the validity of the one-year certificate is not eligible for any type of certificate or permit authorizing employment for the same certification level or area until he or she has satisfied the examination requirements.}

{(2) An applicant issued a one-year certificate under this section who, during or subsequent to the validity of the certificate, satisfies the appropriate examination requirements and establishes eligibility for a standard certificate may apply for: }

{(A) a new one-year certificate in another certification area based on a certificate issued by a another country; or}

{(B) a second one-year certificate in an area previously authorized on a one-year certificate, provided the applicant was not assigned to the area and has not attempted the appropriate examination requirements for that area.}

(e) An applicant issued a transitional permit under Chapter 233 of this title who does not satisfy the appropriate examination requirements during the validity of the transitional permit is not eligible for any type of certificate or permit authorizing employment for the same certification level or area until he or she has satisfied the examination requirements.

§245.10. Application Procedures.

(a) Individuals who have been issued an appropriate certificate or other credential by the authorized licensing agency in another country as specified in §245.1 of this chapter (relating to General Provisions) may apply for a review of credentials by submitting the following items to the State Board for Educator Certification (SBEC):

(1) a completed application ~~[form]~~;

(2) the original detailed report or course-by-course evaluation for professional licensing of all college-level credits prepared by a credential evaluation service recognized by the executive director of SBEC. The evaluation must verify that the individual:

(A) holds the equivalent of a bachelor's degree granted by an accredited institution of higher education in the United States, including the month, day, and year that the degree was conferred;

(B) has completed an educator preparation program, including a teaching practicum;

(C) holds an appropriate certificate or credential issued by another country as specified in §245.1 of this chapter, including the effective date and validity period of the certificate, certification area(s) and grade level(s);

(3) evidence in a form approved by the executive director that the educator certificate or credential specified in §245.1 of this chapter is currently in good standing and has not been revoked, suspended, or sanctioned for misconduct and is not pending disciplinary or adverse action;

(4) official transcripts of any additional college credits earned in the United States: and

(5) a nonrefundable review fee as specified in Chapter 230, Subchapter N of this title (relating to Certificate Issuance Procedures).

(b) Applicants holding certificates or other credentials issued by a country that is a party to the Interstate Certification Compact for reciprocity through the National Association of State Directors of Teacher Education and Certification (NASDTEC), may submit the following in lieu of a credential evaluation report from a recognized credential evaluation service:

(1) official transcripts in English of all college credits showing the appropriate degree(s) and dates(s) conferred: and

(2) copies (front and back) of all certificates or credentials issued in accordance with §245.1 of this chapter, to include the effective date and validity period of the certificate, certification area(s) and grade level(s).

(c) Pursuant to §245.5(d) ~~{(b)}~~ of this chapter (relating to Requirements of Issuance of a Texas Certificate Based on a Certification from Another Country) applicants may be recommended ~~[apply]~~ for a transitional permit ~~[one-year certificate]~~ by an employing school district under the procedures specified in Chapter 233 of this title. ~~[submitting the following items to the board:]~~

~~{(1) a completed application form; and}~~

~~{(2) appropriate fee as specified in Chapter 230, Subchapter N of this title (relating to Certificate Issuance Procedures).}~~

(d) Pursuant to §245.5(a) of this chapter, applicants may apply for a Standard Certificate by submitting the following items to the board:

(1) a completed application ~~[form]~~; and

(2) appropriate fee as specified in Chapter 230, Subchapter N of this title, relating to Certificate Issuance 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 January 8, 2001.

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Pamela B. Tackett
Executive Director

State Board for Educator Certification
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For further information, please call: (512) 469-3011



TITLE 22. EXAMINING BOARDS

PART 10. TEXAS FUNERAL SERVICE COMMISSION

CHAPTER 203. LICENSING AND ENFORCEMENT-SPECIFIC SUBSTANTIVE RULES

22 TAC §203.27

The Texas Funeral Service Commission proposes an amendment to §203.27 concerning Sponsors of Provisional Licensees.

The Texas Funeral Service Commission proposes an amendment to establish the requirement that a licensed embalmer or funeral director be physically present in the room with the provisional licensee and in view of the work performed during the course of the work performed by the provisional licensee.

O.C. "Chet" Robbins, Executive Director, Texas Funeral Service Commission, has determined that for the first five-year period this section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Robbins, Executive Director, Texas Funeral Service Commission, has determined that for each year of the first five years the public benefit will be to insure that the provisional licensee receives "personal supervision" and requires that a licensed embalmer or funeral director be physically present in the room with the provisional licensee and in view of the work performed during the course of the work performed by the provisional licensee. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Comments on the proposed amendment may be submitted to O.C. "Chet" Robbins, Executive Director, Texas Funeral Service Commission, 510 South Congress Avenue, Suite 206, Austin, Texas, 78704, (512) 936-2474 or 1-888-667-4881. Comments may also be submitted electronically to crob@tfsc.state.tx.us or faxed to (512) 479-5064.

The amendment is proposed under Section 651.152 of the Texas Occupation Code, as amended by Section 18 of House Bill 3516, 76th Legislature which authorizes the Commission to issue such rules and regulations as may be necessary to effect the provisions of this Section.

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

§203.27. *Sponsors of Provisional Licensees.*

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

(c) A sponsor shall ensure that direct supervision is provided in order to provide firsthand and factual documentation of work accomplished by the provisional licensee on each case report submitted. The term "personal supervision" as used in Texas Occupations Code Sections 651.251, 651.301, 651.303, and 651.306 requires a licensed embalmer or funeral director to be physically present in the room with the provisional licensee and in view of the work performed during the course of the work performed by the provisional licensee.

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

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

Filed with the Office of the Secretary of State, on January 4, 2001.

TRD-20010067
O.C. "Chet" Robbins
Executive Director
Texas Funeral Service Commission

Earliest possible date of adoption: February 18, 2001
For further information, please call: (512) 936-2474



PART 29. TEXAS BOARD OF PROFESSIONAL LAND SURVEYING

CHAPTER 661. GENERAL RULES OF PROCEDURES AND PRACTICES SUBCHAPTER E. CONTESTED CASES

22 TAC §661.60, §661.97

The Texas Board of Professional Land Surveying proposes new §661.60, concerning Responsibility to the Board and §661.97, concerning Action in Another Jurisdiction.

Section 661.60 clarifies the repercussion of not complying with deadline dates established by the Board. Section 661.97 clarifies actions the Board can take against registrants if disciplinary actions are taken in another jurisdiction.

Sandy Smith, Executive Director, has determined that for the first five-year period the rules are in effect, there will be no fiscal implications for state or local government.

Ms. Smith also has determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result of enforcing the rules will be clarification regarding non-compliance of deadline dates and clarification regarding disciplinary actions taken in another jurisdiction. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Sandy Smith, Texas Board of Professional Land Surveying, 7701 North Lamar, Suite 400, Austin, Texas 78752.

The new sections are proposed under Texas Civil Statutes, Article 5282c, §9, which provides the Texas Board of Professional Land Surveying with the authority to make and enforce all reasonable and necessary rules, regulations and bylaws not inconsistent with the Texas Constitution, the laws of this state, and this Act.

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

§661.60. Responsibility to the Board.

(a) A registrant/licensee/SIT whose registration/license/certification is current or has expired but is renewable under the Texas Professional Land Surveying Practices Act and Board rules, is subject to all provisions of the Act and Board rules. A registrant/licensee/SIT shall respond fully and truthfully to all Board inquiries and furnish all maps, plats, surveys or other information or documentation requested by the Board within 30 days of such registrant's licensee's or SIT's receipt of a Board inquiry or request concerning matters under the jurisdiction of the Board. An inquiry or request shall be deemed received on the earlier of:

(1) the date actually received as reflected by a delivery receipt from the United States Postal Service or a private courier or

(2) two days after the Board request or inquiry is deposited in a postage paid envelope in the United States mail addressed to the registrant, licensee or SIT at his last address reflected on the records of the Board.

(b) Any registrant, licensee or SIT subject to Board decisions or orders shall fully comply with the final decisions and orders within any time periods which might be specified in such decisions or orders. Failure to timely, fully and truthfully respond to Board inquiries, failure to furnish requested information, or failure to timely and fully comply with Board decisions and orders, shall constitute separate offenses of misconduct subject to such penalties as may be imposed by the Board as provided under the Act.

§661.97. Action in Another Jurisdiction.

Any disciplinary action taken in another jurisdiction on a matter which would constitute a violation of the Texas Professional Land Surveying Practices Act or Board rules shall be sufficient cause for disciplinary action by this Board. An authenticated copy of the order, adjudication, decision, or evidence of other final action by or on behalf of the regulatory authority in another jurisdiction which serves substantially the same function as the Board, shall be conclusive evidence of such violation, and shall be sufficient to support disciplinary action in this state.

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 January 5, 2001.

TRD-200100080

Sandy Smith

Executive Director

Texas Board of Professional Land Surveying

Earliest possible date of adoption: February 18, 2001

For further information, please call: (512) 452-9427



ADOPTED RULES

An agency may take final action on a section 30 days after a proposal has been published in the *Texas Register*. The section becomes effective 20 days after the agency files the correct document with the *Texas Register*, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

If an agency adopts the section without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. If an agency adopts the section with changes to the proposed text, the proposal will be republished with the changes.

TITLE 13. CULTURAL RESOURCES

PART 2. TEXAS HISTORICAL COMMISSION

CHAPTER 14. TEXAS HISTORICAL ARTIFACTS ACQUISITION PROGRAM

13 TAC §§14.1, 14.3, 14.5

On October 27, 2000 the Texas Historical Commission voted to adopt new rules under Title 13, Part II, Chapter 14, §§14.1, 14.3, and 14.5, concerning the possible acquisition of historical artifacts, documents, or objects. These rules are adopted without changes to the proposed text as published in the September 15, 2000, issue of the *Texas Register* (25 TexReg 9138).

Chapter 14 was created as a response to the passage of an appropriation rider by the 76th Texas Legislature that appropriated funds for the possible purchase by the State of Texas of important historical artifacts, documents, or objects. The Legislature assigned the Texas Historical Commission as the state agency responsible for the purchase of any such artifacts, documents, or objects and these rule implement this process. The chapter describes and defines the process by which objects or artifacts may be acquired by the commission for the State of Texas. The chapter also explains the basic criteria that the commission will use in evaluating and purchasing appropriate historical documents, objects, or artifacts, and it explains the procedures the commission will use in potentially placing those objects or artifacts in an appropriate curatorial facility or museum.

One letter of comments was received regarding adoption of these proposed rules. The following are the comments, and the commission's response.

Comment: The commenter did not believe that the State should engage in the acquisition of memorabilia in open competition with businesses and individuals who deal in antiquities, because of the questionable legal and ethical aspects of the antiquities trade.

Response: The commission agrees, and when and if they find an object worthy of purchase they will take measures to insure that the object(s) are authentic and were not procured in such a way as to encourage the illegal trade in antiquities. Additionally, the Texas Legislature believes that the purchase of important historical document or artifacts are in the best interest of the citizens

of the State of Texas, and the proposed rule is addressing a legislatively mandated appropriations rider that calls for the potential purchase of such objects. The Commission, therefore, has a responsibility to develop procedures to carry out this mandate. No changes to the rules are needed as a result of this comment.

Comment: Does the Bob Bullock State History Museum possess the facilities to properly curate objects, if given to them.

Response: The commission will work with any and all institutions to insure that they meet proper curation standards, before those institutions are assigned the responsibility of the care of such objects or any state held-in-trust collections. No changes to the rules are needed as a result of this comment.

Comment: Is the commission limited to the acquisition of only historical objects, or can we also acquire natural history objects.

Response: The appropriations rider did not specifically clarify this issue, but the commission believe that the legislative intent did not include natural history objects. No changes to the rules are needed as a result of this comment.

Comment: Are there other state legal authorities that acquire natural history objects.

Response: The commission believes that the University of Texas and other state universities carry out these activities, but the commission is not aware of other state agencies that may have the funds or authority to acquire natural history objects. No changes to the rules are needed as a result of this comment.

Comment: Will these rules invite profiteering.

Response: The commission does not believe they will, and the commission will insure that the potential acquisition of any historical artifacts or documents in the best interest of the citizens of the State of Texas. No changes to the rules are needed as a result of this comment.

Comment: What is to become of such items already in public collections that have yet to be catalogued, analyzed, curated, or are otherwise not yet in a state of perpetual preservation.

Response: The commission agrees that these are important issues that should be addressed by the State Legislature, but these issues are not a part of the current legislative mandate. No changes to the rules are needed as a result of this comment.

Comment: Will the commission ask the legislature to allow that any unexpended funds be appropriated to those institutions that are failing to preserve our unique cultural history due to financial shortfalls, or shall the funds lay about waiting on unique opportunities to bid for treasures at the auction block.

Response: Since the money is part of a biannual appropriation, the funds will lapse back into the general revenue funds if they not spent by September 1, 2001. Re-appropriation of these funds can only occur through an act of the legislature, and while the commission hopes that these funds might be re-appropriated for other curatorial purposes, currently these funds can not be used to resolve other state-wide curatorial problems. No changes to the rules are needed as a result of this comment.

The amendments are adopted under Section 442.005(q), Title 13 Part II of the Texas Government Code which provides the Texas Historical Commission with the authority to promulgate rules and conditions to reasonably effect the purposes of this chapter.

These adopted amendments also in part implement Section 442.005(p) of the Texas Government Code.

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

Filed with the Office of the Secretary of State on January 5, 2001.

TRD-200100072

F. Lawrence Oaks

Executive Director

Texas Historical Commission

Effective date: January 25, 2001

Proposal publication date: September 15, 2000

For further information, please call: (512) 463-5711



TITLE 19. EDUCATION

PART 7. STATE BOARD FOR EDUCATOR CERTIFICATION

CHAPTER 230. PROFESSIONAL EDUCATOR PREPARATION AND CERTIFICATION

SUBCHAPTER U. ASSIGNMENT OF PUBLIC SCHOOL PERSONNEL

19 TAC §230.601

On October 6, 2000, the State Board for Educator Certification (SBEC) adopted an amendment to 19 Texas Administrative Code §230.601(f), relating to assignment criteria for the new School Counselor and School Librarian Certificates, with changes to the proposed text as published in the November 10, 2000, issue of the *Texas Register* (25 TexReg 11221).

The section is being adopted with a change to the table regarding "School Librarian". This term was inadvertently dropped from the proposed publication on November 10, 2000 issue of the *Texas Register* (25 TexReg 11221).

The adopted amendments to §230.601(f) add the terms "School Counselor" and "School Librarian" to the school assignment criteria table. The Board has contemporaneously adopted rules establishing the new School Counselor and School Librarian certificates at 19 Texas Administrative Code, §§239.1, 239.5, 239.10, 239.15, 239.20, 239.25, 239.30, 239.40, 239.45, 239.50, 239.55, 239.60, 239.65, and 239.70.

No comments were received during the statutory period for public comment following publication of the notice of the proposed amendments in the *Texas Register*.

Because no comments were received during the statutory comment period, the agency makes no response under this part of the reasoned justification.

The amendments relating to assignment criteria for the new School Counselor and School Librarian certificates are adopted under the authority of the following sections of the Texas Education Code: §21.041(b)(1), which requires the Board to propose rules that provide for the general regulation of educators and the general administration of Chapter 21, Subchapter B, of the Education Code; and §21.041(b)(2), which requires the Board to specify the classes of certificates to be issued.

§230.601. *Assignment of Public School Personnel.*

(a) An individual who holds a valid certificate based on successful completion of the appropriate examination requirements specified in this Chapter, met the assignment requirements in effect for a subject, and was assigned to teach that subject before September 1, 1989, shall remain eligible to teach the subject. An individual who met the assignment requirements and was assigned to teach reading improvement, reading, or advanced reading before September 1, 1990, shall remain eligible to teach that subject.

(b) The preparation of teachers assigned to Grades 6-8, which are organized on a self-contained basis, shall comply with the standards for elementary teachers. A self-contained class shall be defined as a class that is taught by one teacher for at least 50% of the school day.

(c) An elementary certificate may be appropriate for teaching high school students if the level of instruction is comparable to that in elementary grades. When such an assignment is made, course outlines must be maintained in the school district files.

(d) All professional personnel employed in federally funded programs and innovative programs must have the qualifications and meet the assignment requirements specified in subsection (f) of this section.

(e) The assignment requirements in this subchapter apply to substitute teachers. If a school district must employ substitute teachers who are not certified, a list of the substitute teachers shall be retained in the school district files.

(f) A public school employee must have the appropriate credentials for his or her current assignment specified in the charts in this section, unless the appropriate permit has been issued under Subchapter Q of this chapter (relating to Permits).
Figure: 19 TAC §230.601(f)

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 January 3, 2001.

TRD-200100054

Pamela B. Tackett

Executive Director

State Board for Educator Certification

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Proposal publication date: November 10, 2000

For further information, please call: (512) 469-3011



CHAPTER 232. GENERAL REQUIREMENTS
APPLICABLE TO ALL CERTIFICATES ISSUED
SUBCHAPTER M. TYPES AND CLASSES OF
CERTIFICATES ISSUED

19 TAC §232.510

On October 6, 2000, the State Board for Educator Certification (SBEC) adopted an amendment to 19 Texas Administrative Code §232.510(b)(5), relating to designation of the new School Librarian Certificate as a class of certificate, without changes to the proposed text published in the November 10, 2000, issue of the *Texas Register* (25 TexReg 11222).

The adopted amendment to §232.510(b)(5) replaces the superseded term "learning resource specialist" with its replacement "school librarian" as a class of certificate. The Board has contemporaneously adopted rules establishing the new School Librarian certificate at 19 Texas Administrative Code, §§239.40, 239.45, 239.50, 239.55, 239.60, 239.65, and 239.70.

No comments were received during the statutory period for public comment following publication of the notice of the proposed amendments in the *Texas Register*.

Because no comments were received during the statutory comment period, the agency makes no response under this part of the reasoned justification.

The amendment establishing the new School Librarian certificate as a class of certificates was adopted under the authority of Texas Education Code, § 21.041(b)(2), which requires the Board to specify the classes of certificates to be issued.

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 January 3, 2001.

TRD-200100055

Pamela B. Tackett
Executive Director

State Board for Educator Certification

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Proposal publication date: November 10, 2000

For further information, please call: (512) 469-3011



CHAPTER 239. STUDENT SERVICES
CERTIFICATES
SUBCHAPTER A. SCHOOL COUNSELOR
CERTIFICATE

**19 TAC §§239.1, 239.5, 239.10, 239.15, 239.20, 239.25,
239.30**

On October 6, 2000, the State Board for Educator Certification (SBEC) adopted 19 Texas Administrative Code new §§239.1, 239.5, 239.10, 239.15, 239.20, 239.25, and 239.30, relating to the new School Counselor certificate, without changes to the proposed text as published in the November 10, 2000, issue of the *Texas Register* (25 TexReg 11223).

The proposed new rules and conforming amendments would establish a new School Counselor Certificate. The Board appointed school counselors, school counselor preparation faculty, and school administrators to the Advisory Committee for the Counselor Certificate, which recommended changes to the current counselor certificate. The main recommendations not accepted by the Board were the requirements for a preliminary credential and completion of an induction period before receiving the standard School Counselor certificate. The proposed rule includes comprehensive counseling and teaching standards and requirements that facilitate the achievement of students by being a knowledgeable and skillful resource for the school community. The standards in the rule will be used to develop assessments for initial certification of school counselors. Section 239.30 of the new rules includes transition language that will supercede various rules regarding the certification of the counselors once the new requirements become effective.

No comments were received during the statutory period for public comment following publication of the notice of the proposed amendments in the *Texas Register*.

Because no comments were received during the statutory comment period, the agency makes no response under this part of the reasoned justification.

The new rules relating to the establishment of the new School Counselor certificate are adopted under the authority of the following sections of the Texas Education Code: §21.040(4), which requires the Board to appoint for each class of educator certificate an advisory committee composed of members of that class to recommend standards for that class to the Board; §21.041(b)(2)-(4), which requires the Board to specify the classes of certificates to be issued, specify the period of validity for each class of educator certificate, and specify requirements for the issuance and renewal of an educator certificate; § 21.048, which requires the Board to propose rules prescribing a comprehensive examination for the School Counselor certificate (for such examination the standards set out in the rules will be used to develop), and §21.054(a), which requires the Board to establish a process for identifying continuing education courses and programs that fulfill continuing education requirements.

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 January 3, 2001.

TRD-200100056

Pamela B. Tackett
Executive Director

State Board for Educator Certification

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For further information, please call: (512) 469-3011



SUBCHAPTER B. SCHOOL LIBRARIAN
CERTIFICATE

**19 TAC §§239.40, 239.45, 239.50, 239.55, 239.60, 239.65,
239.70**

On October 6, 2000, the State Board for Educator Certification (SBEC) adopted 19 Texas Administrative Code new §§239.40,

239.45, 239.50, 239.55, 239.60, 239.65, and 239.70, relating to the new School Counselor certificate, without changes to the proposed text as published in the November 10, 2000, issue of the *Texas Register* (25 TexReg 11226).

The adopted new rules establish a new School Librarian Certificate. The Board appointed school librarians, school librarian preparation faculty, and school administrators to the Advisory Committee for the Learning Resources Certificate, which recommended changes to the current learning resources (librarian) certificate. The main recommendations not accepted by the Board were the requirements for a preliminary credential and completion of an induction period before receiving the standard School Librarian certificate. The proposed rule includes comprehensive librarian and teaching standards and requirements that facilitate the achievement of students by being a knowledgeable and skillful resource for the school community. The standards in the rule will be used to develop assessments for initial certification of school librarians. Section 239.70 of the new rules includes transition language that will supercede various rules regarding the certification of the librarians once the new requirements become effective.

No comments were received during the statutory period for public comment following publication of the notice of the proposed amendments in the *Texas Register*.

Because no comments were received during the statutory comment period, the agency makes no response under this part of the reasoned justification.

The new rules relating to the establishment of the new School Librarian certificate are adopted under the authority of the following sections of the Texas Education Code: § 21.040(4), which requires the Board to appoint for each class of educator certificate an advisory committee composed of members of that class to recommend standards for that class to the Board; §21.041(b)(2)-(4), which requires the Board to specify the classes of certificates to be issued, specify the period of validity for each class of educator certificate, and specify requirements for the issuance and renewal of an educator certificate; § 21.048, which requires the Board to propose rules prescribing a comprehensive examination for the School Counselor certificate (for such examination the standards set out in the rules will be used to develop), and §21.054(a), which requires the Board to establish a process for identifying continuing education courses and programs that fulfill continuing education requirements.

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 January 3, 2001.

TRD-200100057

Pamela B. Tackett

Executive Director

State Board for Educator Certification

Effective date: January 23, 2001

Proposal publication date: November 10, 2000

For further information, please call: (512) 469-3011



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 3. TEXAS YOUTH COMMISSION

CHAPTER 81. INTERACTION WITH THE PUBLIC

37 TAC §81.34

The Texas Youth Commission (TYC) adopts new §81.34, concerning Notice of Youth Confessions of Child Abuse, with changes to the proposed text as published in the November 3, 2000 issue of the *Texas Register* (25 TexReg 10886). Changes to the proposed text consist of addressing recommendations from the Texas Department of Protective and Regulatory Services. The recommendation was to state that when the alleged victim is in the TYC youth's same household, the possible abuse or neglect will be reported to DPRS regardless of when it is alleged to have occurred or whether the youth is currently considered a high-risk to the victim. This child abuse reporting rule is applicable only to youth in TYC residential programs who confess child abuse outside a TYC residential program. A 48-hour time limit is established for reporting the youth confessions. Whenever possible, first-hand information regarding the youth's confession will be reported to DPRS. Other changes included specifying the appropriate supervisor would be notified of the alleged abuse and would be responsible for filing a report.

The justification for the new rule is to comply with Chapter 261 of the Texas Family Code that requires any person having cause to believe that a child has been abused or neglected by any person (including a child) report it to the appropriate agency.

The new rule will function in accordance with the Texas Family Code.

Comments were received regarding adoption of the new rule. The comments made by the Department of Protective and Regulatory Services was adopted as recommended.

The new rule is adopted under the Human Resources Code, §61.034, which provides the Texas Youth Commission with the authority to adopt policies and make rules appropriate to the proper accomplishment of its functions.

The adopted rule implements the Human Resource Code, §61.034.

§81.34. Notice of Youth Confessions of Child Abuse.

(a) Purpose. The purpose of this rule is to provide guidelines according to the Texas Family Code (TFC), chapter 261, Subchapter B, for Texas Youth Commission (TYC) supervisors to report information given to them by TYC staff members or volunteers regarding TYC youth confessing, while in any TYC operated facility or contract care program, to abusing or neglecting a child or children some time in the past when they were not in a TYC operated facility or contract care program.

(b) Applicability. This rule does not apply to reporting suspected abuse or neglect of youth in TYC programs. See (GAP) §93.33(d) of this title (relating to Alleged Mistreatment). See Chapter 261, Subchapter B, Family Code, for reporting confessions of TYC youth who are released under TYC supervision that they abused or neglected children when they were not in a TYC operated facility or contract care program. Such reports must be made within 48 hours to the Department of Protective and Regulatory Services (DPRS) or to a state or local law enforcement agency.

(c) Reporting. A TYC staff member or volunteer who has cause to believe, based on information provided by a youth in a TYC

operated facility or contract care program, that the youth is responsible for abusing or neglecting a child or children some time in the past when the youth was not in a TYC operated facility or contract care program must report that information, not later than the 48th hour after the hour the staff member first receives it, to DPRS, to a state or local law enforcement agency, or to the person's appropriate TYC supervisor.

(d) Referral of Report for Investigation.

(1) If the victim in a report made pursuant to subsection (c) is a member of the youth's same household, the appropriate TYC supervisor shall refer the report immediately to DPRS or to the appropriate state or local law enforcement agency for investigation if:

(A) the report is of injuries inflicted at any time that required prompt medical attention or hospitalization and that endangered the alleged victim's life or could have caused permanent functional impairment or disfigurement; or

(B) the report is of oral, anal, or genital intercourse that occurred at any time.

(2) If the victim in a report made pursuant to subsection (c) is not a member of the youth's same household and the youth is considered a high risk, the appropriate TYC supervisor shall refer the report immediately to DPRS or to the appropriate state or local law enforcement agency for investigation if:

(A) the report is of injuries inflicted within the previous twelve months that required prompt medical attention or hospitalization and that endangered the alleged victim's life or could have caused permanent functional impairment or disfigurement; or

(B) the report is of oral, anal, or genital intercourse that occurred within the previous twelve months and that was without consent under the law.

(3) For the purposes of this subsection, a youth is considered a high risk if the report made pursuant to subsection (c), considered in the context of the TYC youth's current circumstances, presents a real and significant likelihood that the alleged victim (if the alleged victim is still a child at the time of the report) will be abused or neglected by the TYC youth in the foreseeable future.

(e) Content of Referred Report. A report referred to DPRS or to an appropriate state or local law enforcement agency pursuant to subsection (d) shall include the most accurate and detailed information possible at the time the report is made. Whenever possible, a first-hand account should be provided directly by the person to whom the youth confessed.

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 January 2, 2001.

TRD-200100017

Steve Robinson
Executive Director

Texas Youth Commission

Effective date: January 31, 2001

Proposal publication date: November 3, 2000

For further information, please call: (512) 424-6301



CHAPTER 85. ADMISSION AND PLACEMENT SUBCHAPTER B. PLACEMENT PLANNING

37 TAC §85.23

The Texas Youth Commission (TYC) adopts an amendment to §85.23, concerning Classification, without changes to the proposed text as published in the August 18, 2000 issue of the *Texas Register* (25 TexReg 8006).

The justification for amending the section is to ensure that sentenced offenders are not released from confinement except under rules controlling such release.

The amendment added the penal code offense 22.11 Harassment by Persons in Certain Correctional Facilities, also known as *chunking*, and 22.105 Coercing, Soliciting or Inducting Gang Membership, as a type B violent offense. The classification, type B violent offender is a TYC administratively assigned classification based on a youth's committing or classifying offense. A twelve month minimum length of stay in a high restriction facility is attached when a youth is classified as a type B violent offender.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, §61.75, which provides the Texas Youth Commission with the authority to determine the treatment of youth.

The adopted rule implements the Human Resource Code, §61.034.

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 January 2, 2001.

TRD-200100012

Steve Robinson
Executive Director

Texas Youth Commission

Effective date: January 31, 2001

Proposal publication date: August 18, 2000

For further information, please call: (512) 424-6301



37 TAC §85.39, §85.41

The Texas Youth Commission (TYC) adopts amendments to §85.39, concerning Temporary Admission Awaiting Permanent and §85.41, concerning Temporary Admission Awaiting Transportation, without changes to the proposed text as published in the December 1, 2000 issue of the *Texas Register* (25 TexReg 11901).

The justification for amending both sections allows the agency to implement procedures for segregating TYC youth in a unit within an institution. These two rules are amended to use the language of the new segregation system, but are not substantively changed.

The amendments to both sections will change references to the term temporary admission to distinguish between temporary admission and institution detention.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Human Resources Code, §61.075, which provides the Texas Youth Commission

with the authority to order the child's confinement under conditions it believes best designed for the child's welfare and the interests of the public.

The adopted rules implements the Human Resource Code, §61.034.

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 January 2, 2001.

TRD-200100005

Steve Robinson

Executive Director

Texas Youth Commission

Effective date: January 31, 2001

Proposal publication date: December 1, 2000

For further information, please call: (512) 424-6301



37 TAC §85.45

The Texas Youth Commission (TYC) adopts an amendment to §85.45, concerning Parole of Undocumented Foreign Nationals, without changes to the proposed text as published in the December 8, 2000, issue of the *Texas Register* (25 TexReg 12155).

The justification for amending the section is to require residential programs to notify the Immigration and Naturalization Service (INS) of the presence of an undocumented foreign national in a facility. An undocumented foreign national will not be placed in a minimum restriction parole location until a copy of the referral letter from the facility to the INS has been received by the parole officer responsible for the youth. Requirements also include provisions for placement if INS does not deport the youth and for supervision to be provided.

The amendment establishes procedures and criteria for notifying INS of the presence of an undocumented foreign national youth in an operated facility or for parole release.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, §61.081, which provides the Texas Youth Commission with the authority to release under supervision any child in its custody.

The adopted rule implements the Human Resource Code, §61.034.

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 January 8, 2001.

TRD-200100087

Steve Robinson

Executive Director

Texas Youth Commission

Effective date: January 31, 2001

Proposal publication date: December 8, 2000

For further information, please call: (512) 424-6301

CHAPTER 87. TREATMENT

SUBCHAPTER A. PROGRAM PLANNING

37 TAC §87.21, §87.23

The Texas Youth Commission (TYC) adopts an amendment to §87.21, concerning Independent Living Preparation, and to §87.23, concerning Subsidized Independent Living with changes to the proposed text as published in the December 8, 2000, issue of the *Texas Register* (25 TexReg 12156). Changes to the proposed texts consist of correction of the wording to make the text a complete sentence and other minor changes.

The justification for amending the sections are defining the compliance standards by which TYC will provide monetary support for youth becoming independent.

The amendments will define the guidelines for TYC youth to receive financial assistance.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Human Resources Code, § 61.076, which provides the Texas Youth Commission with the authority to require the youth to participate in treatment that will allow for a return to the community and be a productive citizen.

The adopted rules implements the Human Resource Code, §61.034.

§87.21. *Independent Living Preparation.*

(a) Purpose. The purpose of this rule is to establish criteria and procedures by which the Texas Youth Commission (TYC) provides for independent living preparation to give youth the skills and practical experience necessary to attain self-sufficiency.

(b) Completion of the independent living preparation program is a prerequisite for entering the subsidized independent living program. See (GAP) §87.23 of this title (relating to Subsidized Independent Living).

(c) Requirements for Admission. Youth admitted to an independent living preparation program shall meet the following criteria:

(1) youth must be at least 16.10 years of age, or if not, the youth must be expected to be at least 17 years of age at the projected completion date;

(2) has had no incidents of assault within 60 days prior to admission;

(3) has had no escapes or attempted escapes within 30 days prior to admission; and

(4) has had no suicidal ideation within six months prior to admission.

(d) Program Requirements. Youth shall have successfully completed the independent living preparation program when the minimum performance requirements, as outlined below have been met. The Individual Case Plan (ICP) is developed and maintained according to the rules in (GAP) §87.1 of this title (relating to Case Planning).

(e) Program Completion Criteria.

(1) A youth ever classified as type A violent offender, type B violent offender, chronic serious offender, firearms offender, or sentenced offender shall have successfully completed an independent living preparation program and therefore is eligible for independent living subsidy when he/she has:

- (A) completed the eight independent living skills modules demonstrated by a score of 70 or above on the quizzes;
- (B) completed 120 hours of community service;
- (C) maintained employment for 120 consecutive days;
- (D) a minimum of \$900 in a savings account.

(2) A youth ever classified as a controlled substance dealer shall have successfully completed an independent living preparation program and therefore is eligible for independent living subsidy when he/she has:

- (A) completed the eight independent living skills modules demonstrated by a score of 70 or above on the quizzes;
- (B) completed 100 hours of community service;
- (C) maintained employment for 90 consecutive days;
- (D) a minimum of \$650 in a savings account.

(3) A youth ever classified as a general offender or a violator of CINS probation shall have successfully completed an independent living preparation program and therefore is eligible for independent living subsidy when he/she has:

- (A) completed the eight independent living skills modules demonstrated by a score of 70 or above on the quizzes;
- (B) completed 80 hours of community service;
- (C) maintained employment for 60 consecutive days;
- (D) a minimum of \$650 in a savings account.

(4) A youth may complete the requirements listed above while in a non-residential location with the assistance of the assigned primary service worker (PSW).

§87.23. *Subsidized Independent Living.*

(a) Purpose. The purpose of this rule is to establish procedures and controls under which the Texas Youth Commission (TYC) provides qualified youth with financially subsidized independent living support for a limited period of time as necessary for youth to attain self-sufficiency.

(b) Requirements for Subsidy. Youth shall not qualify for financial subsidies unless he/she has successfully completed an independent living preparation program according to the rules in (GAP) §87.21 of this title (relating to Independent Living Preparation).

(c) Subsidy Description.

(1) Youth eligible to receive subsidy assistance may do so for a period of six months. Any extensions beyond six months requires the approval of the administrator of halfway houses and independent living.

(2) Subsidy shall be limited to the following items:

- (A) rent;
- (B) household goods;
- (C) food;
- (D) transportation;
- (E) clothing (employment related);

- (F) emergency medical;
- (G) temporary housing;
- (H) counseling;
- (I) college expenses; and
- (J) technical school/training.

(3) Exceptions to the youth subsidy assistance list require the approval of the administrator of halfway houses and independent living.

(d) Program Requirements.

(1) Supervision.

(A) Youth are on intensive parole supervision levels while receiving a rent subsidy.

(B) The primary service worker (PSW) shall have access to a youth's living quarters according to the rent subsidy status.

(i) Youth receiving a rent subsidy are required to provide a key to his or her living quarters to the PSW supervising the youth's case. The PSW is allowed to enter his or her living quarters and search the premises for contraband with or without the youth present.

(ii) After TYC rent subsidy has ceased, the youth is required to provide access to his/her living quarters to the PSW for purposes of assuring compliance with release conditions. Entrance to the living quarters will take place when youth is present, under normal circumstances.

(2) Program Completion. Youth are considered to have successfully completed independent living subsidy assistance when all the requirements outlined in the Independent Living Subsidy Program Contract have been met.

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

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Texas Youth Commission

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SUBCHAPTER B. SPECIAL NEEDS OFFENDER PROGRAMS

37 TAC §87.67

The Texas Youth Commission (TYC) adopts an amendment to §87.67, concerning Corsicana Stabilization Unit, without changes to the proposed text as published in the December 1, 2000 issue of the *Texas Register* (25 TexReg 11902).

The justification for amending the section is clarifying the admission process to make all referrals directly to the stabilization unit admissions panel rather than involve the Centralized Placement Unit (CSU) in the process.

The amendment will provide criteria for the conducting of due process hearings, as well as additions to release and transition options. Criteria for releases must be consistent with admission criteria and institutional youth will be transitioned to a treatment team.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, §61.076, which provides the Texas Youth Commission with the authority to provide specialized treatment for emotionally disturbed youth in providing specialized psychiatric care.

The adopted rule implements the Human Resource Code, §61.034.

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

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CHAPTER 91. PROGRAM SERVICES

SUBCHAPTER A. BASIC SERVICES

37 TAC §91.9

The Texas Youth Commission (TYC) adopts new §91.9, concerning Youth Personal Property: Independent Living, with changes to the proposed text as published in the December 8, 2000, issue of the *Texas Register* (25 TexReg 12158). Changes to the proposed text consist of restructuring section (f) moving subsection (2) to (3) and making subsection (3) now (2).

The justification for the new rule is to ensure that TYC is not liable for a youth's property and eliminates property disputes.

The new rule will establish TYC's responsibility regarding a youth's personal property while in an independent living setting outside the confines of a TYC operated or contract facility.

No comments were received regarding adoption of the new rule.

The new rule is adopted under the Human Resources Code, §61.076, which provides the Texas Youth Commission with the authority to require modes of life and conduct that are best adapted to fit the child to return to full liberty in the community.

The adopted rule implements the Human Resource Code, §61.034.

§91.9. Youth Personal Property: Independent Living.

(a) Purpose. The purpose of this section is to establish the Texas Youth Commission's (TYC's) responsibility regarding a youth's personal property while the youth is assigned to an independent living location.

(b) Applicability.

(1) Rules governing youth and TYC responsibility for a youth's personal property while the youth is assigned to a TYC residential facility can be found in (GAP) §91.7 of this title (relating to Youth Personal Property).

(2) Rules governing search of TYC youth and personal property can be found in (GAP) §97.9 of this title (relating to Search).

(3) Contraband is disposed of according to (GAP) §97.11 of this title (relating to Control of Unauthorized Items Seized).

(c) TYC is neither liable for nor will replace lost, stolen, or damaged personal items of youth assigned to an independent living location.

(d) TYC youth placed in an independent living location will be asked to designate a responsible contact person to be contacted in the event of revocation or unauthorized absence.

(e) TYC staff may conduct a search of the youth's room and/or dwelling for the purpose of finding and seizing contraband. Property items considered to be contraband by TYC, but not illegal, will be sent to the youth's family or provided contact person.

(f) Reimbursement.

(1) TYC will not reimburse youth for personal property that:

(A) the youth has abandoned while in an independent living location; or

(B) the youth's contact person has failed to claim and transport when youth is revoked or returned to a higher restriction placement from an independent living location; or

(C) is lost or damaged in transport via mail or postal delivery.

(2) Youth may request reimbursement for personal possessions lost or damaged due to staff negligence. No reimbursement will be made unless there is sufficient evidence to indicate that the loss was the result of staff negligence.

(3) No reimbursement shall exceed \$100 per loss unless approval is obtained from the contract program administrator (for contract programs) or from the appropriate central office director of juvenile corrections.

(4) In a TYC contracted program, independent living funds may be expended for replacement of items and/or property with the approval from the appropriate central office director of juvenile corrections.

(g) Authorized Location Change. TYC youth placed on the independent living program in the community are responsible for moving his or her personal property and clothing to any other approved location. Any personal property or clothing a youth possesses will move with the youth to each assigned placement.

(h) Unauthorized Absence.

(1) TYC is not responsible for collection and storage of items a youth has abandoned while at an independent living location.

(2) A youth who has absconded from an independent living location i.e. apartment, duplex, dormitory, etc. shall be considered to have abandoned his property, including furniture. Any personal items and/or property that remain in the independent living location when the youth is no longer present due to unauthorized absence the primary service worker (PSW) determines:

(A) If rent or damages are owed to the lessor, the property will be used toward payment of that debt according to the Texas Apartment Association (TAA) lease.

(B) If there are any remaining items and/or property, the PSW will notify the youth's contact person within 72 hours to claim the youth's items and/or property.

(i) The notification will include the location of the youth's personal property and clothing.

(ii) The contact person will be allowed ten (10) days from the time of being notified by the PSW to arrange for removal and transportation of the items and/or property at the contact person's expense.

(C) If the remaining items and/or property has not been claimed by the youth's contact person, the items and/or property will be reassigned to another TYC youth by the PSW. If any items and/or property remains, it can then be donated to charity. If charity refuses any remaining items and/or property, it can then be discarded.

(i) Revocation. When a youth's parole is revoked the youth is returned to a higher restriction program from an independent living location. Any personal items and/or property that remain in the independent living location when the youth is no longer present due to revocation, the (PSW) determines:

(1) If rent or damages are owed to the lessor, the property will be used toward payment of that debt according to the TAA lease.

(2) If there are any remaining items and/or property, the PSW will notify the youth's contact person within 72 hours to claim the youth's items and/or property.

(A) The notification will include the location of the youth's personal property and clothing.

(B) The contact person will be allowed ten (10) days from the time of being notified by the PSW to arrange for removal and transportation of the items and/or property at the contact person's expense.

(3) If the remaining items and/or property have not been claimed by the youth's contact person, the items and/or property will be reassigned to another TYC youth by the PSW. If any items and/or property remain, it can then be donated to charity. If charity refuses any remaining items and/or property, it can then be discarded.

(j) Discharge. A youth who has been discharged from TYC while assigned an independent living code or who has completed an independent living program and wishes to move to another independent living location is responsible for transportation of his personal property.

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

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SUBCHAPTER D. HEALTH CARE SERVICES

37 TAC §91.99

The Texas Youth Commission (TYC) adopts new §91.99, concerning Medical Admissions for Jefferson County State School, without changes to the proposed text as published in the December 8, 2000, issue of the *Texas Register* (25 TexReg 12159).

The justification for the new rule is that it establish criteria and procedures for medical admissions to the Jefferson County State School Adolescent Recovery/Rehabilitation Center (JARRC) for more efficient delivery of health care. Program requirements have been enhanced to address specific medical issues and release criteria which includes medical discharge plans and follow-up with physicians where the youth will be moved.

The new rule will increase specialized services to TYC youth with chronic conditions who need more care in managing their disease, youth whose chronic condition is uncontrolled, or youth whose condition requires frequent medical monitoring and would be appropriate referrals to the JARRC. Youth who require more frequent care due to an injury or post-operative care are also acceptable referrals as well as youth requiring frequent trips to the University of Texas Medical Branch.

No comments were received regarding adoption of the new rule.

The new rule is adopted under the Human Resources Code, § 61.076, which provides the Texas Youth Commission with the authority to provide the type of treatment necessary for the well being of youth assigned to the state's care.

The adopted rule implements the Human Resource Code, §61.034.

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

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CHAPTER 93. YOUTH RIGHTS AND REMEDIES

37 TAC §93.31

The Texas Youth Commission (TYC) adopts an amendment to §93.31, concerning Complaint Resolution System, without changes to the proposed text as published in the December 8, 2000, issue of the *Texas Register* (25 TexReg 12161).

The justification for amending the section is that it allows facilities to establish a group of persons proficient in other languages to assist in translating and resolving youth complaints that are not made in English. If there is no one available to translate the youth's complaint, outside means will be used to translate the complaint, reach a resolution, and translate the resolution into the youth's native language.

The amendment will allow youth with limited English proficiency to file complaints in their native language.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, §61.045, which provides the Texas Youth Commission with the authority to meet the specific needs of the youth in its care.

The adopted rule implements the Human Resource Code, §61.034.

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

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37 TAC §93.33

The Texas Youth Commission (TYC) adopts an amendment to §93.33, concerning Alleged Mistreatment, without changes to the proposed text as published in the December 8, 2000, issue of the *Texas Register* (25 TexReg 12162).

The justification for amending the section is that it provide better notification to parents and guardians of youths' serious investigations as well as allowing employees faced with disciplinary action to review documents they would like to dispute.

The amendment will now require the local administrator to notify the youth's parent or guardian that a category 1 alleged mistreatment investigation is being conducted as well as notify the parent or guardian of the outcome.

No comments were received regarding adoption of the new rule.

The new rule is adopted under the Human Resources Code, §61.045, which provides the Texas Youth Commission with the authority to have general charge of and be responsible for the welfare, custody and rehabilitation of the youth committed to its care.

The adopted rule implements the Human Resource Code, §61.034.

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

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37 TAC §93.53

The Texas Youth Commission (TYC) adopts an amendment to §93.53, concerning Appeal to Executive Director, without changes to the proposed text as published in the December 1, 2000 issue of the *Texas Register* (25 TexReg 11904).

The justification for amending the section is that it will add five decisions that a youth can appeal to the Executive Director regarding assignment in the behavior management program length of stay and extension, assignment to the aggression management program length of stay as a result of an alleged mistreatment investigation, a decision from a level IV hearing, and a decision from a mental health status review.

The amendment will provide five additional decisions affecting TYC youth to appeal directly to the Executive Director to ensure that youth rights are met.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, §61.045, which provides the Texas Youth Commission with the authority and responsibility for the welfare, custody, and rehabilitation of the children in a school, facility, or program operated or funded by the commission.

The adopted rule implements the Human Resource Code, §61.034.

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

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CHAPTER 95. YOUTH DISCIPLINE

SUBCHAPTER A. DISCIPLINARY PRACTICES

37 TAC §§95.1, 95.3, 95.7, 95.9, 95.11, 95.15, 95.17, 95.21

The Texas Youth Commission (TYC) adopts amendments to §95.1, concerning Discipline System Overview; to §95.3, concerning Rules of Conduct, Contraband, and Dress; to §95.9, concerning Parole Revocation Consequences; to §95.11, concerning Disciplinary Transfer/Assigned Minimum Length of Stay Consequence; to §95.15, concerning Parole Minor Disciplinary Consequences; to §95.21, concerning Aggression Management Program, without changes to the proposed text as published in the December 1, 2000, issue of the *Texas Register* (25 TexReg 11905). Adopts amendments to §95.7, concerning Reclassification Consequence and new to §95.17, concerning Disciplinary Segregation Program, with changes to the proposed text as published in the December 1, 2000, issue of the *Texas Register* (25 TexReg 11905). Changes to the proposed text of §95.7, concerning Reclassification Consequence consist of only minor sentence structure changes. Changes to the proposed text of §95.17, concerning Disciplinary Segregation Program consist of a change in the title of the rule from Disciplinary

Segregation Program to Behavior Management Program and minor grammatical changes.

The justification for amending the section is to bring all policies related to segregation and due process into alignment. The new rule is designed to increase accountability for youth as well as increase due process requirements for imposing sanctions.

The amendments will clarify the practices used in disciplining youth. The new rule will enhance segregation program services for youth in an institutional setting.

No comments were received regarding adoption of the amendments and new rule.

The amendments and the new rule are adopted under the Human Resources Code, §61.075, which provides the Texas Youth Commission with the authority to permit the youth under jurisdiction, liberty under supervision, order the youth's confinement under conditions it believes best designed for the youth's welfare and interest of the public, order re-confinement or renewed release, revoke or modify conditions under order of the youth commission.

The adopted rules implement the Human Resource Code, §61.034.

§95.7. Reclassification Consequence.

(a) Purpose. The purpose of this rule is to provide for the reclassification of a youth as a disciplinary consequence for commission of a high risk offense. Reclassification is considered a major consequence.

(b) Applicability.

(1) The due process necessary to effect this rule is found in (GAP) §95.51 of this title (relating to Level I Hearing Procedure).

(2) Additional procedures and restrictions are applied prior to any movement of a sentenced offender youth. See (GAP) §85.33 of this title (relating to Program Completion and Movement of Sentenced Offenders). Also see (GAP) §85.37 of this title (relating to Sentenced Offender Disposition).

(c) Explanation of Terms Used. A high risk offense - is any major rule violation which may result in a classification other than general offender or violator of CINS probation.

(d) Reclassification Criteria and Disposition.

(1) If a high risk offense is proved, the youth will be assigned the appropriate classification for that offense. A youth may be reclassified to the classification appropriate to the offense, regardless of the current classification (except sentenced offenders).

(2) If a high risk offense is proved and extenuating circumstances are found incident to the offense, the youth will be assigned a classification which is appropriate under the rules for waiver of classification. Extenuating circumstances are defined in (GAP) §85.23 of this title (relating to Classification).

(3) If a youth on parole status is reclassified for a high risk offense, the youth's parole is revoked and youth is placed in high restriction.

(4) If a sentenced offender youth is found to have committed a high risk offense, he/she may be assigned to any appropriate placement. The appropriate placement is selected according to the totality of the circumstances, including the youth's age, sentencing offense, length of time and progress in TYC custody, and the nature of the misconduct for which the youth is being disciplined.

(e) Additional Disposition Options. If a youth currently assigned to a TYC operated institution is found in a level I hearing to have engaged in a high risk offense. Other dispositions may be made by the hearing examiner, but only if such conduct meets the criteria and is specifically requested in the initial hearing request for the level I reclassification hearing. If extenuating circumstances are found by the hearing examiner according to the level I hearing, other eligible dispositions may be assessed if the hearing examiner decides that such dispositions are appropriate despite the finding of extenuation to the reclassifying conduct. Disposition options are as follows:

(1) Aggression Management Program. A placement in the Aggression Management Program (AMP) may be requested for a youth who is currently assigned to a TYC operated institution under (GAP) §95.21 of this title (relating to Aggression Management Program). All policy and program requirements of (GAP) §95.21 will apply to the assignment in AMP.

(2) Behavior Management Program.

(A) A placement in the Behavior Management Program (BMP) may be requested for certain youth under (GAP) §95.17 of this title (relating to Behavior Management Program). All policy and program requirements of (GAP) §95.17, Behavior Management Program will apply to the assignment in BMP.

(B) A maximum length of stay in BMP shall run concurrently with any new reclassification minimum length of stay.

(f) Restrictions.

(1) A level I hearing is required in order to reclassify a youth.

(2) When local authorities make a written request to defer an allegation to their jurisdiction for prosecution, TYC will cancel the directive, unless a due process hearing will be scheduled on other allegation(s). A due process hearing on any allegation(s) shall be scheduled within seven days (excluding weekends and holidays).

§95.17. Behavior Management Program.

(a) Purpose. The purpose of this rule is to provide for a Texas Youth Commission (TYC) youth, assigned to a TYC operated institution, to be placed in the Behavior Management Program (BMP) and assigned a 90-day disciplinary maximum length of stay as a consequence for behavior that violates rules. Assurance that the youth is sufficiently in control to be returned to general population is affirmed by compliance with the BMP. Disciplinary transfer and segregation with an assigned maximum length of stay is a major consequence.

(b) Applicability. This rule does not apply to:

(1) the use of the same or adjacent space when used specifically as security intake. See (GAP) §97.37 of this title (relating to Security Intake).

(2) the use of the same or adjacent space when used specifically as a security program. See (GAP) §97.40 of this title (relating to Security Program).

(3) the use of the same or adjacent space when used specifically as detention in a TYC institution. See (GAP) §97.43 of this title (relating to Institution Detention Program).

(4) the use of same or adjacent space when used specifically as temporary admission. See (GAP) §85.41 of this title (relating to Temporary Admission Awaiting Transportation).

(5) the aggression management program. See (GAP) §95.21 of this title (relating to Aggression Management Program).

(c) Explanation of Terms Used.

(1) Special Services Panel - A panel comprised of the director of clinical services, a program administrator, and a caseworker, which reviews the recommendation for admission to BMP made by the youth's caseworker.

(2) Program Review Panel - A three-person panel chaired by the assistant superintendent, which reviews BMP extension requests.

(3) Individual Behavior Management Plan - A plan developed for each youth in the BMP which consists of objectives which address the behavior or cluster of behaviors that prevent the youth from successfully participating in regular programming.

(4) Aggression Management Program (AMP) - A program designed for removing youth from the general population for dangerously aggressive behavior.

(5) Admissions, Review, and Dismissal (ARD) committee - A committee that makes decisions on educational matters of special education students.

(6) Individual Education Plan (IEP) - The prescribed plan by which education will be delivered to a special education student.

(d) Contract Care Program Restriction. TYC contract programs shall not develop a BMP having a specific disciplinary length of stay.

(e) Program Eligibility and Admission.

(1) Eligibility.

(A) Youth eligible for the BMP are youth who knowingly engage in, aid, or abet someone else to engage in one or more of the following behaviors:

(i) willful destruction of property of \$100 or more;

or

(ii) assault resulting in bodily injury; or

(iii) escape or attempted escape as defined in (GAP) §97.29 of this title (relating to Escape/Abscondence and Apprehension); or

(iv) intentionally participating in riotous conduct as defined in (GAP) §97.27 of this title (relating to Riot Control); or

(v) engaging in inappropriate sexual contact, sexual assault, or aggravated sexual assault; or

(vi) possessing any item defined as a weapon in the Penal Code or threatening others with use of an object which could be used as a weapon; or

(vii) threatening bodily injury to others; or

(viii) possessing a controlled substance; or

(ix) engaging in self-harm; or

(x) chronic and substantial disruption of the routine of the facility program with ten or more security admissions or extensions in a three-month period or five or more security admissions or extensions in a 30-day period, without reduction in the frequency of the disruptive behaviors. Disruptive behavior is behavior, which prevents or significantly interferes with others' ability to participate in scheduled activities and programs.

(B) Referral is made to a Special Services Panel and approved by the assistant superintendent based on a determination that the following criteria have been met:

(i) The youth poses a continuing risk for identified admitting behavior(s); and

(ii) when appropriate, less restrictive methods of documented intervention have failed and are unable to manage the risk; and

(iii) the mental status of the youth is assessed and there are no therapeutic contraindications for admission to the BMP.

(2) Due Process Hearing. If there is a finding of true with no extenuating circumstances in a level II hearing that the youth engaged in one of the behavioral criteria listed in paragraph (1)(A)(i) of this subsection, the youth is admitted to the BMP with an assigned 90-day disciplinary maximum length of stay. See (GAP) §95.51 of this title (relating to Level II Hearing Procedure).

(3) Appeal. The youth shall be informed of his/her right to appeal to the executive director. See (GAP) §93.53 of this title (relating to Appeal to Executive Director). The pendency of an appeal shall not preclude implementation of the decision.

(4) Dispositions.

(A) Pursuant to a level II hearing herein, certain youth who are assessed a disposition under this rule may also be assigned a disciplinary minimum length of stay disposition but only if criteria have been met and if the youth was given notice of the specific disposition request. All policy and program requirements of (GAP) §95.11 of this title (relating to Disciplinary Transfer/Assigned Minimum Length of Stay Consequence) will apply to the assignment of such.

(B) BMP Placement Pending Assignment to the Aggression Management Program (AMP). If the disposition at the level II hearing held pursuant to this policy also resulted in a placement in an AMP, but bed space is not available in the AMP, the youth may be assigned to a placement in the BMP (at the youth's current placement) pending admission to AMP, but only if criteria for the AMP was proven and the youth was given notice of the specific disposition to AMP. If the youth completes the disciplinary maximum length of stay in the BMP (including the extension) prior to admission to AMP, the youth shall not be admitted to AMP as a result of the conduct determined at the level II hearing that resulted in the placement to BMP.

(5) A BMP length of stay runs concurrently with a youth's classification minimum length of stay, or any disciplinary assigned minimum length of stay.

(6) Families are notified of youth's admission to the BMP within 24 hours of the hearing.

(f) Program Completion.

(1) An Individual Behavior Management Plan must be developed for each youth. The plan will consist of objectives that address the behavior or cluster of behaviors that prevent the youth from successfully participating in regular programming. The plan will be explained to the youth and he/she will sign the plan in acknowledgment.

(2) A youth shall be released when one of the following occurs:

(A) youth has met specific performance objectives on the Individual Behavior Management Plan; or

(B) youth has completed his/her length of stay; or

(C) youth is transferred to the AMP pursuant to section (e)(4) of this section.

(g) Program Extension.

(1) An extension of up to 30 days may be recommended by a Program Review Panel and approved by the superintendent if the following criteria have been met:

(A) youth's behavior does not comply with program; and

(B) an appropriate Individual Behavior Management Plan addressing the non-conforming behaviors of the youth has been developed and implemented; and

(C) the modified behavior management plan can be completed within 30 days; and

(D) the mental status of the youth was assessed and there are no therapeutic contraindications for continued confinement in the BMP.

(2) Reporting. A Program Review Panel Report must be completed and forwarded to the superintendent within 10 working days following the hearing. The report shall include the panel's findings and explanation of the rationale for the findings. If the decision is appealed, the report should be expedited.

(3) Appeal. The youth shall be informed of his/her right to appeal to the executive director. See (GAP) §93.53 of this title (relating to Appeal to Executive Director). The pendency of an appeal shall not preclude implementation of the decision.

(h) Program Requirements.

(1) Individual doors are locked.

(2) All segregation programs will ensure at a minimum the following:

(A) appropriate psychological and medical services;

(B) the same food, including snacks prepared in the same manner as for other youth except for special diets that are prescribed on an individual basis by a physician, dentist or psychiatrist or approved by a chaplain;

(C) one hour of large muscle exercise daily; and

(D) appropriate educational services.

(3) The assistant deputy executive director for juvenile corrections will approve a standardized program and rules for the security unit.

(4) The director of security will post the program schedule and rules of the security unit and ensure the rules are reviewed with and signed by the youth.

(5) Youth will engage in the standardized program and comply with the rules of the security unit, but if programming is not provided, youth may remain on their mattresses during that time.

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SUBCHAPTER B. DUE PROCESS HEARINGS PROCEDURES

37 TAC §§95.51, 95.55, 95.57, 95.59

The Texas Youth Commission (TYC) adopts an amendment to §95.51, concerning Level I Hearing Procedure; and §95.55, concerning Level II Hearing Procedure, without changes to the proposed texts as published in the December 1, 2000 issue of the *Texas Register* (25 TexReg 11910). Adopts an amendment to §95.57, concerning Level III Hearing Procedure; and to §95.59, concerning Level IV Hearing Procedure, with changes to the proposed texts as published in the December 1, 2000 issue of the *Texas Register* (25 TexReg 11910). Changes to the proposed text §95.57 Level III Hearing Procedure consist of minor grammatical changes and an additional provision for the hearing administrator to base a decision upon reasonable grounds. Changes to the proposed text §95.59 Level IV Hearing Procedure consist of minor grammatical changes in the language, making the required time frames consistent with other applicable policy, and adding specific requirements for notification of appeals.

The justification for amending the section is to align all of TYC's due process hearings to coincide with the new segregation policies.

The amendment will create a fair and equitable system of imposing sanctions and ensuring the youth is afforded due process in assigning any form of disciplinary action.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Human Resources Code, §61.075, which provides the Texas Youth Commission with the authority to determine the appropriate types of treatment and sanctions for youth committed to the care custody and control of the Texas Youth Commission.

The adopted rules implement the Human Resource Code, §61.034.

§95.57. Level III Hearing Procedure.

(a) Purpose. The purpose of this rule is to establish a hearing procedure as the appropriate informal due process for immediately imposing disciplinary consequences at the site of the youth's program.

(b) Applicability.

(1) See (GAP) §95.13 of this title (relating to On-Site Disciplinary Consequences); and

(2) When a level III hearing is conducted to determine admission or extension to the security program also see the requirements of (GAP) §97.40 of this title (relating to Security Program).

(c) Prior to assigning an on-site consequence, staff shall follow basic minimum due process procedure to ensure that the youth is aware of the alleged misconduct and the consequence, and is given opportunity to speak on his or her behalf.

(d) To initiate the level III hearing, the youth will be notified orally of the time and date of the hearing, the rule violation(s) and the recommended consequences to be imposed prior to implementing any action.

(e) The youth has the right and will be given the opportunity to speak on his or her behalf regarding alleged misconduct or the appropriateness of the disciplinary measure.

(f) If the level III hearing involves a decision for admission or an extension to the security program the youth will be appointed an advocate.

(g) The administrator may consider any reasonably reliable information in reaching a decision regarding the truth of the youth's alleged misconduct and the appropriateness of the disciplinary consequences.

(h) If the hearing administrator has reasonable grounds to believe the violation occurred, the appropriate disciplinary consequence may be imposed, unless there is a finding of extenuating circumstances to the commission of the violation.

(i) The youth may appeal the disciplinary decision to the appropriate staff or team on grounds that:

- (1) he did not commit the violation as alleged; or
- (2) the disciplinary measure imposed was inappropriate; or
- (3) there were extenuating circumstance to the commission of the violation.

(j) If the disciplinary decision is determined to be inappropriate it will be removed from the youth's behavioral record, and staff or team may determine some form of equitable relief for a youth who has already completed a disciplinary measure and/or has been adversely affected.

§95.59. Level IV Hearing Procedure.

(a) Purpose. The purpose of this rule is to establish a procedure to determine whether justification exists to warrant holding a youth in detention pending a hearing or trial when the hearing or trial cannot be held within ten days of the detention.

(b) Applicability.

(1) The level I due process procedures referred to herein are found in (GAP) §95.51 of this title (relating to Level I Hearing Procedure).

(2) The level II due process procedures referred to herein are found in (GAP) §95.55 of this title (relating to Level II Hearing Procedure).

(c) A detention review hearing procedure (level IV hearing) shall be held to determine whether justification exists to warrant holding a youth in detention pending a hearing or trial when a level I or II hearing or a trial is not held and continued detention is necessary and appropriate based stated criteria in (GAP) §97.41 of this title (relating to Community Detention) or (GAP) §97.43 of this title (relating to Institution Detention Program). The timing of the required due process level IV hearing is related to the facility in which the youth is detained. A detention review hearing will be conducted by TYC staff:

(1) for youth assigned to a TYC institution held in the TYC institution detention program:

(A) on or before 72 hours from admission to the institution detention program; and

(B) within ten working days of the previous detention review hearing.

(2) for a youth held in community detention when the level I or II hearing cannot be held within ten days if the community detention staff does not hold a detention hearing. The hearing will be conducted ten working days from initial detention.

(d) Procedure.

(1) Decision Maker.

(A) A parole supervisor, quality assurance administrator, halfway house superintendent, or an institution superintendent shall appoint a decision maker, who will schedule the hearing.

(B) The decision-maker shall be impartial and shall not have been the person who admitted the youth to the security intake or the institution detention program.

(2) Detention Review Hearings.

(A) The youth has a right and shall be informed of his right to be represented:

(i) in a level I hearing, a youth shall be represented by counsel. Counsel is:

(I) an attorney obtained by the youth; or

(II) the attorney appointed to represent the youth.

(ii) in a level II hearing or pending a trial, a youth shall be represented by a youth advocate. If the trial attorney chooses to be the youth's advocate in a level IV hearing, he may represent the youth but is not required to do so.

(B) The youth may waive the level IV hearing after being advised by an attorney (for a level I hearing) or an advocate (for a level II hearing).

(C) The hearing shall be tape-recorded and the recording shall be the official record of the hearing. Tape recordings shall be preserved for six months following the hearing.

(D) When a detention review is necessary due to the adjournment of a level I telephone hearing under (GAP) §95.53 of this title (relating to Level I Hearing by Telephone), the hearings examiner may conduct a level IV hearing following adjournment of the telephone hearing.

(E) The staff responsible for calling for the level I or II hearing, or the Primary Service Worker (PSW) of the youth being held for trial must show cause to detain the youth pending the hearing or trial. The attorney or advocate may present evidence as to why the youth should not be detained.

(3) The Decision.

(A) The decision-maker shall base his or her decision on criteria for detention. See criteria in (GAP) §97.41 of this (relating to Community Detention) and (GAP) §97.43 of this title (relating to Institution Detention Program).

(B) If criteria are not met, the youth must be released to his assigned location.

(4) Appeal.

(A) The youth is informed of his/her right to appeal to the executive director pursuant to (GAP) §93.53 of this title (relating to Appeal to Executive Director).

(B) The pendency of an appeal shall not preclude implementation of the decision-maker's dispositional decision; however this appeal shall be expedited by the PSW by notifying the complaint coordinator in the office of general counsel of the appeal and forwarding the record and evidence by fax for consideration immediately from notice of appeal.

(C) For youth assigned to a TYC institution, who are held in an institution detention program, an automatic appeal to the executive director will be filed on the third and subsequent level IV hearing to determine if the institution detention criteria have been proven. The PSW will initiate the automatic appeal.

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

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Steve Robinson

Executive Director

Texas Youth Commission

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For further information, please call: (512) 424-6301



37 TAC §95.59

The Texas Youth Commission (TYC) adopts the repeal of §95.59, concerning Level IV Hearing Procedure, without changes to the proposed text as published in the December 1, 2000 issue of the *Texas Register* (25 TexReg 11914).

The justification for the repeal allows for adoption of a new section regarding a youth being detained in a detention program at an institution pending trial or hearing.

The repeal will allow the publication of a new section to establish a procedure to determine whether justification exists to warrant holding a youth in detention pending a hearing or trial when the hearing or trial cannot be held within ten days of the detention.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Human Resources Code, §61.075, which provides the Texas Youth Commission with the authority to determine the appropriate types of treatment and sanctions for youth committed to the care custody and control of the Texas Youth Commission.

The adopted repeal implements the Human Resource Code, §61.034.

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

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CHAPTER 97. SECURITY AND CONTROL

SUBCHAPTER A. SECURITY AND CONTROL

37 TAC §§97.23, 97.37, 97.39 - 97.41, 97.43

The Texas Youth Commission (TYC) adopts an amendment to §97.39, concerning Isolation; and §97.41, concerning Community Detention; and adopts new §97.37, concerning Security Intake without changes to proposed text as published in the December 1, 2000, issue of the *Texas Register* (25 TexReg 11920). Adopts new to §97.40, concerning Security Program; and §97.43, concerning Institution Detention Program; an amendment to §97.23, concerning Use of Force, with changes to the proposed text as published in the December 1, 2000, issue of the *Texas Register* (25 TexReg 11920). Changes to the proposed text new §97.40 Security Program consist of minor grammatical corrections to the text. Changes to the proposed text new §97.43 Institution Detention Program consist of adding to the purpose of the rule to allow to be eligible for placement in the Institution Detention Program youth that have charges against them pending or filed, or youth that are awaiting a due process hearing or trial, or who are awaiting transportation subsequent to a hearing or trial. Changes were also made to the title of each program in the security unit. Changes were also made to the allowed time frame a youth may be detained in this specific program. Additions of sentences to clarify criteria for placement were also incorporated as well as renumbering of subsections. Text was added to clarify requirements of due process time frames and transportation arrangements. Inclusion of a youth's right to appeal was added as well as addition of specific program requirements related to standardized programming. Changes to the proposed text amended §97.23 Use of Force consist of one minor grammatical change in the title of a policy.

The justification for amending the section is to align existing policies with the new rules, and the justification for the new rule is to provide specific programs to help discipline negative behavior.

The amendment will provide consistency and new rule will enforce a consistent and fair method of imposing disciplinary sanctions.

No comments were received regarding adoption of the amendments and new rules.

The amendments and new rules are adopted under the Human Resources Code, §61.045, which provides the Texas Youth Commission with the authority to operate programs and facilities that meet the rehabilitation needs of delinquent youth.

The adopted rule implements the Human Resource Code, §61.034.

§97.23. *Use of Force.*

(a) Purpose. The purpose of this rule is to provide:

(1) criteria for using physical or mechanical force when necessary to control a volatile situation; and

(2) restrictions and guidelines to promote safety of youth and staff. Force is used as a last resort and only when necessary. When use of physical force is necessary, it should be measured and progressive in nature, however, when impractical, the amount and type of force necessary to control violence should be used. Measured and progressive force may be impractical when it would likely result in injury to youth and staff.

(b) Applicability. For rules controlling use of chemical agents, see (GAP) §97.25 of this title (relating to Use of Force: Chemical Agent OC) and (GAP) §97.27 of this title (relating to Riot Control).

(c) Explanation of Terms Used.

(1) Force - Any physical contact exerted upon a person to compel or arrest bodily movement.

(2) Physical restraint - Use of a person's physical exertion to completely or partially constrain another person's bodily movement.

(3) Escort - The physical force used to cause the movement of a person from one location to another.

(4) Mechanical restraint - Use of a mechanical device(s) to aid in the restriction of a person's bodily movement.

(5) Full body restraint - The use of padded cloth or leather mechanical restraint devices to secure a person to a specially designed bed. (Permitted only in the Texas Youth Commission (TYC) institutions and in contract facilities approved by the executive director or designee.)

(6) Chemical agents - The chemical agents approved for TYC use.

(d) Force. Types of force approved for TYC use according to criteria and other limitations are physical restraint, chemical agents, escort, mechanical restraint, and full body restraint.

(e) Criteria for Use. Force may be used only as a last resort and only as a control measure to ensure the safety and welfare of youth, staff, or the public. The use of force (to restrain or compel movement) shall be limited to instances of:

(1) protection of the youth from imminent self-harm; (Including the administration of medical treatment in a situation that is life threatening and/or youth is engaging in imminently serious self-injurious behavior).

(2) self-protection from imminent harm.

(3) protection of third parties from imminent harm; (including resistance to search for contraband in compliance with (GAP) §97.09 of this title (relating to Youth Search).

(4) prevention of imminent property damage.

(5) prevention of escape/abscond or attempted escapes (including transportation, when circumstances create a risk of escape/abscond or harm).

(6) movement of a referred youth to the security unit or alternative education classroom. A youth may also be moved within the security unit when the youth's behavior is substantially disruptive and the youth refuses to follow a reasonable order of the security staff.

(7) collection of a DNA sample as required by law. Force may be used only by TYC staff and only when and to the degree staff reasonably believes force is immediately necessary to obtain the sample.

(f) Restrictions.

(1) Force shall not be used as punishment, discipline, or as a convenience for staff.

(2) Staff, not youth, shall be solely responsible for the exercise of force and restraint.

(3) Staff shall use the amount and type of force necessary to control the situation except when a staff member is acting alone in which case he/she shall not be expected to use force or restraint when the risk of harm presented by the youth's conduct does not outweigh the possible risk of harm to youth or staff which would likely result if the staff acted alone.

(4) Physical force should be used as a last resort and only when necessary. When use of physical force is necessary, it should be

measured and progressive in nature, however, when measured and progressive use is impractical, the amount and type of force necessary to control violence should be used. Physical restraint may be impractical to do so would likely result in injury to staff.

(5) When physical or mechanical restraint is employed, staff shall ensure the youth's safety by checking the youth for adequate respiration and circulation, providing continuous visual supervision, and providing assistance as appropriate until the restraint is terminated.

(6) A physical or mechanical restraint, other than during transportation or a riot, shall be terminated within a short period of time unless the youth is exhibiting or threatening to continue behaviors, which justify the use of restraint. If continued restraint is justified, restraint must be terminated when the youth's behavior ceases to pose a threat or if used during transportation, when the destination is reached.

(g) Use of Restraints During Transportation.

(1) Transportation by the Transportation Unit. Mechanical wrist and ankle restraints shall be used during transportation by the transportation unit to prevent escape or violent behavior and to ensure the safety of the youth and the community.

(2) Transportation by Other Than the Transportation Unit.

(A) Mechanical ankle restraints shall be used during transportation when a youth is being transported to a high restriction program.

(B) Mechanical wrist restraints may also be used when a youth's behavior prior to or during transportation leads staff to believe the youth is likely to attempt to escape/abscond, engage in violent behavior, or harm himself if not restrained.

§97.40. *Security Program.*

(a) Purpose. The purpose of this rule is to provide for a security program in Texas Youth Commission (TYC) institutions and secure contract programs for the placement of out of control youth when specific criteria are met and to establish program operation requirements. Assurance that youth is sufficiently in control to be returned to general population is affirmed by compliance with the standardized program or rules of the security program which are supplied to the youth upon admission to security intake.

(b) Applicability.

(1) This rule does not apply to:

(A) the use of the same or adjacent space when used specifically as security intake. See (GAP) §97.37 of this title (relating to Security Intake);

(B) the use of the same or adjacent space when used specifically as detention in a TYC institution. See (GAP) §97.43 of this title (relating to Institution Detention Program);

(C) the use of the same or adjacent space when used specifically as disciplinary segregation. See (GAP) §95.17 of this title (relating to Behavior Management Program);

(D) the use of the same or adjacent space when used specifically as temporary admission. See (GAP) §85.41 of this title (relating to Temporary Admission Awaiting Transportation);

(E) the aggression management program (AMP). See (GAP) §95.21 of this title (relating to Aggression Management Program).

(2) When a level III hearing is conducted to determine admission or an extension to the security program, this policy needs to be

read in conjunction with (GAP) §95.57 of this title (relating to Level III Hearing Procedure).

(c) Admission Criteria. A youth may be admitted to the security program if there is reason to believe, based on overt acts by the youth, and/or under the following circumstances:

- (1) the youth is a serious and continuing escape risk; or
- (2) the youth is a serious and immediate physical danger to himself or herself or others and staff cannot protect the youth or others except by admitting the youth to security program; or
- (3) the confinement is necessary to prevent imminent and substantial destruction of property; or
- (4) the confinement is necessary to control behavior that creates disruption of the youth's current program; or
- (5) the youth is not complying with the standardized program or rules of the security unit while in security intake or in the security program; or
- (6) upon the youth's own request, unless campus-wide self referral has been disallowed by the superintendent or designee.

(d) Admission Process.

(1) A decision-maker is appointed by the superintendent to conduct a level III hearing to determine whether admission criteria have been met. As a result of the hearing, the youth shall be either:

- (A) released to the general population; or
- (B) admitted to the security program for up to 24 hours.

(2) The following staff may be appointed to be the decision-maker: superintendent, assistant superintendent, administrative duty officer (ADO), program administrator (PA), institution placement coordinator (IPC), principal, a caseworker, or a designated juvenile correctional officer (JCO) V trained in the security policy and procedure to admit youth to the program. The director of security may not admit a youth to security.

(3) The director of security or designee will review all admission decisions to determine if admission criteria have been met. The director of security or designee shall not have been involved in the level III hearing.

(4) Based upon a finding of true to the admission criteria, and no extenuating circumstances, the youth will be admitted into the security program.

(5) The youth will be notified of his or her right to appeal in writing. The appeal of an *admission* to the security program will be to the superintendent, assistant superintendent or the ADO as long as they were not the decision-maker for admission.

(6) The youth's advocate will be assigned by the decision-maker for the level III due process hearing. Whenever practical, the advocate may be a person chosen by the youth.

(7) The youth may be released from the security program by the director of security or designated staff authorized to admit youth in this policy.

(e) Restrictions.

(1) A youth shall not remain in the security program more than 24 hours from admission to the program solely on the basis of the behavior for which he was admitted to security intake.

(2) A youth shall not remain in the security program more than 24 hours from admission without the required extended stay due process hearing protections.

(f) Extended Stay Requirements.

(1) A youth's stay in the security program may be extended beyond the 24 hours from admission to the program if there are reasonable grounds to believe that one of the admission criteria to security is continuing.

(2) Extended confinement due process protections will be provided to determine whether reasonable grounds exist for the youth to remain in the security program longer than 24 hours.

(A) A level III hearing is afforded the youth before security program confinement is extended past 24 hours.

(B) A decision-maker is appointed by the superintendent to determine the reasons for the extended confinement and make a decision on the facts presented.

(C) The following staff may be appointed to be the decision-maker: superintendent, assistant superintendent, administrative duty officer (ADO), program administrator (PA), institution placement coordinator (IPC), principal, a caseworker, or a designated juvenile correctional officer (JCO) V trained in the security policy and procedure to extend youth in the program. The director of security may not be the decision-maker.

(D) The director of security or designee will approve the 24-hour extension decision if admission criteria continue to exist based on current behavior. The director of security or designee shall not have been involved in the level III hearing.

(E) Based upon a finding of true to the admission criteria, and no extenuating circumstances, the youth's stay in the security program may be extended up to an additional 24 hours.

(F) The youth will be notified in writing of his or her right to appeal. The appeal of an extension to the security program will be to the superintendent, assistant superintendent or the ADO as long as they were not the decision-maker for admission or extension. The youth is notified in writing of the outcome of the appeal.

(3) After the initial level III due process extension hearing, up to five subsequent level III hearings may be conducted as set forth in paragraph(2) of this subsection every 24 hours thereafter for additional extensions of up to 24 hours for up to 168 hours from admission into the security program.

(4) After 168 hours, a due process extension level III hearing will be conducted as set forth in paragraph (2) of this subsection for an additional extension of up to 72 hours for up to 240 hours from admission into the security program.

(A) The appropriate director of juvenile corrections will approve the 72-hour extension decision if admission criteria continue to exist based on current behavior.

(B) The extension decision approved by the director of juvenile corrections may be appealed to the assistant deputy executive director for juvenile corrections and the youth is notified in writing of the outcome of the appeal.

(5) After 240 hours, a due process extension level III hearing will be conducted as set forth in paragraph (2) of this subsection every 72 hours thereafter for only two additional extensions of up to 72 hours each.

(A) The assistant deputy executive director for juvenile corrections will approve the 72-hour extension decision if admission criteria continue to exist based on current behavior.

(B) Extension decisions approved by the assistant deputy executive director for juvenile corrections may be appealed to the deputy executive director, and the youth is notified in writing of the outcome of the appeal.

(6) After 384 hours (16 days), the youth shall be either released back to the general population or other alternatives must be recommended by the assistant deputy executive director for juvenile corrections.

(7) If admission decision or due process extension hearings are not timely held or approved the youth shall be released from the security program.

(g) Program Requirements.

(1) Individual doors are locked.

(2) All segregation programs will ensure at a minimum the following:

(A) appropriate psychological and medical services;

(B) the same food, including snacks prepared in the same manner as for other youth except for special diets that are prescribed on an individual basis by a physician, dentist or psychiatrist or approved by a chaplain;

(C) one hour of large muscle exercise daily; and

(D) appropriate educational services.

(3) The assistant deputy executive director for juvenile corrections will approve a standardized program and rules for the security unit.

(4) The director of security will post the program schedule and rules of the security unit and ensure the rules are reviewed with and signed by the youth.

(5) Youth will engage in the standardized program and comply with the rules of the security unit, but if programming is not provided, youth may remain on their mattresses during that time.

§97.43. *Institution Detention Program.*

(a) Purpose. The purpose of this rule is to establish criteria and procedures for detaining appropriate Texas Youth Commission (TYC) youth in an Institution Detention Program (IDP) operated within each TYC institution or secure contract program, who have charges against them pending or filed, or are awaiting a due process hearing or trial, or are awaiting transportation subsequent to a due process hearing or trial.

(b) Applicability.

(1) This rule applies to TYC youth detained in TYC operated institutions or secure contract programs for pre-hearing or post-hearing pending transportation.

(2) This rule does not apply to:

(A) TYC youth detained in community detention facilities. See (GAP) §97.41 of this title (relating to Community Detention).

(B) The use of the same or adjacent space when used specifically as security intake. See (GAP) §97.37 of this title (relating to Security Intake).

(C) The use of the same or adjacent space when used specifically as a security program. See (GAP) §97.40 of this title (relating to Security Program).

(D) The use of the same or adjacent space when used specifically as disciplinary segregation. See (GAP) §95.17 of this title (relating to Behavior Management Program).

(E) The use of the same or adjacent space when used specifically as temporary admission. See (GAP) §85.41 of this title (relating to Temporary Admission Awaiting Transportation).

(F) The aggression management program. See (GAP) §95.21 of this title (relating to Aggression Management Program).

(c) Explanation of Terms Used. Detention Review Hearing - the TYC level IV hearing required by this policy.

(d) Criteria for Placement in an Institution Detention Program.

(1) Designated staff will conduct a review to determine whether admission criteria have been met.

(2) Admission Criteria.

(A) A youth assigned to an institution may be admitted to the IDP program (for up to 72 hours):

(i) if the youth is awaiting transportation subsequent to a due process hearing or trial; or

(ii) if a due process hearing or trial has been requested in writing or charges are pending or have been filed;

(iii) there are reasonable grounds to believe the youth has committed a violation; and

(iv) one of the following applies:

(I) suitable alternative placement within the facility is unavailable due to on-going behavior of the youth that creates disruption of the routine of the youth's current program; or

(II) the youth is likely to interfere with the hearing or trial process; or

(III) the youth represents a danger to himself or others; or

(IV) the youth has escaped or attempted escape as defined in (GAP) §97.29 of this title (relating to Escape/Abscondence and Apprehension).

(B) A youth who is assigned to a placement other than a TYC operated institution or secure contract program may be detained in a TYC operated IDP (beyond 72 hours):

(i) if a level hearing or trial has been requested in writing; and

(ii) based on current behavior or circumstances, all detention criteria in (GAP) §97.41 of this title (relating to Community Detention) have been met.

(3) Criteria for Detention Beyond 72 Hours.

(A) A youth who is assigned to a TYC operated institution may be detained in the IDP beyond 72 hours:

(i) if a due process hearing or trial has been scheduled or charges are pending or have been filed; and

(ii) based on current behavior or circumstances, all other criteria in paragraph (2) of this subsection have been met.

(B) A youth who is assigned to a placement other than a TYC operated institution may be detained in a TYC operated IDP (beyond 72 hours):

(i) if a due process hearing or trial has been scheduled or charges are pending or have been filed; and

(ii) based on current behavior or circumstances, all detention criteria in (GAP) §97.41 of this title (relating to Community Detention) have been met.

(C) A due process hearing or trial is considered to be scheduled if a due process hearing date and time has been set or trial is pending.

(D) A youth whose due process hearing or trial has been held may be detained without a level IV hearing when the youth is waiting for transportation:

(i) to TDCJ, ID following a transfer hearing; or

(ii) to a different placement following a level I or II hearing. Transportation should be arranged immediately to take place within 72 hours and anything past that must have superintendent's approval.

(e) Detention Hearings Required for Any Youth Held in an Institution Detention Program.

(1) A youth, who meets admission criteria, may be detained in an IDP for up to 72 hours.

(2) For extensions beyond 72 hours an initial detention review hearing (level IV hearing) must be held on or before 72 hours from admission to the IDP.

(3) Subsequent detention review hearings must be held within ten working days from the previous detention review hearing when a level hearing or trial is not held and continued detention is necessary and appropriate based upon current behavior or circumstances that meet criteria unless youth is under indictment pending trial. See (GAP) §95.59 of this title (relating to Level IV Hearing Procedure).

(4) A detention review hearing is not required for youth detained pending transportation pursuant to subsection (d)(3)(D) of this section.

(5) If a level IV hearing is not timely held or is not properly waived, the youth shall be released from the IDP.

(6) Institution or a designated community staff will hold the required level IV detention review hearings. The primary service worker (PSW) for youth not assigned to an institution, will coordinate with institution staff to ensure that hearings are held timely or waived properly.

(7) The youth is informed of his/her right to appeal the level IV hearing to the executive director pursuant to (GAP) 93.53 of this title (relating to Appeal to Executive Director).

(f) Program Requirements.

(1) Individual doors are locked.

(2) All segregation programs will ensure at a minimum the following:

(A) appropriate psychological and medical services;

(B) the same food, including snacks prepared in the same manner as for other youth except for special diets that are prescribed on an individual basis by a physician, dentist or psychiatrist or approved by a chaplain;

(C) one hour of large muscle exercise daily; and

(D) appropriate educational services.

(3) The assistant deputy executive director for juvenile corrections will approve a standardized program and rules for the security unit.

(4) The director of security will post the program schedule and rules of the security unit and ensure the rules are reviewed with and signed by the youth.

(5) Youth will engage in the standardized program and comply with the rules of the security unit, but if programming is not provided, youth may remain on their mattresses during that time.

(g) Release from institution pre-hearing detention is determined by the outcome of a hearing or trial or upon the decision not to hold a hearing. If the youth is pending transportation, the youth is released from detention upon transport.

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

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Steve Robinson
Executive Director

Texas Youth Commission

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37 TAC §97.37

The Texas Youth Commission (TYC) adopts the repeal of §97.37, concerning Security Unit without changes to the proposed text as published in the December 1, 2000, issue of the *Texas Register* (25 TexReg 11920).

The justification for the repeal allows for adoption of a new section regarding youth being removed from the general population under certain circumstances.

The repeal will allow for the publication of a new section to establish admission criteria and specific referral for youth to be referred to the security intake unit. Placement in a segregation program may be imposed only in specific situations for specified periods of time. Such youth are placed into a secure setting that is controlled exclusively by staff.

No comments were received regarding adoption of the repeal.

The repeal section is adopted under the Human Resources Code, §61.045, which provides the Texas Youth Commission with the authority to operate programs and facilities that meet the rehabilitation needs of delinquent youth.

The adopted rule implements the Human Resource Code, §61.034.

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

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CHAPTER 111. CONTRACTING FOR SERVICES OTHER THAN YOUTH SERVICES

37 TAC §111.17

The Texas Youth Commission (TYC) adopts new §111.17, concerning Historically Underutilized Businesses (HUBs), without changes to the proposed text as published in the September 29, 2000, issue of the *Texas Register* (25 TexReg 9918).

The justification for the new rule is the establishment of compliance with the requirements of the Texas Government Code, §2161.003, which requires state agencies to adopt General Services Commission (GSC) rules for Historically Underutilized Businesses (HUBs) for construction projects and purchases of goods and services paid for with state appropriated funds.

The new rule will allow TYC to establish the authority and responsibility to promote full and equal business opportunities for all businesses in state contracting in accordance with the goals specified in the State of Texas Disparity Study. The section will encourage the use of historically underutilized businesses (HUBs) and to implement this policy through race, ethnic, and gender-neutral means.

No comments were received regarding adoption of the new rule.

The new rule is adopted under the Human Resources Code, §61.034, which provides the Texas Youth Commission with the broad rulemaking authority; and Texas Government Code, §2161.003, which requires state agencies to adopt the GSC rules governing HUBs.

The adopted rule implements the Human Resource Code, §61.034.

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

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37 TAC §111.45

The Texas Youth Commission (TYC) adopts new §111.45, concerning 1st Choice - Recycled Content Products, without changes to the proposed text as published in the December 8, 2000, issue of the *Texas Register* (25 TexReg 12164).

The justification for the new rule is to ensure compliance of all contracts and purchases orders established under the authority delegated to TYC by the General Service Commission, Title 10, Government Code, Section §2151.

The new rule will authorize TYC to target recycled-content products as the default-company as selected by the Recycling Market Development Board. In accordance with the Texas Government Code §2155.448 and the Texas Administrative Code §113.156 and §113.137, TYC shall procure 1st Choice Recycled-content products and services versus virgin counterparts. Any deviations will require special justification from the Executive Director.

No comments were received regarding adoption of the new rule.

The new rule is adopted under the Human Resources Code, §61.034, which provides the Texas Youth Commission with the broad rulemaking authority; and Texas Government Code, §2155.448 and Texas Administrative Code §113.136 and §113.137, which requires state agency's to adopt the GSC rule.

The adopted rule implements the Human Resource Code, §61.034.

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 January 8, 2001.

TRD-200100084

Steve Robinson
Executive Director
Texas Youth Commission
Effective date: January 31, 2001
Proposal publication date: December 8, 2000
For further information, please call: (512) 424-6301



TEXAS DEPARTMENT OF INSURANCE

Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L

As required by the Insurance Code, Article 5.96 and 5.97, the *Texas Register* publishes notice of proposed actions by the Texas Board of Insurance. Notice of action proposed under Article 5.96 must be published in the *Texas Register* not later than the 30th day before the board adopts the proposal. Notice of action proposed under Article 5.97 must be published in the *Texas Register* not later than the 10th day before the Board of Insurance adopts the proposal. The Administrative Procedure Act, the Government Code, Chapters 2001 and 2002, does not apply to board action under Articles 5.96 and 5.97.

The complete text of the proposal summarized here may be examined in the offices of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104.)

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure Act.

Texas Department of Insurance

Final Action on Rules

The Commissioner of Insurance has adopted the amendments proposed by the Texas Department of Insurance staff in a petition filed on November 15, 2000. Notice of the proposal (Reference No. W-1100-31-I) was published in the November 24, 2000, issue of the *Texas Register* (25 TexReg 11735). The purposes of these amendments are to revise the table concerning the Expected Loss Rates and Discount Ratios by classification used in experience rating, which is contained in the Texas Basic Manual of Rules, Classification and Experience Rating Plan for Workers' Compensation and Employers' Liability Insurance, (Basic Manual) and to amend the Texas Workers' Compensation Classification Relativities Table (relativities table) to add Code 0923 and to indicate that the code will be "a" rated. These amendments are necessary to make the tables consistent with the adopted amendments to the Manual proposed by TDI's Workers' Compensation division staff under Docket No. 2475. Under Docket No. 2475, a new classification was adopted for residential domestic workers whose workers' compensation premium is based on payroll. The amendments proposed under Docket No. 2476 were considered at a public hearing held on December 18, 2000 at 1:30 p.m. in Room 100 of the Hobby Building, 333 Guadalupe Street in Austin, Texas.

The Commissioner adopted the amendments with no changes to the amendments proposed by staff. The adopted amendments include an amendment to relativities table and a revised table amending the Basic Manual concerning the Expected Loss Rates and Discount Ratios.

The Texas Department of Insurance received no comments concerning Docket 2476.

The Commissioner has jurisdiction of this matter pursuant to Articles 5.60 and 5.96 of the Texas Insurance Code.

The Commissioner has determined that it is necessary to revise the relativities table and the table in the Basic Manual as proposed by staff so that they will be consistent with amendments to the Basic Manual adopted by the Commissioner under Docket 2475.

The amendments to the relativities table and to the Basic Manual are on file in the Chief Clerk's Office of the Texas Department of Insurance under Reference No. W-1100-31-I and are incorporated by reference into Commissioner's Order No. 01-0010.

The notification is made pursuant to the Texas Insurance Code Article 5.96, which exempt action taken under Article 5.96 from the requirements of the Administrative Procedures Act (Government Code, Title 10, Ch. 2001).

Consistent with the Texas Insurance Code, Article 5.96(h), prior to the effective date of this action, the Texas Department of Insurance will notify all insurers affected by this action.

The agency hereby certifies that the amendments to the relativities table and to the Basic Manual have been reviewed by legal counsel and found to be a valid exercise of the agency's authority.

IT IS THEREFORE THE ORDER of the Commissioner of Insurance that the amendments proposed by staff to the relativities table and the Basic Manual are adopted.

IT IS FURTHER ORDERED that the revised relativities are available to be adopted by insurers immediately and that their use is mandatory for all policies with an effective date on and after January 1, 2001.

IT IS FURTHER ORDERED that the revised table amending the Basic Manual is effective fifteen days after notice of this adoption is published in the Texas Register.

TRD-200100078

Lynda Nesenholtz

General Counsel and Chief Clerk

Texas Department of Insurance

Filed: January 5, 2001



The Commissioner of Insurance adopted amendments to the Texas Basic Manual of Rules, Classifications and Experience Rating Plan for Workers' Compensation and Employers' Liability Insurance (the Manual) proposed by the staff of the Workers' Compensation Division in a petition filed on November 10, 2000. Notice of the proposal (Reference No. W-1100-30-I) was published in the November 24, 2000, issue of the *Texas Register* (25 TexReg 11734). The amendments were considered at a public hearing held under Docket No. 2475 on December 18, 2000 at 1:30 p.m. in Room 100 of the Hobby Building, 333 Guadalupe Street in Austin, Texas. The purposes of these amendments to the Manual were to establish a new classification for residential domestic workers whose workers' compensation premium is based

on payroll, to amend Rule XV of the Manual to include the new classification and to make editorial changes to Rule XV of the Manual. Prior to the adoption of these changes, the Manual allowed the premium for residential domestic workers to be calculated on either a per capita basis or a payroll basis. However, there was not a separate classification to use if the premium for residential domestic workers was calculated on a payroll basis rather than on a per capita basis. Adoption of these recommended changes provide a classification for residential domestic workers regardless of whether the premium is determined on a per capita basis or a payroll basis.

The adopted changes add Code 0923 "Domestic Workers - Residences: Payroll Basis" to both the Alphabetic and Numeric Classification Sections of the Manual. In addition there are changes to Rule XV Domestic Workers - Residences to add a reference to Code 0923, to clarify that both Codes 0913 and 0923 are "a" rated classifications, and to make editorial changes to the rule that are necessary to eliminate conflict or confusion.

The amendments to the Manual as adopted by the Commissioner of Insurance are shown in Exhibit 1 on file with the Chief Clerk under Reference No. W-1100-30-I, which are incorporated by reference in Commissioner's Order No. 01-0009.

The Commissioner has jurisdiction over this matter pursuant to the Insurance Code, Articles 5.60 and 5.96.

The Commissioner determined that it was necessary to adopt the staff's recommended changes to the Manual to provide a classification for residential domestic workers regardless of whether the premium is determined on a per capita basis or a payroll basis.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Government code, Chapter 2001 (Administrative Procedure Act).

The agency hereby certifies that these amendments to the Manual have been reviewed by the legal counsel and found to be within the agency's authority to adopt.

IT IS THEREFORE THE ORDER of the Commissioner of Insurance that the amendments adding code 0923 and recommended changes to Rule XV of the Texas Basic Manual of Rules, Classifications and Experience Rating Plan for Workers' Compensation and Employers' Liability Insurance, which are attached and incorporated hereto are hereby adopted to be effective fifteen days after notice of this adoption is published in the Texas Register.

TRD-200100079
Lynda Nesenholtz
General Counsel and Chief Clerk
Texas Department of Insurance
Filed: January 5, 2001

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—REVIEW OF AGENCY RULES—

This Section contains notices of state agency rules review as directed by Texas Government Code, §2001.039. Included here are (1) notices of *plan to review*; (2) notices of *intention to review*, which invite public comment to specified rules; and (3) notices of *readoption*, which summarize public comment to specified rules. The complete text of an agency's *plan to review* is available after it is filed with the Secretary of State on the Secretary of State's web site (<http://www.sos.state.tx.us/texreg>). The complete text of an agency's rule being reviewed and considered for *readoption* is available in the ***Texas Administrative Code*** on the web site (<http://www.sos.state.tx.us/tac>).

For questions about the content and subject matter of rules, please contact the state agency that is reviewing the rules. Questions about the web site and printed copies of these notices may be directed to the ***Texas Register*** office.

Agency Rule Review Plan

Texas Real Estate Commission

Title 22, Part 23

Filed: January 9, 2001



Proposed Rule Reviews

Finance Commission of Texas

Title 7, Part 1

The Finance Commission of Texas files this notice of intention to review Texas Administrative Code, Title 7, Chapter 9, consisting of §§9.1-9.84, concerning Rules of Procedure For Contested Case Hearing, Appeals, and Rulemaking. This review is undertaken pursuant to Government Code, §2001.039. The commission will accept comments for 30 days following the publication of this notice in the *Texas Register* as to whether the reasons for adopting the sections under review continue to exist. Final consideration of this rules review is scheduled for the Finance Commission meeting on February 23, 2001.

Any questions or written comments pertaining to this notice of intention to review should be directed to Everette D. Jobe, General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705, or by e-mail to everette.job@banking.state.tx.us. Any proposed changes to rules as a result of the review will be published in the Proposed Rules Section of the *Texas Register* and will be open for an additional 30 day public comment period prior to final adoption or repeal by the commission.

TRD-200100060
Everette D. Jobe
Certifying Official
Finance Commission of Texas
Filed: January 4, 2001



Texas Department of Banking

Title 7, Part 2

The Texas Department of Banking files this notice of intention to review Texas Administrative Code, Title 7, Chapter 25 (Prepaid Funeral Contracts), §§25.1-25.8, concerning Contract Forms, and §§25.10-25.12, concerning Regulation of Licenses, and Chapter 26 (Perpetual Care Cemeteries), §26.1, concerning Fees and Assessments. This review is undertaken pursuant to Government Code, §2001.039. The department will accept comments for 30 days following the publication of this notice in the *Texas Register* as to whether the reasons for adopting the sections under review continue to exist.

Any questions or written comments pertaining to this notice of intention to review should be directed to Everette D. Jobe, General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705, or by e-mail to everette.job@banking.state.tx.us. Any proposed changes to rules as a result of the review will be published in the Proposed Rules Section of the *Texas Register* and will be open for an additional 30 day public comment period prior to final adoption or repeal by the commission.

TRD-200100061
Everette D. Jobe
Certifying Official
Texas Department of Banking
Filed: January 4, 2001



Texas Natural Resource Conservation Commission

Title 30, Part 1

The Texas Natural Resource Conservation Commission (commission) notices the intention to review and proposes the readoption of Chapter 106, Permits by Rule. This review of Chapter 106 is proposed in accordance with the requirements of Texas Government Code, §2001.039, and the General Appropriations Act, Article IX, §§9 - 10.13, 76th Legislature, 1999, which require state agencies to review and consider for readoption each of their rules every four years. The review must include an assessment of whether the reasons for the rules continue to exist.

CHAPTER SUMMARY

Chapter 106 provides a mechanism to authorize the construction and/or modification of insignificant sources of air contaminants in lieu of requiring a permit under Chapter 116, Control of Air Pollution by Permits for New Construction or Modification. Chapter 106 contains the rules authorized by Texas Health and Safety Code, Texas Clean Air Act (TCAA), §382.057, Exemptions, and §382.05196, Permits by Rule, enacted by the 62nd and 76th Texas Legislature respectively. The types of facilities subject to this chapter are listed in Chapter 106, Subchapters C - X.

In 1996, Chapter 106, Exemptions from Permitting, was created. The sections organized to create the chapter were originally contained in the Standard Exemption List. This list was created May 8, 1972, was later incorporated into Chapter 116 by reference, and was replaced by the creation of Chapter 106. Chapter 106 has been modified ten times since its creation in 1996, and the Exemption List was modified 18 times prior to its incorporation into Chapter 106. This chapter continues to be an evolving chapter, and as new permits by rule have been added, they have been technically reviewed to ensure protection of public health and welfare.

Chapter 106 is used to authorize emissions from insignificant sources which would otherwise require a permit under Chapter 116. As codified in §106.4, emissions from some sources of air contaminants may be considered insignificant, and thus qualify for an exemption from permitting, if the following general conditions are met: total actual emissions from a facility cannot exceed 250 tons per year (tpy) of carbon monoxide (CO) or nitrogen oxides (NO_x); total actual emissions from a facility cannot exceed 25 tpy of volatile organic compounds (VOC), sulfur dioxide (SO₂), inhalable particulate matter (PM₁₀), or any other air contaminant except carbon dioxide, water, nitrogen, methane, ethane, hydrogen, and oxygen; and no facility or group of facilities may constitute a new major stationary source or major modification. In addition, all other state and federal rules and regulations must be met, along with the conditions of the individual section under which authorization is sought. Permits by Rule may include emission control requirements or operational parameters designed to reduce or minimize emissions.

The 76th Legislature, 1999, passed Senate Bill 766, which contained a new §382.05196, Permits by Rule. On August 9, 2000, implementing this legislation, the commission amended Chapter 106, Exemptions from Permitting, renaming it Permits by Rule. This name accurately reflects the fact that sources seeking authorization under the individual sections of Chapter 106 are not exempt from regulation and must meet specific controls or evaluation criteria prior to obtaining authorization. Permits by rule may be used to authorize new construction and/or modifications or changes at the types of facilities listed in Chapter 106, Subchapters C - X.

PRELIMINARY ASSESSMENT OF WHETHER THE REASONS FOR THE RULES CONTINUE TO EXIST

The commission conducted a preliminary review of the rules under Chapter 106 and determined that the reasons to adopt these rules continue to exist. These rules are needed to implement provisions of state law, including TCAA, §382.057, Exemption, and in TCAA, §382.05196, Permits by Rule. The use of permits by rule ensures efficient regulation of facilities which do not make a significant contribution to air quality and do not justify case-by-case permitting. Permits by Rule may include emission control requirements or operational parameters designed to minimize or reduce emissions. Thus, Chapter 106 increases the commission's efficiency in authorizing insignificant sources of air contaminants and streamlines the permitting process for external stakeholders.

PUBLIC COMMENT

This proposal is limited to the review in accordance with the requirements of Texas Government Code, §2001.039, and the General Appropriations Act, Article IX, §§9 - 10.13, 76th Legislature, 1999. The commission invites public comment on whether the reasons for the rules in Chapter 106 continue to exist. Comments may be submitted to Patricia Duron, Office of Environmental Policy, Analysis, and Assessment, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. All comments should reference Rule Log Number 2000-023-106-AI. Comments must be received in writing by 5:00 p.m., February 20, 2001. For further information or questions concerning this proposal, please contact Beecher Cameron, Policy and Regulations Division, at (512) 239-1495.

TRD-200100082

Margaret Hoffman

Director, Environmental Law Division

Texas Natural Resource Conservation Commission

Filed: January 8, 2001



The Texas Natural Resource Conservation Commission (commission) files this notice of intention to review and proposes the re adoption of Chapter 304, Watermaster Operations. This review of Chapter 304 is proposed in accordance with the requirements of Texas Government Code, §2001.039, and the General Appropriations Act, Article IX, §9 - 10.13, 76th Legislature, 1999, which require state agencies to review and consider for re adoption each of their rules every four years. The review must include an assessment of whether the reasons for the rules continue to exist.

CHAPTER SUMMARY

Chapter 304, Subchapter A contains introductory provisions; Subchapter B outlines the regulation of the use of state water; Subchapter C specifies the allocation of available waters; Subchapter D provides for enforcement of watermaster operations; Subchapter E addresses administration of watermaster operations; Subchapter F addresses appeal of watermaster actions; and Subchapter G provides for financing of watermaster operations.

PRELIMINARY ASSESSMENT OF WHETHER THE REASONS FOR THE RULES CONTINUE TO EXIST

The commission conducted a preliminary review and determined that the reasons for the rules in Chapter 304 continue to exist. The rules are needed to implement the duties and responsibilities of watermaster operations as specified in Texas Water Code (TWC), §§11.325 - 11.458, which establish water divisions; the watermaster for these water divisions; the duties, responsibilities, and compensation of the watermaster; the commission's authority to establish water divisions and the watermaster; and all duties and responsibilities necessary to carry out the authority of the commission through watermaster operations. The rules are also needed in accordance with TWC, §5.103 which states, "The commission shall adopt any rules necessary to carry out its powers and duties under this code and other laws of this state."

PUBLIC COMMENT

This proposal is limited to the review in accordance with the requirements of Texas Government Code, §2001.039, and the General Appropriations Act, Article IX, §9 - 10.13, 76th Legislature, 1999. The commission invites public comment on whether the reasons for the rules in Chapter 304 continue to exist. Comments may be submitted to Joyce Spencer, Office of Environmental Policy, Analysis, and Assessment, MC 205, P. O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. All comments should reference Rule Log Number 2000-026-304- WT. Comments must be received by 5:00 p.m.

February 20, 2001. For further information or questions concerning this proposal, please contact Melissa Estes, Policy and Regulations Division, (512) 239-3937.

TRD-200100152
Margaret Hoffman
Director, Environmental Law Division
Texas Natural Resource Conservation Commission
Filed: January 10, 2001



The Texas Natural Resource Conservation Commission (commission) files this notice of intention to review and proposes the re-adoption of Chapter 314, Toxic Pollutant Effluent Standards. This review of Chapter 314 is proposed in accordance with the requirements of Texas Government Code, §2001.039, and the General Appropriations Act, Article IX, §9 - 10.13, 76th Legislature, 1999, which require state agencies to review and consider for re-adoption each of their rules every four years. A review must include an assessment of whether the reasons for the rules continue to exist.

CHAPTER SUMMARY

Chapter 314 adopts by reference 40 Code of Federal Regulations (CFR) Part 129.

PRELIMINARY ASSESSMENT OF WHETHER THE REASONS FOR THE RULES CONTINUE TO EXIST

The commission conducted a preliminary review and determined that the reasons for the rules in Chapter 314 continue to exist. The rules adopt by reference 40 CFR, Part 129, Subpart A, Toxic Pollutant Effluent Standards and Prohibitions.

PUBLIC COMMENT

This proposal is limited to the review in accordance with the requirements of Texas Government Code, §2001.039, and the General Appropriations Act, Article IX, §9 - 10.13, 76th Legislature, 1999. The commission invites public comment on whether the reasons for the rules in Chapter 314 continue to exist. Comments may be submitted to Angela Slupe, Office of Environmental Policy, Analysis, and Assessment, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. All comments should reference Rule Log Number 2000-033-314-WT. Comments must be received in writing by 5:00 p.m., February 19, 2001. For further information or questions concerning this proposal, please contact Kathy Ramirez, Policy and Regulations Division, at (512) 239- 6757.

TRD-200100077
Margaret Hoffman
Director, Environmental Law Division
Texas Natural Resource Conservation Commission
Filed: January 5, 2001



Texas Real Estate Commission

Title 22, Part 23

The Texas Real Estate Commission proposes to review Chapter 539, 542 and 543 in accordance with the Texas Government Code,

§2001.039, and the General Appropriations Act of 1999, Article IX, Section 167. The commission will accept comments for 30 days following the publication of this notice in the *Texas Register* as to whether the reason for adopting each of these sections continues to exist. Any questions pertaining to this notice of intention to review should be directed to Mark A. Moseley, General Counsel, Texas Real Estate Commission. P.O. Box 12188, Austin, Texas 78711-2188 or e-mail to general.counsel@trec.state.tx.us.

Chapter 539, Provisions of the Residential Service Company Act.

Chapter 542, Rules Relating to the Provisions of House Bill 5.

Chapter 543, Rules Relating to the Provisions of the Texas Timeshare Act.

TRD-200100117
Mark A. Moseley
General Counsel
Texas Real Estate Commission
Filed: January 9, 2001



Adopted Rule Reviews

Texas State Board of Plumbing Examiners

Title 22, Part 17

The Texas State Board of Plumbing Examiners adopts the review of Chapter 363, concerning Examination, pursuant to the Appropriations Act of 1997, HB 1, Article IX, §167: published in the December 1, 2000 issue of the *Texas Register* (25 TexReg 18837).

No Comments were received regarding the adoption of the rule amendments.

TRD-200100166
Robert L. Maxwell
Administrator
Texas State Board of Plumbing Examiners
Filed: January 10, 2001



The Texas State Board of Plumbing Examiners adopts the review of Chapter 367, concerning Enforcement, pursuant to the Appropriations Act of 1997, HB 1, Article IX, §167: published in the December 8, 2000 issue of the *Texas Register* (25 TexReg 12036).

No Comments were received regarding the adoption of the rule amendments.

TRD-200100174
Robert L. Maxwell
Administrator
Texas State Board of Plumbing Examiners
Filed: January 10, 2001



TABLES & GRAPHICS

Graphic material from the emergency, proposed, and adopted sections is published separately in this tables and graphics section. Graphic material is arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic material is indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word "Figure" followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph, and so on.

(Editor's Note: The graphic will not be published in its entirety. The complete graphic will be available January 30, 2001, in the Texas Administrative Code at the following website address: <http://www.sos.state.tx.us/tac.>)

ADMINISTRATORS AND OTHER INSTRUCTIONAL PERSONNEL	
TITLE	CERTIFICATES (NUMERICAL CODES)/CREDENTIALS
Librarian I	Provisional or Professional Librarian (32) Learning Resources Endorsement Learning Resources Specialist School Librarian
Librarian II	Professional Librarian (32) Learning Resources Specialist School Librarian
Athletic Director	Teacher certificate
Special Duty Teacher	Appropriate teaching certificate plus special training for special assignment
Teacher of Gifted and Talented Students	Teacher certification in appropriate area and level of assignment Gifted and Talented Endorsement (not required for assignment)

NOTE: The gifted and talented endorsement is optional and not required for assignment. In order to be eligible for assignment to a gifted and talented program, an individual must hold certification in the appropriate area and level of assignment.

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, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Texas Department of Agriculture

Notice of Public Hearing

In accordance with the Texas Agriculture Code, Chapter 71, §71.006, the Texas Department of Agriculture (the department) will hold a public hearing to take public comment on a proposed amendment to its Fire Ant Quarantine rules. The proposal was published in the Friday, December 29, 2000 issue of the *Texas Register*. The proposed amendment adds Mills county to the list of quarantined counties. The hearing will be held on January 25, 2001, beginning at 10:30 a.m., at the Mills County Courthouse, 1011 4th Street, Goldthwaite, Texas.

For more information please contact Awinash Bhatkar, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711, (512) 463-5025.

TRD-200100160

Dolores Alvarado Hibbs

Deputy General Counsel

Texas Department of Agriculture

Filed: January 10, 2001



Office of the Attorney General

Texas Clean Air Act, Texas Solid Waste Disposal Act and Texas Water Code Settlement Notice

Notice is hereby given by the State of Texas of the following proposed resolution of an environmental enforcement lawsuit under the Texas Clean Air Act, the Solid Waste Disposal Act, and the Texas Water Code. Before the State may settle a judicial enforcement action under these Codes, the State shall permit the public to comment in writing on the proposed judgment. The Attorney General will consider any written comments and may withdraw or withhold consent to the proposed agreed judgment if the comments disclose facts or considerations that indicate that the consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Code.

Case Title and Court: Harris County, Texas, and the State of Texas, et al. v. Waste Management of Texas, Inc., Cause No. 2000-62267, 190th District Court of Harris County, Texas

Nature of Defendant's Operations: Defendant owns and operates the Atascocita landfill in Harris County. Harris County and the State claim Defendant discharged air contaminants in such concentrations and of such duration to cause a nuisance and failed to meet the terms of the facility's site development plan to monitor and clean the road leading into the facility in violation of the Clean Air Act and the Solid Waste Disposal Act.

Proposed Agreed Judgment: The Agreed Judgment requires Defendant to comply with certain injunctive provisions, perform several environmental projects, and pay a civil penalty. The injunctive provisions of the Agreed Final Judgment require Defendant to screen all waste streams for constituents that may be particularly odorous, redirect odorous streams to other landfills, reject odorous streams entirely, or restrict the stream into entering the landfill only during certain hours in an effort to eliminate or significantly minimize the potential for impact on the surrounding community. If an odorous load enters the facility, Defendant is required by the injunction to implement special operational procedures as appropriate to control the odor.

In addition to the injunctive provisions outlined in the Agreed Final Judgment, Defendant has agreed to implement and fund four environmental projects. Those projects include: (1) reopening the Humble Area Recycling Center at the Atascocita Landfill to receive recyclable solid waste from the public for a minimum of five years; (2) providing disposal capacity at its landfill for the Harris County Waterways Assessment and Restoration Project; (3) enhancing wildlife habitat on its Atascocita property by planting vegetation; and (4) installing a citizen's convenience station for individual citizens to drop off solid waste at its landfill.

The Agreed Judgment requires Defendant to pay forty thousand dollars and no cents (\$40,000.00) in civil penalties and six thousand dollars and no cents (\$6,000.00) in attorney fees.

For a complete description of the proposed settlement, the complete proposed Agreed Final Judgment should be reviewed. Requests for copies of the judgment, and written comments on the proposed judgment should be directed to Lisa Sanders Richardson, Assistant Attorney General, Office of the Texas Attorney General, P. O. Box 12548, Austin, Texas 78711-2548, (512) 463-2012, facsimile (512) 320-0911. Written comments must be received within 30 days of publication of this notice to be considered.

For further information, call A.G. Younger at 512-463-2110.

TRD-200100150
Susan D. Gusk
Assistant Attorney General
Office of the Attorney General
Filed: January 9, 2001

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Texas Bond Review Board

Biweekly Report of the Private Activity Bond Allocation Program

2000 PROGRAM

The information that follows is the final report of the 2000 Private Activity Bond Allocation Program for the period of December 23, 2000 through December 31, 2000.

Total amount of state ceiling remaining unreserved for the \$250,551,762 subceiling for qualified mortgage bonds under the Act as of December 31, 2000: \$0

Total amount of state ceiling remaining unreserved for the \$110,242,776 subceiling for state-voted issue bonds under the Act as of December 31, 2000: \$0

Total amount of state ceiling remaining unreserved for the \$75,165,529 subceiling for qualified small issue bonds under the Act as of December 31, 2000: \$0

Total amount of state ceiling remaining unreserved for the \$165,364,163 subceiling for residential rental project bonds under the Act as of December 31, 2000: \$0

Total amount of state ceiling remaining unreserved for the \$105,231,740 subceiling for student loans bonds under the Act as of December 31, 2000: \$0

Total amount of state ceiling remaining unreserved for the \$295,651,080 subceiling for all other issue bonds under the Act as of December 31, 2000: \$0

Total amount of the \$1,002,207,050 state ceiling remaining unreserved under the Act as of December 31, 2000: \$0

Following is a comprehensive listing of applications, which have received a Certificate of Carryforward pursuant to the Act from December 23, 2000 through December 31, 2000:

Issuer: Brazos River Authority

User: TXU Electric Company

Description: All Other Issues--Glen Rose, Texas

Amount: \$13,121,937.34

Following is a comprehensive listing of applications, which have issued and delivered the bonds and received a Certificate of Allocation pursuant to the Act from December 23, 2000 through December 31, 2000:

Issuer: North Texas Higher Education Authority, Inc.

User: Eligible Borrowers

Description: Student Loan Bonds

Amount: \$35,000,000

Following is a comprehensive listing of applications, which were either withdrawn or cancelled pursuant to the Act from December 23, 2000 through December 31, 2000: None

Following is a comprehensive listing of applications, which released a portion or their entire reserved amount pursuant to the Act from December 23, 2000 through December 31, 2000: None

2001 PROGRAM

The information that follows is a report of the new 2001 Private Activity Bond Allocation Program for the period of January 1, 2001 through January 5, 2001. The new volume cap for Texas for 2001 is \$1,303,238,750, which is based on the Texas census figures (20,851,820) released 12/28/00 as well as the new bond cap of \$62.50 per capita passed by Congress with bill H.R. 4577.

Total amount of state ceiling remaining unreserved for the \$325,809,688 subceiling for qualified mortgage bonds under the Act as of January 5, 2001: \$216,993,188

Total amount of state ceiling remaining unreserved for the \$143,356,263 subceiling for state-voted issue bonds under the Act as of January 5, 2001: \$143,356,263

Total amount of state ceiling remaining unreserved for the \$97,742,906 subceiling for qualified small issue bonds under the Act as of January 5, 2001: \$87,742,906

Total amount of state ceiling remaining unreserved for the \$215,034,394 subceiling for residential rental project bonds under the Act as of January 5, 2001: \$120,104,394

Total amount of state ceiling remaining unreserved for the \$136,840,069 subceiling for student loans bonds under the Act as of January 5, 2001: \$101,840,069

Total amount of state ceiling remaining unreserved for the \$384,455,431 subceiling for all other issue bonds under the Act as of January 5, 2001: \$281,955,431

Total amount of the \$1,303,238,750 state ceiling remaining unreserved under the Act as of January 5, 2001: \$951,992,251

Following is a comprehensive listing of applications, which have received a Certificate of Reservation pursuant to the Act from January 1, 2001 through January 5, 2001:

1) Issuer: Permian Basin HFC

User: Eligible Borrowers

Description: Single Family Mortgage Revenue Bonds

Amount: \$15,999,400

2) Galveston HFC

User: Eligible Borrowers

Description: Single Family Mortgage Revenue Bonds

Amount: \$8,860,500

3) City of Dallas HFC

User: Eligible Borrowers

Description: Single Family Mortgage Revenue Bonds

Amount: \$25,000,000

4) Stephenville IDC

User: Raskas Cheese Products of Texas, Inc.

Description: Qualified Small Issue Bonds

Amount: \$10,000,000

5) Issuer: City of Dallas HFC

User: Las Colinas Apartments, Ltd.
Description: Multifamily Residential Rental Project--Trail Glen Apts.
Amount: \$4,510,000
6) Issuer: Housing Options, Inc.
User: Roseland Fellowship, L.P.
Description: Multifamily Residential Rental Project--Roseland Fellowship L.P.
Amount: \$6,425,000
7) Issuer: San Antonio HFC
User: San Antonio Housing Development Corp.
Description: Multifamily Residential Rental Project--Crown Meadow Apts.
Amount: \$15,000,000
8) Issuer: Houston HFC
User: Houston Belfort Pines Apartments, L.P.
Description: Multifamily Residential Rental Project--Belfort Pines Apts.
Amount: \$11,000,000
9) Issuer: Hidalgo/Willacy HFC
User: Eligible Borrowers
Description: Single Family Mortgage Revenue Bonds
Amount: \$20,062,500
10) Issuer: Travis County HFC
User: Eligible Borrowers
Description: Single Family Mortgage Revenue Bonds
Amount: \$11,322,900
11) Issuer: Grand Prairie HFC
User: Eligible Borrowers
Description: Single Family Mortgage Revenue Bonds
Amount: \$14,942,400
12) Issuer: Middle Rio Grande HFC
User: Eligible Borrowers
Description: Single Family Mortgage Revenue Bonds
Amount: \$12,628,800
13) Issuer: TDHCA
User: Knollwood Villas, L.P.
Description: Multifamily Residential Rental Project--Knollwood Villas
Amount: \$14,100,000
14) Issuer: Montgomery County HFC
User: Montgomery Trace Apartments, L.P.
Description: Multifamily Residential Rental Project--Montgomery Trace Apts.
Amount: \$8,000,000
15) Issuer: TDHCA

User: TX Bluffview Housing, L.P.
Description: Multifamily Residential Rental Project--Bluffview
Amount: \$14,100,000
16) Issuer: TDHCA
User: Ascot Park Townhomes, L.P.
Description: Multifamily Residential Rental Project--Ascot Park Townhomes
Amount: \$13,045,000
17) Calhoun County Navigation District
User: Formosa Plastics Corporation, Texas
Description: All Other Issue--Point Comfort, Texas
Amount: \$25,000,000
18) Issuer: Colorado River Municipal Water District
User: Republic Waste Services of Texas Ltd.
Description: All Other Issue--Odessa, Texas
Amount: \$4,000,000
19) Issuer: Gulf Coast Waste Disposal Authority
User: Republic Waste Services of Texas Ltd.
Description: All Other Issue--League City, Texas
Amount: \$3,500,000
20) Issuer: Brazos River Harbor Navigation District of Brazoria County, Texas
User: Merrey Sweeney, L.P.
Description: All Other Issuer-Brazoria, Texas
Amount: \$25,000,000
21) Issuer: Gulf Coast Waste Disposal Authority
User: Exxon Capital Ventures, Inc.
Description: All Other Issue--Baytown, Texas
Amount: \$25,000,000
22) Issuer: Trinity River Authority of Texas
User: Community Waste Disposal, Inc.
Description: All Other Issue--Dallas, Texas
Amount: \$20,000,000
23) Issuer: Brazos Higher Education Authority, Inc.
User: Eligible Borrowers
Description: Student Loan Bonds
Amount: \$35,000,000
24) Issuer: TDHCA
User: Parkside Terrace, Ltd.
Description: Multifamily Residential Rental Project--Parkside Terrace Apts.
Amount: \$8,750,000
Following is a comprehensive listing of applications, which have issued and delivered the bonds and received a Certificate of Allocation

pursuant to the Act from January 1, 2001 through January 5, 2001: None

Following is a comprehensive listing of applications, which were either withdrawn or cancelled pursuant to the Act from through January 5, 2001:

1) Issuer: Pecos Higher Education Authority, Inc.

User: Eligible Borrowers

Description: Student Loan Bonds

Amount: \$35,000,000

2) Capital Area HFC

User: Colorado Partners, L.P.

Description: Multifamily Residential Rental Project--Colorado Crossing Apts.

Amount: \$13,500,000

3) City of Dallas HFC

User: Canterra Crossing Apartments, Ltd.

Description: Multifamily Residential Rental Project--Creeside Hills Apts.

Amount: \$7,200,000

4) San Antonio HFC

User: San Antonio Housing Development Corporation

Description: Multifamily Residential Rental Project--Science Park II Apts.

Amount: \$7,250,000

5) Issuer: Austin HFC

User: Pioneer Villas, Ltd.

Description: Multifamily Residential Rental Project--Pioneer Villas Apts.

Amount: \$15,000,000

6) Issuer: Port Arthur Navigation District IDC

User: BASF Corp./ATOFINA Petrochemicals Inc./Shell Chemical Co.

Description: All Other Issuer--Port Arthur, Texas

Amount: \$25,000,000

Following is a comprehensive listing of applications, which released a portion or their entire reserved amount pursuant to the Act from January 1, 2001 through January 5, 2001: None

For a more comprehensive and up-to-date summary of the Private Activity Bond Allocation Program, please visit the website (www.brb.state.tx.us). If you have any questions or comments, please contact Steve Alvarez, Program Administrator, at 512/475-4803 or via email at alvarez@brb.state.tx.us.

TRD-200100102

Steve Alvarez

Program Administrator

Texas Bond Review Board

Filed: January 8, 2001

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Comptroller of Public Accounts

Notice of Intent to Renew Consultant Contract

Pursuant to Chapter 2254, Subchapter B, Texas Government Code, the Comptroller of Public Accounts (Comptroller) furnishes this notice of intent to renew a consultant contract.

Effective December 10, 1998, the Comptroller, acting on behalf of the Texas Prepaid Higher Education Tuition Board, and Watson Wyatt Investment Consulting, Inc. (Consultant) entered into a contract for investment consulting services. The initial term of the contract was from December 10, 1998 through December 10, 1999. The contract was previously renewed from December 10, 1999 through December 10, 2000 and from December 10, 2000 through January 9, 2001. The Comptroller issues this notice of its intent to renew the contract for the period from January 10, 2001 through January 10, 2002. Total payments under the contract, including all renewal periods, shall not exceed \$315,000.00.

For further information, contact Pamela Ponder, Deputy General Counsel for Contracts, 111 E. 17th St., Room G-24, Austin, Texas 78744, telephone number (512)305-8673; fax (512)475-0973, or by e-mail at contracts@cpa.state.tx.us.

TRD-200100165

Pamela Ponder

Deputy General Counsel for Contracts

Comptroller of Public Accounts

Filed: January 10, 2001



Notice of Request for Proposals

Notice of Request for Proposals: Pursuant to Chapter 2254, Subchapter B, Texas Government Code, and Section 403.020, Texas Government Code, the Comptroller of Public Accounts (Comptroller) announces the issuance of its Request for Proposals (RFP #119a) from qualified, independent firms to provide consulting services to the Comptroller. The successful respondent will assist the Comptroller in conducting a management and performance review of the Robstown Independent School District (Robstown ISD). The Comptroller reserves the discretion to award one or more contracts for a review of the Robstown ISD under this RFP. The services sought under this RFP will culminate in a final report, which shall contain findings, recommendations, an implementation timeline, plans, and be a component part of the review of the district involved. The successful respondent will be expected to begin performance of the contract on or about March 22, 2001.

Contact: Parties interested in submitting a proposal should contact Clay Harris, Assistant General Counsel, Contracts, Comptroller of Public Accounts, 111 E. 17th St., ROOM G-24, Austin, Texas, 78744, telephone number: (512) 305-8673, to obtain a copy of the RFP. The Comptroller will mail copies of the RFP only to those specifically requesting a copy. The RFP was made available for pick-up at the above-referenced address on Friday, January 19, 2001, between 2 p.m. and 5 p.m., Central Zone Time (CZT), and during normal business hours thereafter. The Comptroller also made the complete RFP available electronically on the Texas Marketplace after Friday, January 19, 2001, 2 p.m. (CZT). All written inquiries, questions, and mandatory Letters of Intent to propose must be received at the above-referenced address prior to 2 p.m. (CZT) on Friday, February 9, 2001. Prospective respondents are encouraged to fax Letters of Intent and Questions to (512) 475-0973 to ensure timely receipt. The Letter of Intent must be addressed to Clay Harris, Assistant General Counsel, Contracts, and must contain the information as stated in the corresponding Section of the RFP and be signed by an official of that entity. Mandatory Letters of Intent and Questions received after this time and date will not be considered. The responses to questions and other information pertaining

to this procurement will be posted on Wednesday, February 14, 2001, on the Texas Marketplace <http://www.marketplace.state.tx.us>.

Closing Date: Proposals must be received in Assistant General Counsel's Office at the address specified above (ROOM G-24) no later than 2 p.m. (CZT), on Monday, February 26, 2001. Proposals received after this time and date will not be considered.

Evaluation and Award Procedure: All proposals will be subject to evaluation by a committee based on the evaluation criteria and procedures set forth in the RFP. The Comptroller will make the final decision.

The Comptroller reserves the right to accept or reject any or all proposals submitted. The Comptroller of Public Accounts is under no legal or other obligation to execute a contract on the basis of this notice or the distribution of any RFP. The Comptroller shall pay for no costs incurred by any entity in responding to this Notice or the RFP.

The anticipated schedule of events is as follows: Issuance of RFP - January 19, 2001, 2 p.m. CZT; Mandatory Letters of Intent and Questions Due - February 9, 2001, 2 p.m. CZT; Responses to Questions - February 14, 2001; Proposals Due - February 26, 2001, 2 p.m. CZT; Contract Execution - March 16, 2001, or as soon thereafter as practical; Commencement of Project Activities - March 22, 2001.

TRD-200100156
Pamela Ponder
Deputy General Counsel for Contracts
Comptroller of Public Accounts
Filed: January 10, 2001

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Office of Consumer Credit Commissioner

Notice of Rate Ceilings

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

The weekly ceiling as prescribed by Sections 303.003 and 303.009 for the period of 01/15/01 - 01/21/01 is 18% for Consumer¹/Agricultural/Commercial²/credit thru \$250,000.

The weekly ceiling as prescribed by Sections 303.003 and 303.009 for the period of 01/15/01 - 01/21/01 is 18% for Commercial over \$250,000.

¹Credit for personal, family or household use.

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

TRD-200100118
Leslie L. Pettijohn
Commissioner
Office of Consumer Credit Commissioner
Filed: January 9, 2001

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Credit Union Department

Application to Amend Articles of Incorporation

Notice is given that the following application has been filed with the Credit Union Department and is under consideration:

An application for a name change was received for Dallas Teachers Credit Union, Dallas, Texas. The proposed new name is First Texas Credit Union.

Comments or a request for a meeting by any interested party relating to an application must be submitted in writing within 30 days from the date of this publication. Any written comments must provide all information that the interested party wishes the Department to consider in evaluating the application. All information received will be weighed during consideration of the merits of an application. Comments or a request for a meeting should be addressed to the Texas Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

TRD-200100081
Harold E. Feeney
Commissioner
Credit Union Department
Filed: January 5, 2001

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Texas Council for Developmental Disabilities

Intent to Award Funds

The Texas Council for Developmental Disabilities announces its intention to award grant funds to the Texas Workforce Commission for the development and implementation of policies, practices, and procedures, which demonstrate effective inclusive employment services for people with disabilities.

Background:

Following the award of a grant from the Department of Labor, the State of Texas established twenty eight Local Workforce Development Boards around the state to integrate the delivery of workforce development programs in one-stop Career Centers, where customers may receive all employment and training assistance at one central location.

Local Workforce Development Boards display a large degree of autonomy, flexibility, and local control, and the centers present a wide variance in knowledge concerning techniques supportive of inclusive service provision. Although Equal Employment Opportunity representatives are present in each center and work with local centers' Executive Directors to monitor compliance with the Americans with Disabilities Act and access issues identified by the annual EEO Risk Assessment Plan, both the Commission and local centers recognize the need to have a better understanding of how to provide quality services to customers with disabilities. Collaborative meetings between members and staff of the Texas Council for Developmental Disabilities and the Texas Workforce Commission produced a proposal to improve the service provision to people with disabilities by Workforce programs.

Description of Project:

The project proposes to identify and systematically train Workforce staff in best practices regarding employment preparation needs for people with disabilities, resulting in the development and consistent practice of quality inclusive service provision to all Texans. The Texas Workforce Commission will identify specific internal and external barriers faced by local one-stop career centers and design and implement evaluation tools to monitor the impact of efforts to remove these barriers and improve services. They will develop and provide all staff with a training curriculum containing available resources and information, appropriate referral processes, and individualized planning procedures. One or two sites in Texas will be selected to serve as models, demonstrating best practices. TWC will maintain a Project Advisory Committee responsible for offering guidance to project staff. The committee will have representation from consumers, Vocational Rehabilitation, disability advocacy organizations and local workforce development boards.

Terms and Funds:

The estimated funding for this project is up to \$150,000.00 per year for three years. Funding requires 25% match from non-federal resources. The initial funding for this project will begin January 1, 2001. Continuation funding for this project is not automatic. Consideration for continued funding will include a review of project's accomplishments, financial management of funds, review of most recent program audit, review of findings of TCDD's onsite reviews, and development of alternative funding. Texas Workforce Commission will be the grantee of record.

For information regarding this announcement, please contact Carl Risinger, Grants Management Director, and Texas Council for Developmental Disabilities at (512) 424-4084.

TRD-200100108

Roger A. Webb

Executive Director

Texas Council for Developmental Disabilities

Filed: January 9, 2001

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East Texas Council of Governments

**Notice of Request for Independent Reviewers for
Welfare-to-Work Proposals**

This is to request individuals to serve as Independent Reviewers for Welfare-to-Work proposals. The review of proposals is scheduled to occur on March 5, 2001 and March 6, 2001. The ratings of the reviewers will be considered by the Welfare-to-Work Committee of the East Texas Workforce Development Board as they develop a recommendation for subcontract awards. Reviewers will be paid \$450 per day, plus expenses. Depending on the number of proposals received, reviewers may be asked to read proposals prior to coming to East Texas for the formal review. Reviewers will be compensated for this at a rate of \$450 per day.

Individuals interested in serving as Independent Reviewers should submit a resume, along with a cover letter indicating their availability on the proposed dates. Individuals who have submitted a resume within the past 24 months need not send a new resume unless there is a need to update the information, but written notification of availability is required in order to be considered.

Submissions must be in writing and are due at 5:00 p.m. Central Time on January 26, 2001. Facsimile and e-mail submissions are acceptable. All correspondence should be sent to the attention of: Gary Allen, Section Chief--Planning and Board Support, East Texas Council of Governments, 3800 Stone Road, Kilgore, Texas 75662; phone: (903) 984-8641; fax: (903) 983-1440; e-mail: gary.allen@twc.state.tx.us.

Anyone having questions regarding this process should contact Wendell Holcombe, Director of Workforce Development Programs, or Gary Allen at the address listed above.

TRD-200100068

Glynn Knight

Executive Director

East Texas Council of Governments

Filed: January 4, 2001

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Texas Department of Health

Licensing Action for Radioactive Materials

The Texas Department of Health 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.

LICENSING ACTIONS FOR RADIOACTIVE MATERIALS

The Texas Department of Health has taken actions regarding Licenses for the possession and use of radioactive materials as listed in the tables. The subheading "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout Texas" indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.

NEW LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Houston	Southwest Cardiovascular	L05396	Houston	00	12/22/00
Throughout Tx	Central Environmental Inc	L05391	Houston	00	12/22/00

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Abilene	Abilene Cardiology Consultants PA	L04315	Abilene	22	12/20/00
Arlington	Metroplex Hematology Oncology Associates	L03211	Arlington	59	12/28/00
Austin	Austin Radiological Association	L00545	Austin	90	12/22/00
Austin	Columbia/St David's Healthcare System LP	L00740	Austin	77	12/20/00
Baytown	Jacinto MRI and Diagnostic Center	L04808	Baytown	09	12/29/00
Baytown	Baycoast Medical Center	L02462	Baytown	33	12/29/00
Corpus Christi	MGM Well Services Inc	L01559	Corpus Christi	19	12/29/00
Corpus Christi	Radiology Associates LLP	L04169	Corpus Christi	29	12/29/00
Dallas	Oak Cliff Medical Foundation	L00202	Dallas	38	12/28/00
Dallas	Baylor University Medical Center	L01290	Dallas	51	12/19/00
Denton	International Isotopes Inc	L05159	Denton	16	12/14/00
Eastland	Link Field Services Inc	L05383	Eastland	02	12/29/00
El Paso	Cardiology Care Consultants	L05045	El Paso	02	12/22/00
Freeport	The Dow Chemical Company	L00451	Freeport	63	12/28/00
Houston	The University of Texas Health Science Center	L03685	Houston	28	12/27/00
Houston	Doctors Hospital LP	L02047	Houston	23	12/21/00
Houston	Memorial Hermann Hospital System Inc	L00650	Houston	54	12/21/00
Houston	Donohue Industries, Inc	L01793	Houston	23	12/14/00
Houston	METCO	L03018	Houston	105	12/29/00
Houston	American Pipe Inspection Company LTD	L02576	Houston	16	12/29/00
Irving	Abbott Laboratories	L04841	Irving	05	12/29/00
Kanta Ontario	MDS Nordion Inc	L00721	Canada	46	12/29/00
Kingsville	Texas Perforators Inc	L05086	Kingsville	07	12/29/00
Kingsville	Spohn Kleberg Memorial Hospital	L02917	Kingsville	22	01/02/01
Laredo	Ricardo G Cigarroa MD	L04687	Laredo	02	12/22/00
Longview	Professional Service Industries Inc	L04941	Longview	05	12/29/00
Lubbock	University Medical Center	L04719	Lubbock	38	12/19/00
Marble Falls	Hill Country Imaging Associates PA	L05301	Marble Falls	02	12/21/00
McAllen	McAllen Edinburg LP	L01713	McAllen	60	12/29/00
Midland	Texas Oncology PA	L04905	Midland	04	12/27/00
Midland	Midland Walk In and Cardiology Clinic	L05239	Midland	04	12/22/00
Mineral Wells	Palo Pinto General Hospital	L01732	Mineral Wells	24	12/20/00

CONTINUED AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Missouri City	Fort Bend Hospital Inc	L03457	Missouri City	21	12/22/00
Nassau Bay	Christus Health	L03291	Nassau Bay	20	12/19/00
Odessa	Suresh N Gadasalli MD PA	L05156	Odessa	04	12/19/00
Pasadena	Air Products Manufacturing Corporation	L04560	Pasadena	08	12/21/00
San Antonio	South Texas Radiology Imaging Centers	L03518	San Antonio	26	12/27/00
San Antonio	University of Texas at San Antonio	L01962	San Antonio	41	12/29/00
Tatum	TXU Electric	L04593	Tatum	06	12/22/00
Throughout Tx	Technical Welding Laboratory Inc	L02187	Pasadena	134	12/22/00
Throughout Tx	Gulf Coast International Inspection Inc	L04934	Ingleside	15	12/22/00
Throughout Tx	Longview Inspection Inc	L01774	Houston	160	12/22/00
Throughout Tx	Mandes Inspection & Testing Services	L05220	Houston	18	12/22/00
Throughout Tx	Terra Engineers Inc	L02464	Lubbock	30	12/22/00
Throughout Tx	Tuboscope Vetco International Inc	L00287	Houston	106	12/22/00
Throughout Tx	Non Destructive Inspection Corporation	L02712	Lake Jackson	82	12/22/00
Throughout Tx	Kooney Xray Inc	L01074	Barker	89	12/21/00
Throughout Tx	Hunter Industries LTD	L04175	San Marcos	05	12/21/00
Throughout Tx	QTE Quality Testing and Engineering	L05222	Dallas	03	12/21/00
Throughout Tx	Superior Testing Services	L05145	Pasadena	17	12/20/00
Throughout Tx	Texas QA Services	L04601	Grand Prairie	15	12/20/00
Throughout Tx	IT Corporation	L02906	Ft Worth	23	12/22/00
Throughout Tx	Non Destructive Inspection Corporation	L02712	Lake Jackson	81	12/21/00
Tyler	Trinity Mother Frances Health System	L01670	Tyler	70	12/18/00
Waco	Waco Cardiology Associates	L05158	Waco	03	12/20/00
Winnie	Newpark Environmental Servies of Texas LP	L04999	Winnie	03	12/18/00

RENEWALS OF EXISTING LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Arp	Baker Tank Company	L02599	Arp	21	12/29/00
Austin	Columbia/St David's Healthcare System LP	L04910	Austin	23	12/22/00
Bryan	Brazos Valley Inspection Services Inc	L02859	Bryan	38	12/27/00
Clifton	CLSW LTD	L02461	Clifton	10	12/29/00
Denton	Catch a Fault	L02725	Denton	14	12/29/00
Ft Worth	Consultants in Cardiology	L04445	Ft Worth	09	12/28/00
Houston	General Welding Works Inc	L02895	Houston	41	12/28/00
Houston	Testmasters Inc	L03651	Houston	14	12/29/00
Irving	SAM Engineering & Testing LP	L04930	Irving	05	12/29/00
San Antonio	Radiology Associates of San Antonio PA	L04927	San Antonio	13	12/28/00
The Woodlands	Lexicon Genetics Incorporated	L04932	The Woodland	06	12/28/00
Throughout Tx	Granite Construction Company	L04923	Lewisville	04	12/22/00
Wadsworth	STP Nuclear Operating Company	L04222	Wadsworth	14	12/27/00

TERMINATIONS OF LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
The Woodlands	Zonagen Inc	L04464	The Woodland	10	12/29/00

In issuing new licenses and amending and renewing existing licenses, the Texas Department of Health, Bureau of Radiation Control, has determined that the applicants are qualified by reason of training and experience to use the material in question for the purposes requested in

accordance with Title 25 Texas Administrative Code (TAC) Chapter 289 in such a manner as to minimize danger to public health and safety or property and the environment; the applicants' proposed equipment, facilities and procedures are adequate to minimize danger to public health and safety or property and the environment; the issuance of the

license(s) will not be inimical to the health and safety of the public or the environment; and the applicants satisfy any applicable requirements of 25 TAC Chapter 289.

This notice affords the opportunity for a hearing on written request of a licensee, applicant, or "person affected" within 30 days of the date of publication of this notice. A "person affected" is defined as a person who is a resident of a county, or a county adjacent to the county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage. A licensee, applicant, or "person affected" may request a hearing by writing Richard A. Ratliff, P.E., Chief, Bureau of Radiation Control (Director, Radiation Control Program), Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3189. For information call (512) 834-6688.

TRD-200100157
Susan K. Steeg
General Counsel
Texas Department of Health
Filed: January 10, 2001



Notice of Request for Proposals for the Binational/Migrant Tuberculosis Tracking Network

Request for Proposal: The Texas Department of Health (department) Division of Tuberculosis Elimination announces a Request for Proposals (RFP) for the continuation of an information system that works collaboratively with other organizations to maintain the Binational/Migrant Tracking and Referral Network in providing patient tracking services and referrals for these groups. The RFP will be released on or about February 9, 2001.

Brief Description of Services: The department intends to continue a border and migrant tuberculosis network, data base, tracking, and referral system linking all Texas/Mexico border programs, migrant clinicians and public health providers working within the migrant stream. These services are used to maintain the computerized registry of all enrolled border and migrant tuberculosis patients that originate in or are expected to return to Texas, provide a migrant tuberculosis service

directory for case referral between the U.S. and Mexico, provide expert consultation on case management issues, perform epidemiological data analysis on data collected, promote the use of the network and the portable tuberculosis health records.

Eligible Applicants: Eligible applicants include public health agencies of State, regional, and local health departments and non-profit agencies/organizations. Individuals are not eligible to apply.

Limitations: Approximately \$106,000 is expected to be available to fund a four year project with a twelve month budget. The specific dollar amount to be awarded to applicant will depend upon the merit and scope of the proposed project.

Continued funding in future years will be based upon the availability of funds and documented progress of the project during the prior budget period. Funding may vary and is subject to change for each budget period.

The department reserves the right to reject any and all offers received in response to this RFP and to cancel this RFP if it is deemed in the best interest of the department.

Deadline for Proposals, Term of Contract, and Amount of Award: Proposals will be due April 11, 2001, at 2:00 P.M. Central Daylight Saving Time. The effective date of the contract awarded under this RFP will be July 1, 2001 through June 30, 2002 with an option to renew for an additional three year period.

Contact Person: Potential offerors may obtain a copy of the RFP on or about March 11, 2001. It is preferred that requests for the RFP be submitted in writing (by mail, fax or e-mail) to: Pamela Ferguson, Texas Department of Health, RM G-308, 1100 West 49th Street, Austin; Fax: 512/458-77787; E-Mail: pam.ferguson@tdh.state.tx.us.

TRD-200100185
Susan K. Steeg
General Counsel
Texas Department of Health
Filed: January 10, 2001



Schedules of Controlled Substances

SCHEDULES OF CONTROLLED SUBSTANCES

PURSUANT TO THE TEXAS CONTROLLED SUBSTANCES ACT, HEALTH AND SAFETY CODE, CHAPTER 481, THESE SCHEDULES, ESTABLISHED JANUARY 1, 2001, SUPERCEDE PREVIOUS SCHEDULES AND CONTAIN THE MOST CURRENT VERSION OF THE SCHEDULES OF ALL CONTROLLED SUBSTANCES FROM THE PREVIOUS SCHEDULES AND MODIFICATIONS.

January 1, 2001

Changes to the schedules are designated by an asterisk (*). Additional information can be obtained by contacting the Texas Department of Health, Bureau of Food and Drug Safety, 1100 West 49th Street, Austin, Texas 78756. The telephone number is (512) 719-0237 and the website address is <http://www.tdh.state.tx.us/bfds/dmd>.

SCHEDULES

Nomenclature: Controlled substances listed in these schedules are included by whatever official, common, usual, chemical, or trade name they may be designated.

SCHEDULE I

Schedule I consists of:

- Schedule I opiates

the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, if the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)- 4-piperidiny]- N- phenylacetamide);
- (2) Allylprodine;
- (3) Alphacetylmethadol (except levo-alpha-acetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM);
- (4) Alpha-methylfentanyl or any other derivative of Fentanyl;

- (5) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl) ethyl-4-piperidinyl]-N- phenyl-propanamide);
- (6) Benzethidine;
- (7) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenyl-propanamide);
- (8) Beta-hydroxy-3-methylfentanyl (N-[1-(2-hydroxy-2-phenethyl)-3- methyl- 4- piperidinyl]-N-phenylpropanamide);
- (9) Betaprodine;
- (10) Clonitazene;
- (11) Diampromide;
- (12) Diethylthiambutene;
- (13) Difenoxin;
- (14) Dimenoxadol;
- (15) Dimethylthiambutene;
- (16) Dioxaphetyl butyrate;
- (17) Dipipanone;
- (18) Ethylmethylthiambutene;
- (19) Etonitazene;
- (20) Etoxidine;
- (21) Furethidine;
- (22) Hydroxypethidine;
- (23) Ketobemidone;
- (24) Levophenacymorphan;
- (25) Meprodine;
- (26) Methadol;
- (27) 3-methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N- phenylpropanamide), its optical and geometric isomers;
- (28) 3-methylthiofentanyl (N-[3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N- phenylpropanamide);
- (29) Moramide;
- (30) Morpheridine;
- (31) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- (32) Noracymethadol;
- (33) Norlevorphanol;
- (34) Normethadone;
- (35) Norpipanone;
- (36) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl]- propanamide);

- (37) PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- (38) Phenadoxone;
- (39) Phenampromide;
- (40) Phencyclidine;
- (41) Phenomorphan;
- (42) Phenoperidine;
- (43) Piritramide;
- (44) Proheptazine;
- (45) Properidine;
- (46) Propiram;
- (47) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide);
- (48) Tilidine; and
- (49) Trimeperidine;

- Schedule I opium derivatives

the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, if the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Acetorphine;
- (2) Acetyldihydrocodeine;
- (3) Benzylmorphine;
- (4) Codeine methylbromide;
- (5) Codeine-N-Oxide;
- (6) Cyprenorphine;
- (7) Desomorphine;
- (8) Dihydromorphine;
- (9) Drotebanol;
- (10) Etorphine (except hydrochloride salt);
- (11) Heroin;
- (12) Hydromorphenol;
- (13) Methyldesorphine;
- (14) Methyldihydromorphine;
- (15) Monoacetylmorphine;

- (16) Morphine methylbromide;
- (17) Morphine methylsulfonate;
- (18) Morphine-N-Oxide;
- (19) Myrophine;
- (20) Nicocodeine;
- (21) Nicomorphine;
- (22) Normorphine;
- (23) Pholcodine; and
- (24) Thebacon;

- Schedule I hallucinogenic substances:

unless specifically excepted or unless listed in another schedule, a material, compound, mixture, or preparation that contains any quantity of the following hallucinogenic substances or that contains any of the substance's salts, isomers, and salts of isomers if the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation (for the purposes of this Schedule I hallucinogenic substances section only, the term "isomer" includes optical, position, and geometric isomers):

- (1) Alpha-ethyltryptamine (some trade or other names: etryptamine; Monase; alpha- ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; alpha-ET; AET);
- (2) 4-bromo-2,5-dimethoxyamphetamine (some trade or other names: 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine; 4-bromo-2,5-DMA);
- (3) 4-bromo-2,5-dimethoxyphenethylamine (some trade or other names: Nexus; 2C-B; 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB);
- (4) 2,5-dimethoxyamphetamine (some trade or other names: 2,5-dimethoxy-alpha- methylphenethylamine; 2,5-DMA);
- (5) 2,5-dimethoxy-4-ethylamphetamine (some trade or other names: DOET);
- (6) 5-methoxy-3,4-methylenedioxy-amphetamine;
- (7) 4-methoxyamphetamine (some trade or other names: 4-methoxy-alpha- methylphenethylamine; paramethoxyamphetamine; PMA);
- (8) 1-methyl-4-phenyl-1,2,5,6-tetrahydro-pyridine (MPTP);
- (9) 4-methyl-2,5-dimethoxyamphetamine (some trade and other names: 4-methyl-2,5-dimethoxy-alpha-methyl-phenethylamine; "DOM"; and "STP");
- (10) 3,4-methylenedioxy-amphetamine;

- (11) 3,4-methylenedioxy-methamphetamine (MDMA, MDM);
- (12) 3,4-methylenedioxy-N-ethylamphetamine (some trade or other names: N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine; N-ethyl MDA; MDE; MDEA);
- (13) 3,4,5-trimethoxy amphetamine;
- (14) N-hydroxy-3,4-methylenedioxyamphetamine (Also known as N-hydroxy MDA);
- (15) Bufotenine (some trade and other names: 3-(beta-Dimethylaminoethyl)-5- hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N,N-dimethylserotonin; 5-hydroxy- N,N-dimethyltryptamine; mappine);
- (16) Diethyltryptamine (some trade and other names: N,N-Diethyltryptamine; DET);
- (17) Dimethyltryptamine (some trade and other names: DMT);
- (18) Ethylamine Analog of Phencyclidine (some trade or other names: N-ethyl-1- phenylcyclohexylamine; (1-phenylcyclohexyl) ethylamine; N-(1-phenylcyclohexyl)-ethylamine; cyclohexamine; PCE);
- (19) Ibogaine (some trade or other names: 7-Ethyl-6,6-beta, 7,8,9,10,12,13-octhydro-2-methoxy-6,9-methano-5H-pyrido[1',2':1,2] azepino [5,4-b] indole; taber-nanthe iboga);
- (20) Lysergic acid diethylamide;
- (21) Marihuana;
- (22) Mescaline;
- (23) N-ethyl-3-piperidyl benzilate;
- (24) N-methyl-3-piperidyl benzilate;
- (25) Parahexyl (some trade or other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro- 6,6,9-trimethyl-6H-dibenzo [b,d] pyran; Synhexyl);
- (26) Peyote, unless unharvested and growing in its natural state, meaning all parts of the plant classified botanically as *Lophophora*, whether growing or not, the seeds of the plant, an extract from a part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or extracts;
- (27) Psilocybin;
- (28) Psilocin;
- (29) Pyrrolidine analog of phencyclidine (some trade or other names: 1-(1-phenyl- cyclohexyl)-pyrrolidine, PCPy, PHP);
- (30) Tetrahydrocannabinols;
- (31) Synthetic equivalents of the substances contained in the plant *Cannabis*, or in the resinous extractives of that plant, and synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as: delta-1 cis or trans tetrahydrocannabinol, and their optical isomers; delta-6 cis or trans tetrahydrocannabinol, and their optical isomers; delta-3,4 cis or trans tetrahydrocannabinol, and its optical isomers; (Compounds of these structures, regardless of numerical designation of atomic positions, since nomenclature of these substances is not internationally standardized);

(32) Thiophene analog of phencyclidine (some trade or other names: 1-[1-(2-thienyl)cyclohexyl] piperidine; 2-thienyl analog of phencyclidine; TCP); and

(33) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine (some trade or other names: TCPy);

- Schedule I stimulants

unless specifically excepted or unless listed in another schedule, a material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including the substance's salts, isomers, and salts of isomers if the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Aminorex (some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; 4,5-dihydro- 5-phenyl-2-oxazolamine);

(2) Cathinone (some trade or other names: 2-amino-1-phenyl-1-propanone; alpha- aminopropiophenone; 2-aminopropiophenone and norephedrone);

(3) Fenethylamine;

(4) Methcathinone (some other names: 2-(methylamino)-propionophenone; alpha- (methylamino) propionophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropionophenone; monomethylpropionophedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463; and UR1432);

(5) 4-methylaminorex;

(6) N-ethylamphetamine; and

(7) N,N-dimethylamphetamine (some other names: N,N-alpha-trimethylbenzene-ethanamine; N,N-alpha-trimethylphenethylamine).

- Schedule I depressants

unless specifically excepted or unless listed in another schedule, a material, compound, mixture, or preparation that contains any quantity of the following substances having a depressant effect on the central nervous system, including the substance's salts, isomers, and salts of isomers if the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

*(1) Gamma-hydroxybutyric acid (some other names include GHB; gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate)

(2) Mecloqualone; and,

(3) Methaqualone.

SCHEDULE II

Schedule II consists of:

- Schedule II substances, vegetable origin or chemical synthesis

the following substances, however produced, except those narcotic drugs listed in other schedules:

(1) Opium and opiate, and a salt, compound, derivative, or preparation of opium or opiate, other than thebaine-derived butorphanol, naloxone and its salts, naltrexone and its salts, and nalmefene and its salts, but including:

- (1-1) Codeine;
- (1-2) Ethylmorphine;
- (1-3) Etorphine hydrochloride;
- (1-4) Granulated opium;
- (1-5) Hydrocodone;
- (1-6) Hydromorphone;
- (1-7) Metopon;
- (1-8) Morphine;
- (1-9) Opium extracts;
- (1-10) Opium fluid extracts;
- (1-11) Oxycodone;
- (1-12) Oxymorphone;
- (1-13) Powdered opium;
- (1-14) Raw opium;
- (1-15) Thebaine; and,
- (1-16) Tincture of opium;

(2) a salt, compound, isomer, derivative, or preparation of a substance that is chemically equivalent or identical to a substance described by Paragraph (1) of Schedule II substances, vegetable origin or chemical synthesis, other than the isoquinoline alkaloids of opium;

(3) Opium poppy and poppy straw;

(4) Cocaine, including:

(4-1) its salts, its optical, position, and geometric isomers, and the salts of those isomers; and,

(4-2) coca leaves and a salt, compound, derivative, or preparation of coca leaves that is chemically equivalent or identical to a substance described by this paragraph, other than decocainized coca leaves or extractions of coca leaves that do not contain cocaine or ecgonine; and,

(5) Concentrate of poppy straw, meaning the crude extract of poppy straw in liquid, solid, or powder form that contains the phenanthrene alkaloids of the opium poppy;

- Opiates

the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, if the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

(1) Alfentanil;

(2) Alphaprodine;

(3) Anileridine;

(4) Bezitramide;

(5) Carfentanil;

(6) Dextropropoxyphene, bulk (nondosage form);

(7) Dihydrocodeine;

(8) Diphenoxylate;

(9) Fentanyl;

(10) Isomethadone;

(11) Levo-alphaacetylmethadol (some trade or other names: levo-alpha-acetylmethadol, levomethadyl acetate, LAAM);

(12) Levomethorphan;

(13) Levorphanol;

(14) Metazocine;

- (15) Methadone;
- (16) Methadone-Intermediate, 4-cyano-2-dimethylamino-4,4-diphenyl butane;
- (17) Moramide-Intermediate, 2-methyl-3-morpholino-1,1-diphenyl-propane-carboxylic acid;
- (18) Pethidine (meperidine);
- (19) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
- (20) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
- (21) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- (22) Phenazocine;
- (23) Piminodine;
- (24) Racemethorphan;
- (25) Racemorphan;
- (26) Remifentanil; and
- (27) Sufentanil;

- Schedule II stimulants

unless listed in another schedule and except as provided by the Texas Controlled Substances Act, Health and Safety Code, Section 481.033, a material, compound, mixture, or preparation that contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

- (1) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
- (2) Methamphetamine, including its salts, optical isomers, and salts of optical isomers;
- (3) Methylphenidate and its salts; and,
- (4) Phenmetrazine and its salts;

- Schedule II depressants

unless listed in another schedule, a material, compound, mixture or preparation that contains any quantity of the following substances having a depressant effect on the central nervous system, including the substance's salts, isomers, and salts of isomers if the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Amobarbital;
- (2) Glutethimide;
- (3) Pentobarbital; and,

(4) Secobarbital;

- Schedule II hallucinogenic substances

(1) Nabilone (Another name for nabilone: (\pm)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one);

- Schedule II precursors

unless specifically excepted or listed in another schedule, a material, compound, mixture, or preparation that contains any quantity of the following substances:

(1) Immediate precursor to methamphetamine:

(2) Phenylacetone and methylamine if possessed together with intent to manufacture methamphetamine;

(3) Immediate precursor to amphetamine and methamphetamine:

(4) Phenylacetone (some trade or other names: phenyl-2-propanone; P2P; benzyl methyl ketone; methyl benzyl ketone); and

(5) Immediate precursors to phencyclidine (PCP):

(6) 1-phenylcyclohexylamine; and,

(7) 1-piperidinocyclohexanecarbonitrile (PCC).

SCHEDULE III

Schedule III consists of:

- Schedule III depressants

unless listed in another schedule and except as provided by the Texas Controlled Substances Act, Health and Safety Code, Section 481.033, a material, compound, mixture, or preparation that contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

(1) a compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any of their salts and one or more active medicinal ingredients that are not listed in a schedule;

(2) a suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any of their salts and approved by the Food and Drug Administration for marketing only as a suppository;

(3) a substance that contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances that are specifically listed in other schedules;

(4) Chlorhexadol;

* (5) Any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under section 505 of the Federal Food Drug and Cosmetic Act:

(6) Ketamine, its salts, isomers, and salts of isomers. Some other names for ketamine: (\pm)-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone;

(7) Lysergic acid;

(8) Lysergic acid amide;

(9) Methyprylon;

(10) Sulfondiethylmethane;

(11) Sulfonethylmethane;

(12) Sulfonmethane; and

(13) Tiletamine and zolazepam or any salt thereof. Some trade or other names for a tiletamine-zolazepam combination product: Telazol. Some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone. Some trade or other names for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethyl-pyrazolo-[3,4-e][1,4]-diazepin-7(1H)-one, flupyrazapon;

- Nalorphine
- Schedule III narcotics

a material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any of their salts:

(1) not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(2) not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(3) not more than 300 milligrams of dihydrocodeinone (hydrocodone), or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(4) not more than 300 milligrams of dihydrocodeinone (hydrocodone), or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(5) not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(6) not more than 300 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;

(7) not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts; and,

(8) not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

- Schedule III stimulants

unless listed in another schedule, a material, compound, mixture or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including the substance's salts, optical, position, or geometric isomers, and salts of the substance's isomers, if the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Benzphetamine;
- (2) Chlorphentermine;
- (3) Clortermine; and,
- (4) Phendimetrazine;

- Schedule III anabolic steroids and hormones

anabolic steroids, including any drug or hormonal substance, chemically and pharmacologically related to testosterone

(other than estrogens, progestins, and corticosteroids) that promotes muscle growth, and includes the following:

- (1) Boldenone;
- (2) Chlorotestosterone (4-chlortestosterone);
- (3) Clostebol;
- (4) Dehydrochlormethyltestosterone;
- (5) Dihydrotestosterone (4-dihydrotestosterone);
- (6) Drostanolone;
- (7) Ethylestrenol;
- (8) Fluoxymesterone;
- (9) Formebolone;
- (10) Mesterolone;
- (11) Methandienone;
- (12) Methandranone;
- (13) Methandriol;
- (14) Methandrostenolone;
- (15) Methenolone;
- (16) Methyltestosterone;
- (17) Mibolerone;
- (18) Nandrolone;
- (19) Norethandrolone;
- (20) Oxandrolone;
- (21) Oxymesterone;
- (22) Oxymetholone;
- (23) Stanolone;
- (24) Stanozolol;
- (25) Testolactone;
- (26) Testosterone; and
- (27) Trenbolone.

- Schedule III hallucinogenic substances

(1) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in U.S. Food and Drug Administration approved drug product. (Some other names for dronabinol: (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-tri-

methyl-3-pentyl-6H-dibenzo[b,d]pyran-1-ol, or (-)-delta-9-(trans)-tetrahydrocannabinol).

SCHEDULE IV

Schedule IV consists of:

- Schedule IV depressants

except as provided by the Texas Controlled Substances Act, Health and Safety Code, Section 481.033, a material, compound, mixture, or preparation that contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

- (1) Alprazolam;
- (2) Barbital;
- (3) Bromazepam;
- (4) Camazepam;
- (5) Chloral betaine;
- (6) Chloral hydrate;
- (7) Chlordiazepoxide;
- (8) Clobazam;
- (9) Clonazepam;
- (10) Clorazepate;
- (11) Clotiazepam;
- (12) Cloxazolam;
- (13) Delorazepam;
- (14) Diazepam;
- (15) Estazolam;
- (16) Ethchlorvynol;
- (17) Ethinamate;
- (18) Ethyl loflazepate;
- (19) Fludiazepam;
- (20) Flunitrazepam;
- (21) Flurazepam;
- (22) Halazepam;

- (23) Haloxazolam;
- (24) Ketazolam;
- (25) Loprazolam;
- (26) Lorazepam;
- (27) Lormetazepam;
- (28) Mebutamate;
- (29) Medazepam;
- (30) Meprobamate;
- (31) Methohexital;
- (32) Methylphenobarbital (mephobarbital);
- (33) Midazolam;
- (34) Nimetazepam;
- (35) Nitrazepam;
- (36) Nordiazepam;
- (37) Oxazepam;
- (38) Oxazolam;
- (39) Paraldehyde;
- (40) Petrichloral;
- (41) Phenobarbital;
- (42) Pinazepam;
- (43) Prazepam;
- (44) Quazepam;
- (45) Temazepam;
- (46) Tetrazepam;
- (47) Triazolam;
- *(48) Zaleplon: and
- (48) Zolpidem;

- Schedule IV stimulants

unless listed in another schedule, a material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including the substance's salts, optical, position, or geometric isomers, and salts of those isomers if the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Cathine [(+)-norpseudoephedrine];
- (2) Diethylpropion;
- (3) Fencamfamin;
- (4) Fenfluramine;
- (5) Fenproporex;
- (6) Mazindol;
- (7) Mefenorex;
- (8) Modafinil;
- (9) Pemoline (including organometallic complexes and their chelates);
- (10) Phentermine;
- (11) Pipradrol;
- (12) SPA [(-)-1-dimethylamino-1,2-diphenylethane]; and
- (13) Sibutramine

- Schedule IV narcotics

unless specifically excepted or unless listed in another schedule, a material, compound, mixture, or preparation containing limited quantities of the following narcotic drugs or their salts:

- (1) Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit;

and

- (2) Dextropropoxyphene (Alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane).

- Schedule IV other substances

unless specifically excepted or unless listed in another schedule, a material, compound, mixture, or preparation that contains any quantity of the following substances, including the substance's salts:

- (1) Butorphanol, including its optical isomers; and,
- (2) Pentazocine, its salts, derivatives, compounds, or mixtures.

SCHEDULE V

Schedule V consists of:

- Schedule V narcotics

unless specifically excepted or unless listed in another schedule, a material, compound, mixture, or preparation containing any of the following narcotic drugs and their salts:

(1) Buprenorphine;

- Schedule V narcotics containing non-narcotic active medicinal ingredients

a compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs that also contain one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer on the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than 200 milligrams of codeine, or any of its salts, per 100 milliliters or per 100grams;

(2) Not more than 100 milligrams of dihydrocodeine, or any of its salts, per 100 milliliters or per 100 grams;

(3) Not more than 100 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or per 100 grams;

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(5) Not more than 15 milligrams of opium per 29.5729 milliliters or per 28.35 grams; and,

(6) Not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit;

- Schedule V stimulants

unless specifically exempted or excluded or unless listed in another schedule, a compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

(1) Pyrovalerone.

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Health and Human Services Commission

Request for Information

The Health and Human Services Commission (Commission) is soliciting recommendations from governmental entities for establishing a regional health care delivery system pilot site that coordinates the use of health care resources in a region of the state, as directed by House Bill 1398, 76th Texas Legislature (1999). The pilot program must:

- (1) emphasize prevention services, continuity of care, and the provision of a medical home for clients;
- (2) maximize the use of local and state funds by obtaining any available federal matching funds;
- (3) be designed to result in long-term cost savings to the participating entities;
- (4) simplify eligibility criteria and streamline eligibility determinations; and
- (5) improve accountability of indigent health care dollars.

The Commission is particularly interested in descriptions of any proposed or existing regional health care delivery system (RHCDs). If the responding governmental entity has implemented a system that could serve as a pilot site, its response should include a description of the governing structure of the RHCDs, a list of the entities on the RHCDs's governing board, agreement letters from participating entities, goals, a work plan, and a timeline.

Responses should not be more than 10 pages in length.

Project period. The Commission intends to implement the RHCDs pilot program not later than September 1, 2001. The governmental entity selected to operate the pilot program must submit a final report to the Commission by September 30, 2002. The final report must include an analysis of the quality of health care services provided under the pilot program and an analysis of the cost-effectiveness of providing health care services through the pilot program.

This is not an offer to contract; however, the Commission reserves the right to designate a pilot site based on the information it receives.

Submission of Responses. All responses must be received by the Commission no later than 5:00 p.m., CST, 30 days from the date of publication of this notice in the Texas Register. Proposals submitted after this time will not be accepted. Responses should be sent to: Ms. Linda Wertz, State Medicaid Director, HHSC, P. O. Box 13247, Austin, Texas 78711-3247. Telephone: (512) 424-6517.

Agency contact. Additional information may be obtained by contacting Kathy McCormick, Texas Department of Health, Indigent Health Care, Y-990, 1100 W. 49th Street, Austin, Texas 78756-3199, or by telephone at (512) 338-6452.

TRD-200100183

Marina S. Henderson
Executive Deputy Commissioner
Health and Human Services Commission
Filed: January 10, 2001

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Texas Department of Housing and Community Affairs

Notice of Administrative Hearing

Texas Department of Housing and Community Affairs

Manufactured Housing Division

Wednesday, January 24, 2001, 1:00 p.m.

State Office of Administrative Hearing, Stephen F. Austin Building,
1700 N Congress, 11th Floor, Suite 1100

Austin, Texas

AGENDA

Administrative Hearing before an administrative law judge of the State Office of Administrative Hearings in the matter of the complaint of the Texas Department of Housing and Community Affairs vs. Barry Fritts dba R & B Transport Service to hear alleged violations of Sections 7(d)(e)(f) and 13(f) of the Act and Section 80.123(e)(1) of the Rules regarding installation of manufactured homes without obtaining, maintaining or possessing a valid installer's license, by not applying for an installer's license and not obtaining the required bond prior to entering into an agreement to install a manufactured home. SOAH 332-01-1233. Department MHD200000520UI.

Contact: Jerry Schroeder, P.O. Box 12489, Austin, Texas 78711-2489,
(512) 475-3589.

TRD-200100161

Daisy A. Stiner
Executive Director
Texas Department of Housing and Community Affairs
Filed: January 10, 2001

◆ ◆ ◆

Notice of Administrative Hearing

Texas Department of Housing and Community Affairs

Manufactured Housing Division

Wednesday, January 24, 2001, 1:00 p.m.

State Office of Administrative Hearing, Stephen F. Austin Building,
1700 N Congress, 11th Floor, Suite 1100

Austin, Texas

AGENDA

Administrative Hearing before an administrative law judge of the State Office of Administrative Hearings in the matter of the complaint of the Texas Department of Housing and Community Affairs vs. L.E. Mitchell to hear alleged violations of Section 4(f) (now known as Sections 4(d) of the Act effective September 1, 1999) and 7(d) of the Act and Sections 80.54(a) and 80.123(e) of the Rules regarding installation of manufactured homes without obtaining, maintaining or possessing a valid installer's license to include improper installation of a manufactured home. SOAH 332-01-1232. Department MHD200000763UI.

Contact: Jerry Schroeder, P.O. Box 12489, Austin, Texas 78711-2489,
(512) 475-3589.

TRD-200100162

Daisy A. Stiner
Executive Director
Texas Department of Housing and Community Affairs
Filed: January 10, 2001

◆ ◆ ◆

Notice of Administrative Hearing

Texas Department of Housing and Community Affairs

Manufactured Housing Division

Wednesday, January 24, 2001, 1:00 p.m.

State Office of Administrative Hearing, Stephen F. Austin Building,
1700 N Congress, 11th Floor, Suite 1100

Austin, Texas

AGENDA

Administrative Hearing before an administrative law judge of the State Office of Administrative Hearings in the matter of the complaint of the Texas Department of Housing and Community Affairs vs. Anthony Ray Diver dba Diver Manufactured Housing Service to hear alleged violations of Section 7(d) of the Act and Section 80.125(e) (now known as Section 80.123(e) of the Rules effective September 9, 1998) of the Rules regarding installation of manufactured homes without obtaining, maintaining or possessing a valid installer's license. SOAH 332-01-1234. Department MHD1999000152UI.

Contact: Jerry Schroeder, P.O. Box 12489, Austin, Texas 78711-2489, (512) 475-3589.

TRD-200100163

Daisy A. Stiner

Executive Director

Texas Department of Housing and Community Affairs

Filed: January 10, 2001



Notice of Administrative Hearing

Texas Department of Housing and Community Affairs

Manufactured Housing Division

Wednesday, January 31, 2001, 1:00 p.m.

State Office of Administrative Hearing, Stephen F. Austin Building,
1700 N Congress, 11th Floor, Suite 1100

Austin, Texas

AGENDA

Administrative Hearing before an administrative law judge of the State Office of Administrative Hearings in the matter of the complaint of the Texas Department of Housing and Community Affairs vs. America's Heartland, Inc. aka America's Heartland M/H Sales, Inc. to hear alleged violations of Section 4(f) (now known as Sections 4(d) of the Act effective September 1, 1999) and 7(d) of the Act and Sections 80.51 (now known as 80.54(a) of the Rules effective November 3, 1998), 80.54(a), 80.123(e) and 80.125(e) (now known as Section 80.123(e) of the Rules effective September 9, 1998) of the Rules regarding installation of manufactured homes without obtaining, maintaining or possessing a valid installer's license to include improper installation of a manufactured home. SOAH 332-01-1257. Department MHD1999000181UI, MHD1999000384UI and MHD1999001103UI.

Contact: Jerry Schroeder, P.O. Box 12489, Austin, Texas 78711-2489, (512) 475-3589.

TRD-200100164

Daisy A. Stiner

Executive Director

Texas Department of Housing and Community Affairs

Filed: January 10, 2001



Texas Department of Housing and Community Affairs
Multifamily Housing Revenue Bonds (Villas at Crystal Falls)
Series 2001

NOTICE OF PUBLIC HEARING

Notice is hereby given of a public hearing to be held by the Texas Department of Housing and Community Affairs (the "Department") at Whitestone Elementary School Cafeteria, 2000 Crystal Falls Parkway, Leander, Texas 78641 at 7:00 p.m. on, February 12, 2001 with respect to an issue of tax-exempt multifamily residential rental project revenue bonds in the aggregate principal amount not to exceed \$9,000,000 and taxable bonds, if necessary, in an amount to be determined, to be issued in one or more series (the "Bonds"), by the Texas Department of Housing and Community Affairs (the "Issuer"). The proceeds of the Bonds will be loaned to Hemma, Ltd. (or a related person or affiliate thereof) (the "Borrower"), a limited partnership, to finance a portion of the costs of acquiring, constructing and equipping a multifamily housing project (the "Project") described as follows: 180 unit multifamily residential rental development to be constructed on approximately 9 acres of land located at 901 Crystal Falls Parkway, Leander, Williamson County, Texas 78641. The Project will be initially owned and operated by Hemma, Ltd. (or a related person or affiliate thereof). The Project will be managed by Lincoln Property Management.

All interested parties are invited to attend such public hearing to express their views with respect to the Project and the issuance of the Bonds. Questions or requests for additional information may be directed to Robert Onion at the Texas Department of Housing and Community Affairs, 507 Sabine, Austin, Texas 78701; (512) 475-3872.

Persons who intend to appear at the hearing and express their views are invited to contact Robert Onion in writing in advance of the hearing. Any interested persons unable to attend the hearing may submit their views in writing to Robert Onion prior to the date scheduled for the hearing.

Individuals who require auxiliary aids in order to attend this meeting should contact Gina Esteves, ADA Responsible Employee, at (512) 475-3943 or Relay Texas at 1 800 735-2989 at least two days before the meeting so that appropriate arrangements can be made.

<http://www.tdhca.state.tx.us/hf.htm>

TRD-200100155

Daisy A. Stiner

Executive Director

Texas Department of Housing and Community Affairs

Filed: January 10, 2001



Houston-Galveston Area Council

Request For Qualifications (RFQ)

AGENCY:

The Houston-Galveston Area Council (H-GAC)

CONTACT:

Jerry Bobo, Transportation Program Manager, 3555 Timmons Lane, Suite 500, Houston, Texas, 77027, (713) 993-4571

DESCRIPTION:

The Houston-Galveston Area Council (H-GAC) as the Metropolitan Planning Organization (MPO) is requesting written qualifications from firms in the area of traffic management systems and urban design. The objective of this RFQ is to compile a list of qualified firms to be considered for the Westheimer Corridor Mobility Study. The study area

for this Westheimer Corridor Mobility Study project shall consist of the roadways of Westheimer Road, Richmond, Westpark, San Felipe/ Briar Forest, and Woodway/Memorial. Their East/West boundaries shall be Loop 610 W on the east and SH 6 on the West.

The consultant (team) will be required to have knowledge and expertise in many areas. Therefore, recommended criteria for the consultants on this project have been outlined. The necessary areas of required experience include:

- (1) Intersection Geometric Improvements;
- (2) Median Opening Modifications; Access Control Modifications;
- (3) Traffic Signal Modifications;
- (4) Transit System Modifications;
- (5) Intelligent Transportation System Improvements;
- (6) Travel Demand Management Programs; and
- (7) Alternative Corridor Improvements.

The RFQ can be downloaded on H-GAC's Transportation Center website at www.hgac.cog.tx.us/transportation/page4.html. Also, a copy of the RFQ can be obtained at the H-GAC offices at 3555 Timmons Lane, Suite 500, Houston, Texas, 77027, or by contacting Mr. Jerry Bobo at (713) 993-4571.

A pre-proposal meeting is scheduled for Wednesday, January 24, 2001 at 2:00 p.m. at H-GAC's Conference Room A, 2nd Floor of 3555 Timmons Lane, Houston, Texas 77027. A short presentation will be followed by a question and answer session for consultants. Please RSVP to Mr. Jerry Bobo at (713) 993-4571, if you plan to attend. The closing date for submission of qualifications is Thursday, February 15, 2001 promptly at 2:00 p.m.

TRD-200100062

Alan C. Clark

MPO Director

Houston-Galveston Area Council

Filed: January 4, 2001

Texas Department of Insurance

Insurer Services

Application to change the name of MUTUAL INSURANCE CORPORATION OF AMERICA to AMERICAN PHYSICIANS ASSURANCE CORPORATION, a foreign fire and casualty company. The home office is in East Lansing, Michigan.

Application to change the name of SIGNET STAR REINSURANCE COMPANY to BERKLEY INSURANCE COMPANY, a foreign fire and casualty company. The home office is in Wilmington, Delaware.

Application to change the name of AGRICULTURAL INSURANCE COMPANY to GREAT AMERICAN ASSURANCE COMPANY, a foreign fire and casualty company. The home office is in Cincinnati, Ohio.

Application to change the name of AMERICAN ALLIANCE INSURANCE COMPANY to GREAT AMERICAN ALLIANCE INSURANCE COMPANY, a foreign fire and casualty company. The home office is in Cincinnati, Ohio.

Any objections must be filed with the Texas Department of Insurance, addressed to the attention of Godwin Ohaechesi, 333 Guadalupe Street, M/C 305-2C, Austin, Texas 78701.

TRD-200100159

Judy Woolley

Chief Clerk

Texas Department of Insurance

Filed: January 10, 2001

Notice of Public Hearing for Private Passenger and Commercial Automobile Insurance Rates Concerning the Texas Automobile Insurance Plan Association

Docket No. 454-01-1450.G

Notice is hereby given that a hearing under Docket No. 454-01-1450.G will be held before an administrative law judge (ALJ) of the State Office of Administrative Hearings (SOAH) at 9:00 a.m. on April 10, 2001 and continuing thereafter at dates, times and places designated by the ALJ until conclusion. The purpose of the hearing is consideration of adoption of the manual rates for private passenger and commercial classes of risks provided through the Texas Automobile Insurance Plan Association (TAIPA). The hearing will be held at SOAH, Suite 1100 of the Stephen F. Austin State Office Building at 1700 N. Congress Avenue, Austin, Texas 78701.

Authority, Jurisdiction and Statutes and Rules Involved

The Commissioner of Insurance (commissioner) has jurisdiction and legal authority over the subject matter of this hearing pursuant to the Texas Insurance Code, Article 21.81 §5. Pursuant to Sections 40.001 - 40.060 of the Texas Insurance Code, SOAH shall conduct the hearing. Statutes involved include Articles 21.81 and 5.131 and subchapter A of Chapter 5 of the Texas Insurance Code.

The procedure of the hearing will be governed by Texas Insurance Code, Sections 40.001 - 40.060, the Rules of Practice and Procedure For Industry-Wide Rate Cases before the Department of Insurance (Texas Administrative Code, Title 28, Chapter 1, Subchapter A), the Memorandum of Understanding between the Department and SOAH (Texas Administrative Code, Title 28, Chapter 1, §1.90), the Administrative Procedure Act (Texas Gov't Code, Ch. 2001), and SOAH's Rules of Practice and Procedure (Texas Administrative Code, Title 1, Chapters 155 through 163).

Matters to be Considered

The commissioner will consider testimony presented and information filed by TAIPA, the Office of Public Insurance Counsel and other interested parties relating to the determination of rates for private passenger and commercial automobile insurance provided through the TAIPA, including the spreading of the rates among relevant classifications and territories. The commissioner has the statutory authority and duty pursuant to the Texas Insurance Code, Article 21.81 §5 to promulgate the rates to be charged for insurance provided through the TAIPA, including private passenger and commercial automobile insurance, after notice and hearing. Relevant data to be used in the rate case will be available from the department.

The commissioner has the statutory authority and duty pursuant to the Texas Insurance Code, Article 21.81, to determine and prescribe rates that are just, reasonable, adequate, not excessive, not confiscatory and not unfairly discriminatory for the risks to which they apply; and to set rates in an amount sufficient to carry all claims to maturity and to meet the expenses incurred in the writing and servicing of the business.

The commissioner requests evidence on the following additional matters to be determined at the hearing:

1. The effect of tort reform legislation in determining rates.

2. Impact of changes in the size of the TAIPA plan population on rate level calculations, such as premium on-level factors, trend factors, trending dates (e.g., the average date of loss of the experience years) and other ratemaking elements.

3. The effect, if any, on rate indications of the 1999 change in the NAIC's reporting requirements for loss adjustment expenses.

4. Provide evidence regarding rates that promote access to full insurance coverage and that are fair and reasonable for underserved areas, as provided in Texas Insurance Code Article Section 37.052(c).

5. The relative number of drivers who are removed from TAIPA by the mandatory and voluntary take out programs, and the effect on rate needs.

6. The loss ratios at current benchmark rate levels of commercial risks written through TAIPA.

7. Potential rate impact and the effect on individual classes of TAIPA drivers in the event Rule 42 of the Texas Automobile Rules and Rating Manual were amended to apply surcharge percentages for accidents and convictions based on the Class 1A driver rate in a manner similar to Rule 75(I)(7), (8), and (9). In other words, in the event that both the base rate for calculation and the surcharge percentage may be adjusted, address the adjustments necessary to keep TAIPA rates revenue neutral. Also address the surcharge percentages to be applied in the event of accidents and convictions.

8. Issues relevant to TAIPA, which are raised in the Notice of Hearing for the Benchmark Auto Rate Case.

9. Review of the actual historical rate of return of the property/casualty insurance industry on both a statutory accounting principles (SAP) and generally accepted accounting principles (GAAP) basis in comparison to prevailing short, medium and long-term interest rates, actual return on investments earned by investors in property/casualty insurance stock companies, actual GAAP return on equity earned by other industries, and actual GAAP return on equity by all industries combined. Provide the available data with any associated calculations and analyses.

10. The relative risk of the property/casualty insurance industry in comparison to other industries and all industries combined as viewed by an investor, defined as either a purchaser of stock or some other contributor of capital to the insurance enterprise.

11. Review of market-based indications of the cost of capital such as Capital Asset Pricing Model (CAPM) and Discounted Cash Flow analyses. If a CAPM analysis is used to estimate the cost of capital, describe in depth the basis for the risk premium used in the analysis. If the risk premium is based on historical risk premium data, describe:

a) the basis for the length of the historical period included in the analysis, and the impact and reasonableness of using alternative time periods, and

b) the basis for the use of either an arithmetic or geometric mean, including a discussion of the extent to which the difference between the two is a function of variability of returns over time.

1) If authorities are cited with regard to the use of arithmetic and/or geometric means in deriving a risk premium, describe the extent to which such authorities are referring specifically to the establishment of a guideline rate for an industry, as opposed to an actual rate for an individual economic entity.

2) Describe the extent to which use of a mean which is higher due to variability of returns over time effectively rewards or facilitates variability, and is or is not consistent with a basic purpose underlying the establishment of benchmark rates, which is to promote stability in rates.

12. The impact of the property/casualty insurance industry's debt to equity ratio and liabilities to equity ratio currently and over time on the recommendation for a target rate of return. If cost of capital considerations include reliance upon a sample group of companies, such reliance should be supported with information regarding:

a) the extent to which the sample companies have incorporated debt into their capital structures, and

b) the relative leverage of the property/casualty operating companies owned by the sample companies when compared with the property/casualty industry as a whole, with leverage measured by the ratio of premiums plus reserves (loss, loss adjustment, and unearned premium reserves) to consolidated policyholder surplus.

13. Review of the actual historical net investment income earned, including interest and dividends earned, and realized and unrealized capital gains, by the property/casualty insurance industry in comparison to prevailing short, medium and long-term interest rates. Provide the available data with any associated calculations and analyses.

14. Review of the historical premium to surplus and reserves to surplus ratios of the property/casualty insurance industry.

15. Comparison of the recommended leverage ratios with those that would result from an allocation of total property/casualty industry surplus by line of insurance based upon the combination of net premiums earned plus mean net reserves, plus the ratios which result from any additional adjustments necessary for Texas-specific variations in countrywide relationships and/or to reflect the effects of converting SAP surplus to GAAP net worth.

16. Translation of recommended leverage factors into other common leverage factors. Examples:

1) If a specific premium-to-surplus ratio is recommended, show also the equivalent premium-to-GAAP net worth ratio and the equivalent reserves-to-surplus ratio.

2) If a specific premium-to-GAAP net worth ratio is recommended, show also the equivalent premium-to-surplus ratio and the equivalent reserves-to-surplus ratio.

3) If a specific reserves-to-surplus ratio is recommended, show also the equivalent premium-to-surplus ratio and the equivalent premium-to-GAAP net worth.

17) Review of historical underwriting profit results for Texas and countrywide in the coverages for which underwriting profit provisions are recommended.

Motions for Admission as a Party

Anyone who wishes to participate in the hearing as a party must file a motion for admission as a party by 5:00 p.m. on March 1, 2001.

Prehearing Conference

An initial prehearing conference will be held before the ALJ at 10:00 a.m. on March 6, 2001, at the State Office of Administrative Hearings, Suite 1100 of the Stephen F. Austin State Office Building at 1700 N. Congress Avenue, Austin, Texas 78701. The prehearing conference will be held for the following purposes:

(1) ruling on all motions for admission of parties;

(2) setting the procedural deadlines for discovery, motions, and prefiled testimony; and

(3) such other matters as will promote the orderly and prompt conduct of the hearing.

Additional prehearing conferences will be scheduled as the ALJ deems necessary to rule on other matters as may aid in the simplification of the proceedings.

Commissioner's Policies

Pursuant to Tex. Gov't Code §2001.058 (c), the commissioner is required to provide the ALJ with a written statement of applicable rules and policies. The applicable procedural rules are set out above. The commissioner's policies regarding the setting of rates for insurance provided through the TAIPA are set out below. The purpose of this policy statement is to put the ALJ and parties on notice regarding the commissioner's policies to provide advance notice of the type of evidence parties should present in the hearing. This policy statement, however, is not intended to limit the type of evidence a party may offer at the hearing. The pertinent commissioner's policies are as follows:

1. It is the commissioner's policy to consider all relevant evidence and issues in making a determination of rates. To ensure a complete record, the commissioner requests the ALJ to:

(a) take judicial notice of 28 Texas Administrative Code §§5.9800 - 5.9811 (frequently referred to as the "Rate Reduction Rules"); Commissioner's Order No. 96-0591, dated May 29, 1996; Commissioner's Order No. 97-1272, dated December 18, 1997; Commissioner's Order No. 98-1494, dated December 22, 1998; and Commissioner's Order No. 00-1044, dated September 8, 2000, as superseded in part by Commissioner's Order No. 00-1098, dated September 22, 2000.

(b) ensure that exhibits accompanying testimony from the parties' witnesses, including their underlying work papers, are submitted and are made available in both paper and electronic format. The format should be 3.5 inch high density diskette in a DOS or Windows spreadsheet or other format readable by a machine running DOS or Windows. Parameters, assumptions and references to underlying data should be identifiable in the electronic exhibits.

2. It is the commissioner's policy that so-called "Fast Track" data reports not be used directly in the rate development analysis. Trend analysis should rely upon trend data reported to the department and provided to the department to the parties. Fast Track data are not intended for ratemaking and represent only a portion of industry experience.

3. It is the commissioner's policy that if underwriting profit provisions are calculated to reflect a target return on equity measured under GAAP, estimates of future expense ratios, to the extent these estimates are based upon historical expense experience, shall be based upon historical ratios of expenses to written premiums. Alternatively, if estimates of future expenses are based upon historical ratios of expenses to earned premium, then the underwriting profit provision shall be adjusted in consideration of expected increases in prepaid expenses which are recognized as an asset under GAAP.

Conduct of the Hearing

Each page of any exhibit offered in evidence at a hearing before the Commissioner of Insurance, including prefiled testimony, must be numbered consecutively at the center of the bottom margin, be on 8 1/2" by 11" paper, and must be three-hole-punched along the left margin. The front page of each exhibit should indicate that the exhibit would be part of the record of a public hearing before the Commissioner of Insurance and should identify the subject of the hearing, the docket number, the date of the hearing, and the party offering the exhibit. On the front page, the party offering the exhibit should also describe the exhibit and leave a space for numbering the exhibit. For example:

Public Hearing before the Commissioner of Insurance

Subject of Hearing: Texas Automobile Insurance Plan Association Rate Hearing

Docket No. _____

Date: _____

Exhibit # _____

Description of Exhibit _____

Parties offering exhibits into evidence at the hearing should be prepared with sufficient copies of each proposed exhibit to furnish the following:

1. the original exhibit, which will be tendered to the ALJ for marking and retention for the official record, after which the attorneys shall use an exact photocopy of such marked exhibit in the examination of the witness;

2. one copy each for every other party admitted to the hearing.

3. In addition, each party should file with the Office of Chief Clerk, TDI, Room 1300, 333 Guadalupe, Austin, Texas, six copies of each exhibit prefiled in this case.

All deadlines in this notice are subject to change at the ALJ's discretion to the extent permitted by statute and rule.

In contested cases, all parties are entitled to the assistance of their counsel before administrative agencies. This right may be expressly waived.

TRD-200100141

Judy Woolley

Deputy Chief Clerk

Texas Department of Insurance

Filed: January 9, 2001

◆ ◆ ◆ Texas Lottery Commission

Instant Game Number 217--"Mega Money"

1.0. Name and Style of Game.

A. The name of Instant Game Number 217 is "MEGA MONEY". The play style of Game 1 is "beat score", Game 2 is "add up", Game 3 is "match 3 like amounts", Game 4 is "tic-tac-toe", Game 5 is "match 3 like amounts", and Quick \$20 is an "automatic win".

1.1. Price of Instant Ticket.

A. Tickets for Instant Game Number 217 shall be \$5.00 per ticket.

1.2. Definitions in Instant Game Number 217.

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--One of the symbols which appears under the Latex Overprint on the front of the ticket. Each Play Symbol is printed in Symbol font in black ink in positive. The possible 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, \$1.00, \$2.00, \$4.00, \$5.00, \$10.00, \$20.00, \$50.00, \$100, \$500, \$5,000, \$50,000, MONEY BAG SYMBOL, WALLET SYMBOL, CLOCK SYMBOL, and KEY SYMBOL.

D. Play Symbol Caption--the small printed material appearing below each Play Symbol which explains the Play Symbol. One and only one of these Play Symbol Captions appears under each Play Symbol and each 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:

Table 1
Figure 1: 16 TAC GAME NO. 217 -- 1.2D

PLAY SYMBOL	CAPTION
\$1.00	ONES
\$2.00	TWOS
\$4.00	FOURS
\$5.00	FIVES
\$10.00	TENS
\$20.00	TWENTY
\$50.00	FIFTY
\$100	ONE HUND
\$500	FIV HUND
\$5,000	FIV THOU
\$50,000	50 THOU
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
MONEY BAG SYMBOL	WIN20
WALLET SYMBOL	WALLET
CLOCK SYMBOL	CLOCK
KEY SYMBOL	KEY

Table 2
Figure 2: 16 TAC GAME NO. 217 – 1.2E

CODE	PRIZE
FIV	\$5.00
EGT	\$8.00
TEN	\$10.00
TWN	\$20.00

E. Retailer Validation Code—Three small letters found under the removable scratch-off covering in the play area, which retailers use to verify and validate instant winners. The possible validation codes are:

Low-tier winning tickets use the required codes listed in Table 2. Non-winning tickets and high-tier tickets use a non-required combination of the required codes listed in Table 2 with the exception of ∅, which will only appear on low-tier winners and will always have a slash through it.

F. Serial Number--A unique 13 digit number appearing under the latex scratch-off covering on the front of the ticket. There is a four digit security number which will be boxed and placed randomly within the Serial Number. The remaining nine 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 \$5.00, \$8.00, \$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, \$5,000, or \$50,000.

J. Bar Code--A 22 character interleaved two of five bar code which will include a three digit game ID, the seven digit pack number, the three digit ticket number and the nine digit Validation Number. The bar code appears on the back of the ticket.

K. Pack-Ticket Number--A 13 digit number consisting of the three digit game number (217), a seven digit pack number and a three digit ticket number. Ticket numbers start with 000 and end with 074 within each pack. The format will be: 217-0000001-000.

L. Pack--A pack of "MEGA MONEY" Instant Game tickets contain 75 tickets, which are packed in plastic shrink-wrapping and fanfolded in pages of one. The packs will alternate. One will show the front of ticket 000 and back of 074 while the other fold will show the back of ticket 000 and front of 074.

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 "MEGA MONEY" Instant Game Number 217 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 "MEGA MONEY" Instant Game is determined once the latex on the ticket is scratched off to expose 46 play symbols. In Game 1, if the player's YOUR SCORE is higher than THEIR SCORE, in the same row, the player wins PRIZE shown for that row. In Game 2, in each row, if player's YOUR TOTAL equals 7 or 11, the player wins PRIZE shown for that row. In Game 3, if the player matches 3 like dollar amounts, the player wins that amount. In Game 4, if the player gets 3 like dollar amounts in a row, column, or diagonal, the player wins that amount. In Game 5, if the player matches 3 like dollar amounts, the player wins that amount. In QUICK \$20, if the player gets a MONEY BAG SYMBOL, the player wins \$20 automatically. 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 46 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, 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;
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 46 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 46 Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures.
17. Each of the 46 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. There will be no correlation between a prize symbol and the play symbol it appears with.
- C. In Game 1, there will be no duplicate non-winning prize symbols.
- D. In Game 1, there will be no duplicate YOUR SCORE play symbols.
- E. In Game 1, there will be no duplicate THEIR SCORE play symbols.
- F. In Game 1, there will be no ties in a row.
- G. In Game 2, there will be no duplicate non-winning prize symbols.
- H. In Game 2, there will be no duplicate rows in any order.

I. In Game 3 and Game 5, there will be no four or more like play symbols on a ticket.

J. In Game 3 and Game 5, there will be no more than two pairs of like play symbols on a ticket.

K. In Game 4, there will be no more than three like prize symbols.

L. In Game 4, there will be no more than two like non-winning prize symbols.

2.3. Procedure for Claiming Prizes.

A. To claim a "MEGA MONEY" Instant Game prize of \$5.00, \$8.00, \$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 2.3.C of these Game Procedures.

B. To claim a "MEGA MONEY" Instant Game prize of \$1,000, \$5,000, or \$50,000, the claimant must sign the winning ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "MEGA 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; or
3. delinquent in reimbursing the Texas Department of Human Services 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

F. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4. Allowance for Delay of a 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 "MEGA MONEY" Instant Game, the Texas Lottery shall delivery 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 "MEGA 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. 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.

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 therefor, 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 therefor, 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 therefor. 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 20,040,000 tickets in the Instant Game Number 217. The expected number and value of prizes in the game are as follows:

Table 3

Table 3
Figure 3: 16 TAC GAME NO. 217 – 4.0

Prize Amount	Approximate Number of Winners	Chances of Winning
\$5.00	2,137,600	1:9.38
\$8.00	1,736,800	1:11.54
\$10.00	1,603,200	1:12.50
\$20.00	467,600	1:42.86
\$50.00	123,580	1:162.16
\$100	48,430	1:413.79
\$500	6,680	1:3,000.00
\$1,000	325	1:61,661.54
\$5,000	21	1:954,285.71
\$50,000	10	1:2,004,000.00

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 Number 217, 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-200100069
Kimberly L. Kiplin
General Counsel
Texas Lottery Commission
Filed: January 4, 2001



Instant Game No. 232 - "FA\$T CASH"

1.0 Name and Style of Game.

A. The name of Instant Game No. 232 is "FA\$T CASH". The play style of the game is "if any of YOUR NUMBERS match the LUCKY NUMBER, win prize for that number. Get a flash symbol and win that prize automatically."

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 232 shall be \$1.00 per ticket.

1.2 Definitions in Instant Game No. 232.

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 - One of the symbols which appears under the Latex Overprint on the front of the ticket. Each Play Symbol is printed in Symbol font in black ink in positive. The possible play symbols are: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, flash symbol, \$1.00, \$2.00, \$5.00, \$10.00, \$15.00, \$25.00, \$50.00, \$100, and \$500.

D. Play Symbol Caption - the small printed material appearing below each Play Symbol which explains the Play Symbol. One and only one of these Play Symbol Captions appears under each Play Symbol and each 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:

Table 1 of this section

Table 1
Figure 1: 16 TAC GAME NO. 232 – 1.2 D

PLAY SYMBOL	CAPTION
1	ONE
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
7	SVN
8	EGT
9	NIN
10	TEN
11	ELV
12	TLV
FLASH SYMBOL	WIN
\$1.00	ONES\$
\$2.00	TWOS\$
\$5.00	FIVES\$
\$10.00	TENS\$
\$15.00	FIFTN
\$25.00	TWY FIV
\$50.00	FIFTY
\$100	ONE HUND
\$500	FIV HUND

Table 2 of this section.

E. Retailer Validation Code – Three small letters found under the removable scratch-off covering in the play area, which retailers use to verify and validate instant winners. The possible validation codes are:

Table 2

Figure 2: 16 TAC GAME NO. 232 – 1.2E

CODE	PRIZE
ONE	\$1.00
TWO	\$2.00
FIV	\$5.00
EGT	\$8.00
TEN	\$10.00
FTN	\$15.00

Low-tier winning tickets use the required codes listed in Figure 2:16. Non-winning tickets and high-tier tickets use a non-required combination of the required codes listed in Figure 2:16 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 digit number appearing under the latex scratch-off covering on the front of the ticket. There is a four (4) digit security number which will be boxed and 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 \$1.00, \$2.00, \$5.00, \$8.00, \$10.00, or \$15.00.

H. Mid-Tier Prize – A prize of \$25.00, \$50.00, \$100 or \$500.

I. High-Tier Prize – There are no high-tier prizes in this game.

J. Bar Code – A 22 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 thirteen (13) digit number consisting of the three (3) digit game number (232), a seven (7) digit pack number and a three (3) digit ticket number. Ticket numbers start with 000 and end with 249 within each pack. The format will be : 232-0000001-000.

L. Pack – A pack of "FAST CASH" Instant Game tickets contains 250 tickets, which are packed in plastic shrink-wrapping and fanfolded in pages of fives. Tickets 000 – 004 will be on the top page and tickets 005 – 009 will be on the next page and so forth with tickets 245 – 249 on the last page.

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 "FAST CASH" Instant Game No. 232 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 "FAST CASH" Instant Game is determined once the latex on the ticket is scratched off to expose nine (9) play symbols. The play style of the game is "if any of YOUR NUMBERS match the LUCKY NUMBER, win prize for that number. Get a flash symbol and win that prize automatically." 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 9 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, 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;
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 9 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 9 Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures.

17. Each of the 9 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 Your Numbers on a ticket.

C. No duplicate non-winning prize symbols on a ticket.

D. Non-winning prize symbols will not match a winning prize symbol on a ticket.

E. The auto win symbol will never appear more than once on a ticket.

2.3 Procedure for Claiming Prizes.

A. To claim a "FAST CASH" Instant Game prize of \$1.00, \$2.00, \$5.00, \$8.00, \$10.00, \$15.00, \$25.00, \$50.00, \$100, and \$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 2.4.B of these Game Procedures.

B. As an alternative method of claiming a "FAST CASH" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. 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 Department of Human Services 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

D. 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 2.4.C 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 "FAST CASH" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of more than \$600 from the "FAST CASH" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account,

with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game. 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.

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 therefor, 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 therefor, 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 therefor. 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 20,160,000 tickets in the Instant Game No. 232. The expected number and value of prizes in the game are as follows:

Table 3 of this section

Table 3
Figure 3: 16 TAC GAME NO. 232—4.0

Prize Amount	Approximate Number of Winners	Chances of Winning
\$1.00	2,721,600	1:7.41
\$2.00	1,330,560	1:15.15
\$5.00	221,760	1:90.91
\$8.00	141,120	1:142.86
\$10.00	80,640	1:250.00
\$15.00	120,960	1:166.67
\$25.00	33,600	1:600.00
\$50.00	12,600	1:1,600.00
\$100	2,184	1:9,230.77
\$500	336	1:60,000.00

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. 232 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. 232, 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.

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Kimberly L. Kiplin
General Counsel
Texas Lottery Commission
Filed: January 4, 2001



Instant Game No. 233 – “Cupid Cash”

1.0 Name and Style of Game.

A. The name of Instant Game No. 233 is “CUPID CASH”. The play style is a key symbol match with auto win”.

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 233 shall be \$1.00 per ticket.

1.2 Definitions in Instant Game No. 233.

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 - One of the symbols which appears under the Latex Overprint on the front of the ticket. Each Play Symbol is printed in Symbol font in black ink in positive. The possible play symbols are: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, \$1.00, \$2.00, \$3.00, \$5.00, \$10.00, \$20.00, \$100, \$1,000, and LOVE SYMBOL.

D. Play Symbol Caption - the small printed material appearing below each Play Symbol which explains the Play Symbol. One and only one of these Play Symbol Captions appears under each Play Symbol and each 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: Table 1 of this section

Figure 1:16 TAC GAME NO. 233 - 1.2D

Table 1
Figure 1: 16 TAC GAME NO. 233 – 1.2D

PLAY SYMBOL	CAPTION
1	ONE
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
7	SVN
8	EGT
9	NIN
10	TEN
11	ELV
12	TLV
LOVE	WIN
\$1.00	ONES\$
\$2.00	TWO\$
\$3.00	THREE\$
\$5.00	FIVES\$
\$10.00	TEN\$
\$20.00	TWENTY
\$100	ONE HUND
\$1,000	ONE THOU

E. Retailer Validation Code – Three small letters found under the removable scratch-off covering in the play area, which retailers use to

Verify and validate instant winners. The possible validation codes are: Table 2 of this section.

Figure 2: 16 TAC GAME NO. 233-1.2E

Table 2
Figure 2: 16 TAC GAME NO. 233 – 1.2E

CODE	PRIZE
ONE	\$1.00
TWO	\$2.00
THR	\$3.00
FIV	\$5.00
TEN	\$10.00
TWEN	\$20.00

Low-tier winning tickets use the required codes listed in Figure 2:16. Non-winning tickets and high-tier tickets use a non-required combination of the required codes listed in Figure 2:16 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 digit number appearing under the latex scratch-off covering on the front of the ticket. There is a four (4) digit security number which will be boxed and 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 \$1.00, \$2.00, \$3.00, \$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 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 thirteen (13) digit number consisting of the three (3) digit game number (233), a seven (7) digit pack number and a three (3) digit ticket number. Ticket numbers start with 000 and end with 074 within each pack. The format will be : 233-0000001-000.

L. Pack – A pack of "CUPID CASH" Instant Game tickets contains 250 tickets, which are packed in plastic shrink-wrapping and fanfolded in pages of five. The packs will alternate. One will show the front of ticket 000 and back of 250 while the other fold will show the back of ticket 000 and front of 250.

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 "CUPID CASH" Instant Game No. 233 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 "CUPID CASH" Instant Game is determined once the latex on the ticket is scratched off to expose six (6) play symbols. If any of the player's YOUR NUMBERS match CUPID'S NUMBER, the player will win the prize shown. If the player gets a LOVE symbol, the player will win that prize automatically. 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 46 (forty six) 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, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must ne present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink;
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 46 (forty six) 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 46 (forty six) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures.
17. Each of the 46 (forty six) 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. There will be no duplicate non-winning YOUR NUMBERS play symbols on a ticket.

- C. There will be no duplicate non-winning prize symbols on a ticket.
- D. The auto win symbol will appear only on intended winning tickets.
- E. Non-winning prize symbols will not match a winning prize symbol on a ticket.

2.3 Procedure for Claiming Prizes.

A. To claim a "CUPID CASH" Instant Game prize of \$1.00, \$2.00, \$3.00, \$5.00, \$10.00, \$20.00, \$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 2.3.C of these Game Procedures.

B. To claim a "CUPID CASH" 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 "CUPID CASH" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;
2. delinquent in making child support payments administered or collected by the Attorney General; or
3. delinquent in reimbursing the Texas Department of Human Services 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

F. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

- A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;
- B. if there is any question regarding the identity of the claimant;
- C. if there is any question regarding the validity of the ticket presented for payment; or
- D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "CUPID CASH" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of more than \$600 from the "CUPID CASH" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game. 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.

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 therefor, 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 therefor, 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 therefor. 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 15,120,000 tickets in the Instance Game No. 233. The expected number and value of prizes in the game are as follows: Table 3 of this section

Figure 3: 16 TAC GAME NO. 233- 4.0

Table 3
Figure 3: 16 TAC GAME NO. 233 – 4.0

Prize Amount	Approximate Number of Winners	Chances of Winning
\$1.00	1,693,440	1:8.93
\$2.00	665,280	1:22.73
\$3.00	423,360	1:35.71
\$5.00	241,920	1:62.50
\$10.00	90,720	1:166.67
\$20.00	30,240	1:500.00
\$50.00	30,240	1:500.00
\$100	3,780	1:4,000.00
\$500	126	1:120,000.00
\$1,000	126	1:120,000.00

[graphic]

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. 233 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. 233, 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-200100070
Kimberly L. Kiplin
General Counsel
Texas Lottery Commission
Filed: January 4, 2001

◆ ◆ ◆
Texas Natural Resource Conservation Commission

Correction of Error

The Texas Natural Resource Conservation Commission published a Notice of Public Hearing - Aquilla Reservoir TMDL in the December 15, 2000, *Texas Register* (25 TexReg 12519).

The deadline for submission of comments was incorrectly published as January 17, 2000. The correct date is January 17, 2001. The sentence in the first paragraph on page 12520 should read as follows.

"All comments must be received by 5:00 p.m. on January 17, 2001, and should reference 2000-1342-TML."

TRD-200100151

◆ ◆ ◆
Enforcement Orders, Week Ending January 10, 2001

An agreed order was entered regarding HIBAH, INCORPORATED, Docket No. 1999- 0684-PST-E; TNRCC ID NO. 0066479 on December 19, 2000 assessing \$1,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting RANDY NORWOOD, Enforcement Coordinator at

(512)239-1879, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding SHELL WESTERN E & P, Docket No. 2000-0848- AIR-E; AIR ACCOUNT NO. HN-0294-O on December 19, 2000 assessing \$5,000 in administrative penalties with \$1,000 deferred.

Information concerning any aspect of this order may be obtained by contacting STACEY YOUNG, Enforcement Coordinator at (512)239-1899, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding THOMAS M. CHALKLEY AND ALFRED B. CHALKLEY DBA ARROWHEAD VILLAGE, Docket No. 1999-1571-PWS-E; TNRCC PWS ID NO. 0460011 on December 19, 2000 assessing \$6,600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting REBECCA PETTY, Staff Attorney at (512)239-1738, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CITY OF BUDA, Docket No. 2000-0399-PWS-E; WATER SYSTEM ID NO. 1050012 on December 19, 2000 assessing \$3,188 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting LAWRENCE KING, Enforcement Coordinator at (512)339-2929, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CITY OF GRANITE SHOALS, Docket No. 2000- 0458-PWS-E; PWS NO. 0270107 on December 19, 2000 assessing \$688 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting LAWRENCE KING, Enforcement Coordinator at (512)339-2929, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding GRAPEVINE LAKE ESTATES WATER SUPPLY CORP., Docket No. 2000-0207-PWS-E; PWS NO. 2200050 on December 19, 2000 assessing \$1,250 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting WENDY COOPER, Regional Contact at (817)469-6750, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding SAM RAYBURN WATER, INC. DBA HICKORY HOLLOW WATER SUPPLY, Docket No. 2000-0352-PWS-E; PWS NO. 2030005 on December 19, 2000 assessing \$438 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting SUSAN KELLY, Enforcement Coordinator at (409)899-8704, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding INGRAM INDEPENDENT SCHOOL DISTRICT, Docket No. 2000-0656-PWS-E; PWS ID NO. 1330100 on December 19, 2000 assessing \$313 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting GLORIA STANFORD, Enforcement Coordinator at (512)239-1871, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding INDERJEET & MANSUKH SINGH DBA KOUNTRY KWIK, Docket No. 2000-0756-PWS-E; PWS NO. 1012461 on December 19, 2000 assessing \$1,250 in administrative penalties with \$250 deferred.

Information concerning any aspect of this order may be obtained by contacting SUBHASH JAIN, Enforcement Coordinator at (512)239-5867, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding MRS. JANICE MUSGROVE & THE ESTATE OF MR. JIMMY MUSGRAVE DBA OAKS & ELMS MOBILE HOME PARK, Docket No. 1999-1552-PWS-E; PWS ID NO. 0190065 on December 19, 2000 assessing \$700 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting CAROLYN LIND, Enforcement Coordinator at (903)535-5145, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CITY OF KENNARD, Docket No. 1999-1509-MLM-E; PWS NO. 1130011; TPDES Permit No. 11474-001 (FORMERLY WQ PERMIT NO. 11474-001 AND NPDES PERMIT NO. TX0056596) on December 19, 2000 assessing \$2,813 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting JAYME BROWN, Enforcement Coordinator at (512)239-1683, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding FRED F. BONNETT, Docket No. 2000-0192-MLM-E; AIR ACCOUNT ID NO. UC-0058-S; ENFORCEMENT ID NO. 14436 on December 19, 2000 assessing \$7,500 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting TARA LONG, Staff Attorney at (713)422-8914, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An order was entered regarding TRINITY INDUSTRIES, INC., Docket No. 2000-1313-AIR-E; TNRCC ID NOS. JE-0016-C & JE-0325-J on December 19, 2000.

Information concerning any aspect of this order may be obtained by contacting SCOTT MCDONALD, Staff Attorney at (817)588-5888, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding COPANO COMPANY, Docket No. 2000-0813-AIR-E; AIR ACCOUNT NO. RG-0041-G on December 19, 2000 assessing \$2,250 in administrative penalties with \$450 deferred.

Information concerning any aspect of this order may be obtained by contacting GARY MCDONALD, Enforcement Coordinator at (361)825-3122, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding EMPIRE TRUCK LINES, INC., Docket No. 2000-0492-AIR-E; AIR ACCOUNT NO. HX-2366-K on December 19, 2000 assessing \$2,500 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting TEL CROSTON, Enforcement Coordinator at (512)239-5717, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding GOODYEAR TIRE AND RUBBER COMPANY, Docket No. 2000-0117-AIR-E; AIR ACCOUNT NO. JE-0039-N on December 19, 2000 assessing \$53,100 in administrative penalties with \$10,620 deferred.

Information concerning any aspect of this order may be obtained by contacting TONI TOLIVER, SEP Coordinator at (512)239-6122, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding ROGELIO SALAZAR DBA SALAZAR CUSTOM PAINT AND BODY, Docket No. 2000-0671-AIR-E; AIR ACCOUNT NO. AC-0142-U on December 19, 2000 assessing \$1,250 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting LAURA CLARK, Enforcement Coordinator at (409)899-8760, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding ROBERT PEREZ DBA QUALITY AUTO SALES, Docket No. 1999-0044-AIR-E; AIR ACCOUNT NO. WF-0158-P on December 19, 2000 assessing \$750 in administrative penalties with \$150 deferred.

Information concerning any aspect of this order may be obtained by contacting FAYE LIU, Enforcement Coordinator at (713)767-3726, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding QUINTANA PETROLEUM CORPORATION, Docket No. 2000-0752-AIR-E; AIR ACCOUNT NO. RG-0047-Ron December 19, 2000 assessing \$7,500 in administrative penalties with \$1,500 deferred.

Information concerning any aspect of this order may be obtained by contacting AUDRA BAUMGARTNER, Enforcement Coordinator at (361)825-3312, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding WENCHO'S GAS AND FOODMART INCORPORATED, Docket No. 2000-0509-AIR-E; AIR ACCOUNT NO. EE-1228-E on December 19, 2000 assessing \$750 in administrative penalties with \$150 deferred.

Information concerning any aspect of this order may be obtained by contacting STACEY YOUNG, Enforcement Coordinator at (512)239-1899, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding EMPAK, INC., Docket No. 2000-0350-IWD-E; WQ PERMIT NO. 01731-000; NPDES PERMIT NO. TX0030937 on December 19, 2000 assessing \$11,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting SHERRY SMITH, Enforcement Coordinator at (512)239-0572, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CITY OF HOUSTON, Docket No. 2000-0212- IWD-E; NO WQ ID NO. on December 19, 2000 assessing \$3,500 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting TONI TOLIVER, SEP Coordinator at (512)239-6122, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CITY OF WESLACO, Docket No. 1999-0308- MSW-E; TNRCC MSW PERMIT NO. 258 on December 19, 2000 assessing \$13,125 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting TONI TOLIVER, SEP Coordinator at (512)239-6122, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding QUALITY RECYCLING OF AMERICA, INC. DBA QUALITY TIRE RECYCLING, Docket No. 1999-1241-MSW-E; TIRE GENERATOR REGISTRATION NO. 14964 on December 19, 2000 assessing \$8,000 in administrative penalties with \$1,600 deferred.

Information concerning any aspect of this order may be obtained by contacting TONI TOLIVER, SEP Coordinator (512)239-6201, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding COASTAL BEND YOUTH CITY, INC., Docket No. 2000-0251-MWD-E; WQ PERMIT NO. 11689-001 on December 19, 2000 assessing \$4,375 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting AUDRA BAUMGARTNER, Enforcement Coordinator at (361)825-3312, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 286, Docket No. 2000-0606-MWD-E; TPDES PERMIT NO. 13020-001 on December 19, 2000 assessing \$1,500 in administrative penalties with \$300 deferred.

Information concerning any aspect of this order may be obtained by contacting DAVID VAN SOEST, Enforcement Coordinator at (512)239-0468, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CITY OF PILOT POINT, Docket No. 2000-0650- MWD-E; TPDES PERMIT NO. 10361-001(FORMER NPDES PERMIT NO. TX0022659 AND WQ PERMIT NO. 10361-001) on December 19, 2000 assessing \$750 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting LAURIE EAVES, Enforcement Coordinator at (512)239-4495, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CITY OF WELLMAN, Docket No. 2000-0522- MWD-E; WQ PERMIT NO. 13642-001 on December 19, 2000 assessing \$3,750 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting GARY SHIPP, Enforcement Coordinator at (806)796-7092, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding JESSE DEANDA DBA THORNTON SOIL RECYCLING CENTER AND U.E.T.C. OF TEXAS, LTD. DBA THORNTON SOIL RECYCLING CENTER, Docket No. 1999-1409-PST-E; TNRCC ID NO. 81112; ENFORCEMENT ID NO. 14264 on December 19, 2000 assessing \$1,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting REBECCA PETTY, Staff Attorney at (512)239-1738, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding ARH ENTERPRISES, INCORPORATED, Docket No. 2000-0647-PST-E; PST ID NO. 0006209 on December 19, 2000 assessing \$4,000 in administrative penalties with \$800 deferred.

Information concerning any aspect of this order may be obtained by contacting JORGE IBARRA, Enforcement Coordinator at (817)469-6750, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding EDWARD SYKORA DBA BUBBA'S NO. 3, Docket No. 2000-0468-PST-E; FACILITY ID NO. 0044847 on December 19, 2000 assessing \$10,000 in administrative penalties with \$2,000 deferred.

Information concerning any aspect of this order may be obtained by contacting GARY SHIPP, Enforcement Coordinator at (806)796-7092, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding SHAHEEN GROCERY INC., Docket No. 2000- 0449-PST-E; FACILITY ID NO. 0029846 on December 19, 2000 assessing \$1,800 in administrative penalties with \$360 deferred.

Information concerning any aspect of this order may be obtained by contacting KENT HEATH, Enforcement Coordinator at (512)239-4575, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding SAGAR ENTERPRISES, INC. DBA SHOP 'N' GET, Docket No. 2000-0127-PST-E; PST FACILITY ID NO. 0056925 on December 19, 2000 assessing \$10,625 in administrative penalties with \$10,025 deferred.

Information concerning any aspect of this order may be obtained by contacting TRINA LEWISON, Enforcement Coordinator at (713)767-3607, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding MOHINDER PALL DBA TEXACO FOOD MART, Docket No. 2000-0589-PST-E; FACILITY ID NO. 0009810 on December 19, 2000 assessing \$1,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting MICHAEL DE LA CRUZ, Enforcement Coordinator at (512)239-0259, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding DOGWOOD ESTATES WATER CO., Docket No. 2000-0582-PWS-E; PWS NO. 1070043 on December 19, 2000 assessing \$188 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting KIMBERLY MCGUIRE, Enforcement Coordinator at (512)239-4761, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding GATEWOOD TRUST ET AL, Docket No. 1996- 1356-MWD-E; No TNRCC Permit on December 22, 2000 assessing \$27,600 in administrative penalties with \$27,600 deferred.

Information concerning any aspect of this order may be obtained by contacting VICTOR SIMONDS, Staff Attorney at (512)239-6201, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CONCAN WATER SUPPLY CORPORATION, Docket No. 1999-0563-PWS-E; TNRCC ID No. 2320032 on December 22, 2000 assessing \$2,938 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting VICTOR SIMONDS, Staff Attorney at (512)239-6201, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding NFZ INVESTMENTS, INC., Docket No. 1999- 0835-PST-E; TNRCC ID NO. 40098 on December 22, 2000 assessing \$10,500 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting RICHARD O'CONNELL, Staff Attorney at (512)239-5528, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CARLOS FLORES DBA DEL RIO FISHERMAN'S HEADQUARTERS, Docket No. 2000-0515-PWS-E; PWS NO. 2330016 on December 22, 2000 assessing \$750 in administrative penalties with \$150 deferred.

Information concerning any aspect of this order may be obtained by contacting SHAWN STEWART, Enforcement Coordinator at (512)239-6684, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding MARY A. BELTRAN DBA 1017 CAFÉ, Docket No. 2000-0418-PWS-E; PWS NO. 2140030 on December 22, 2000 assessing \$1,250 in administrative penalties with \$250 deferred.

Information concerning any aspect of this order may be obtained by contacting SUBHASH JAIN, Enforcement Coordinator at (512)239-5867, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CLAYTON WATER SUPPLY CORPORATION, Docket No. 2000-0632-PWS-E; PWS ID NOS. 1830005, 1830029 & 1830030 on December 22, 2000 assessing \$1,151 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting CAROLYN V. LIND, Enforcement Coordinator at (903)535-5145, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CHARLES DONALDSON, Docket No. 2000-0597- PWS-E; PWS NO. 1012607 on December 22, 2000 assessing \$2,500 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting ELVIA MASKE, Enforcement Coordinator at (512)239-0789, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding GREATER LIFE CHURCH, Docket No. 2000- 0689-PWS-E; PWS NO. 1013124 on December 22, 2000 assessing \$1,500 in administrative penalties with \$300 deferred.

Information concerning any aspect of this order may be obtained by contacting ELVIA MASKE, Enforcement Coordinator at (512)239-0789, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding RIO WATER SUPPLY CORPORATION, Docket No. 1999-1529-PWS-E; PWS ID NO. 2140016 on December 22, 2000 assessing \$688 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting ERIKA FAIR, Enforcement Coordinator at (512)239-6673, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding AMCG REALTY INVESTMENTS DBA OAK FOREST MHC, Docket No. 2000-0688-PWS-E; PWS NO. 0010052 on January 3, 2001 assessing \$1,250 in administrative penalties with \$250 deferred.

Information concerning any aspect of this order may be obtained by contacting ELVIA MASKE, Enforcement Coordinator at (512)239-0789, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding PALESTINE CITY OF PALESTINE, Docket No. 2000-0134-PWS-E; PWS NO. 0010001 on December 22, 2000 assessing \$1,250 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting CAROLYN LIND, Enforcement Coordinator at (903)535-5145, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding CONNY WHITEHORN DBA CORONADO WATER COMPANY, Docket No. 1998-1308-PWS-E; TNRCC ID NO. 0590009 on December 22, 2000 assessing \$1,813 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting JOHN SUMNER, Staff Attorney at (915)620-6118, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding HARDIN PLUMBING COMPANY, INC., Docket No. 2000-0809-SLG-E; TRANSPORTER REGISTRATION NO. 20358 on December 22, 2000 assessing \$1,000 in administrative penalties with \$200 deferred.

Information concerning any aspect of this order may be obtained by contacting MARK NEWMAN, Enforcement Coordinator at (915)655-9479, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding H & B CONTRACTORS, LTD., Docket No. 2000- 0623-WR-E; NO TNRCC ID NO. on December 22, 2000 assessing \$375 in administrative penalties with \$75 deferred.

Information concerning any aspect of this order may be obtained by contacting SHERRY SMITH, Enforcement Coordinator at (512)239-0572, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CITY OF LULING, Docket No. 2000-0277-MLM- E; PWS NO. 0280002; NPDES NO. TX0022764; WQ PERMIT NO. 10582-002 on December 22, 2000 assessing \$3,375 in administrative penalties with \$300 deferred.

Information concerning any aspect of this order may be obtained by contacting SANDY VAN CLEAVE, Enforcement Coordinator at (512)239-0667, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An order was entered regarding REYNOLDS METALS COMPANY, Docket No. 2000- 1325-AIR-E; JE-0010-O on December 22, 2000.

Information concerning any aspect of this order may be obtained by contacting JOHN SUMNER, Staff Attorney at (915)620-6118, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding BORGWARNER TORQ-TRANSFER SYSTEMS, INCORPORATED FORMERLY BORG-WARNER AUTOMOTIVE POWERTRAIN SYSTEMS, Docket No. 2000-0130-AIR-E; ACCOUNT NO. GJ-0160-F on December 22, 2000 assessing \$9,000 in administrative penalties with \$1,800 deferred.

Information concerning any aspect of this order may be obtained by contacting TONI TOLIVER, Staff Attorney at (512)239-6122, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CHEVRON U.S.A., INCORPORATED, Docket No. 2000-0361-AIR-E; AIR ACCOUNT NO. EE-0015-H on December 22, 2000 assessing \$51,250 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting MARY RISNER, Staff Attorney at (512)239-6224, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CITATION OIL AND GAS CORPORATION, Docket No. 2000-0493-AIR-E; AIR ACCOUNT NOS. RG-0072-S AND RG-0058-M on December 22, 2000 assessing \$10,000 in administrative penalties with \$2,000 deferred.

Information concerning any aspect of this order may be obtained by contacting GARY MCDONALD, Enforcement Coordinator at (361)825-3122, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding DONOHUE INDUSTRIES, INCORPORATED, Docket No. 2000-0405-AIR-E; AIR ACCOUNT NO. AC-0017-B; ISW REGISTRATION NO. 30993 on December 22, 2000 assessing \$17,000 in administrative penalties with \$3,400 deferred.

Information concerning any aspect of this order may be obtained by contacting TONI TOLIVER, Staff Attorney at (512)239-6122, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding DYNEGY MIDSTREAM SERVICES, L.P., Docket No. 2000-0429-AIR-E; AIR ACCOUNT NO. FG-0040-P on December 22, 2000 assessing \$2,500 in administrative penalties with \$500 deferred.

Information concerning any aspect of this order may be obtained by contacting COREY BURKE, Enforcement Coordinator at (512)239-5259, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding EXXON MOBIL CORPORATION, Docket No. 2000-0433-AIR-E; AIR ACCOUNT NO. HG-0232-Q on December 22, 2000 assessing \$2,500 in administrative penalties with \$500 deferred.

Information concerning any aspect of this order may be obtained by contacting STACEY YOUNG, Enforcement Coordinator at (512)239-1899, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding GUARDIAN INDUSTRIES CORPORATION, Docket No. 2000-0572-AIR-E; AIR ACCOUNT NO. NB-0014-Ron December 22, 2000 assessing \$4,500 in administrative penalties with \$900 deferred.

Information concerning any aspect of this order may be obtained by contacting SUZANNE WALRATH, Enforcement Coordinator at (512)239-2134, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding MARTIN MARIETTA MATERIALS SOUTHWEST, LTD., Docket No. 1999-0614-AIR-E; AIR ACCOUNT NO. HG-0606-U on December 22, 2000 assessing \$2,500 in administrative penalties with \$500 deferred.

Information concerning any aspect of this order may be obtained by contacting FAYE LIU, Enforcement Coordinator at (713)767-3726, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding NORTH TEXAS CEMENT COMPANY, Docket No. 2000-0528-AIR-E; AIR ACCOUNT NO. ED-0034-O on December 22, 2000 assessing \$11,250 in administrative penalties with \$2,250 deferred.

Information concerning any aspect of this order may be obtained by contacting TONI TOLIVER, SEP Coordinator at (512)239-6122, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding NORTH TEXAS TRENCH BURN, INC., Docket No. 2000-0544-AIR-E; AIR ACCOUNT NO.92-2395-L on December 22, 2000 assessing \$1,800 in administrative penalties with \$360 deferred.

Information concerning any aspect of this order may be obtained by contacting TEL CROSTON, Enforcement Coordinator at (512)239-5717, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding RUDY MALDONADO DBA RUDY'S SERVICE STATION, Docket No. 2000-0841-AIR-E; AIR ACCOUNT NO. EE-1310-S on December 22, 2000 assessing \$1,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting REBECCA CERVANTES, Enforcement Coordinator at (915)834-4965, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding WILDCAT CRANES, INCORPORATED, Docket No. 2000-0138-AIR-E; AIR ACCOUNT NO. TA-3880-D on December 22, 2000 assessing \$2,000 in administrative penalties with \$400 deferred.

Information concerning any aspect of this order may be obtained by contacting TONI TOLIVER, SEP Coordinator at (512)239-6122, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding AMERADA HESS CORPORATION, Docket No. 1999-0893-AIR-E; AIR ACCOUNT NO. HG-0017-W on December 22, 2000 assessing \$59,500 in administrative penalties with \$11,900 deferred.

Information concerning any aspect of this order may be obtained by contacting FAYE LIU, Enforcement Coordinator at (713)767-3726, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding AIR LIQUIDE AMERICA CORPORATION, Docket No. 2000-0565-AIR-E; AIR ACCOUNT NO. BL-0626-U on December 22, 2000 assessing \$70,875 in administrative penalties with \$14,175 deferred.

Information concerning any aspect of this order may be obtained by contacting CARL SCHNITZ, Enforcement Coordinator at (512)239-1892, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding BARKER OIL, INC., Docket No. 2000-0852-AIR-E; AIR ACCOUNT NO. EE-0625-U on December 22, 2000 assessing \$750 in administrative penalties with \$150 deferred.

Information concerning any aspect of this order may be obtained by contacting REBECCA CERVANTES, Enforcement Coordinator at (915)834-4965, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding BIG TEX TRAILER WORLD, INC., Docket No. 1999-1535-AIR-E; TF-0071-K on December 22, 2000 assessing \$5,000 in administrative penalties with \$1,000 deferred.

Information concerning any aspect of this order may be obtained by contacting CAROLYN LIND, Enforcement Coordinator at (903)535-5145, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CITY OF GARLAND, Docket No. 2000-0627-IWD-E; TPDES PERMIT NO. 03519-000 on December 22, 2000 assessing \$1,500 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting MICHAEL DE LA CRUZ, Enforcement Coordinator at (512)239-0259, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding MAVERICK TUBE CORPORATION, Docket No. 2000-0482-IWD-E; WQ PERMIT NO. 02365 on December 22, 2000 assessing \$6,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting SHERRY SMITH, Enforcement Coordinator at (512)239-0572, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding TOMMY THOMAS, Docket No. 2000-0660-IWD-E; TPDES PERMIT NO. 12919-001 on December 22, 2000 assessing \$3,750 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting STEVEN LOPEZ, Enforcement Coordinator at (512)239-1896, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CITY OF HICO, Docket No. 2000-0443-MSW-E; MSW TRANSFER REGISTRATION NO. 40004 on December 22, 2000 assessing \$1,000 in administrative penalties with \$200 deferred.

Information concerning any aspect of this order may be obtained by contacting VICTOR SIMONDS, Staff Attorney at (512)239-6201, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding PMT USA, INC. DBA AIR & SEA ENVIRONMENTAL, Docket No. 2000-0501-MSW-E; MSW REGISTRATION NO. 50059 on December 22, 2000 assessing \$3,500 in administrative penalties with \$700 deferred.

Information concerning any aspect of this order may be obtained by contacting CATHY SHERMAN, Enforcement Coordinator at (713)767-3624, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding JAMES R. STUART, Docket No. 1999-1580-MSW-E; MSW REGISTRATION NO. TYU 00019 on December 22, 2000 assessing \$1,125 in administrative penalties with \$225 deferred.

Information concerning any aspect of this order may be obtained by contacting SHERRY SMITH, Enforcement Coordinator at (512)239-0572, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CITY OF LA VILLA, Docket No. 2000-0341-MWD-E; WQ PERMIT NO. 13794-001 on December 22, 2000 assessing \$5,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting JOSEPH DALEY, Enforcement Coordinator at (512)239-3308, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding PILCHERS PROPERTY OF AMERICA, INC., Docket No. 2000-0377-MWD-E; WQ PERMIT NO. 11572-001; NPDES PERMIT NO. TX0047775 on December 22, 2000 assessing \$6,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting STEVEN LOPEZ, Enforcement Coordinator at (512)239-1896, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding STERLING BANK, Docket No. 2000-0248-MWD-E; TPDES NO. 12935-001(FORMERLY WQ PERMIT NO. 12935-001) on December 22, 2000 assessing \$13,750 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting TONI TOLIVER, SEP Coordinator at (512)239-6122, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding MICHAEL BAGWELL, Docket No. 1999-1264-OSI-E; SLUDGE TRANSPORTER NO. 21556 (EXPIRED) on December 22, 2000 assessing \$2,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting RICHARD O'CONNELL, Staff Attorney at (512)239-5528, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding RENE CADENA DBA RENE'S SEPTIC & BACKHOE SERVICE, Docket No. 2000-0165-OSI-E; OSSF INSTALLER CERTIFICATION NO. OS7555 on December 22, 2000 assessing \$250 in administrative penalties with \$50 deferred.

Information concerning any aspect of this order may be obtained by contacting JOHN MEAD, Enforcement Coordinator at (512)239-6010, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding GULSHAN ENTERPRISES, INC., Docket No. 1999-1123-PST-E; TNRCC ID NOS. 40209, 39755 & 39759 on December 22, 2000 assessing \$16,375 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting SCOTT MCDONALD, Staff Attorney at (817)588-5888, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding SYLVIA HERNANDEZ DBA COUNTRY STORE, Docket No. 1999-0995-PST-E; PST FACILITY ID NO. 47483 on December 22, 2000 assessing \$3,500 in administrative penalties with \$700 deferred.

Information concerning any aspect of this order may be obtained by contacting FARA O'NEAL, Enforcement Coordinator at (956)430-6041, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding RIKTA ENTERPRISES, INC. DBA SHOP N' GO, Docket No. 2000-0497-PST-E; PST FACILITY ID NO. 0063718 on December 22, 2000 assessing \$1,250 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting CATHERINE ALBRECHT, Enforcement Coordinator at (713)767-3672, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding DALLARDSVILLE-SEGNO WATER SUPPLY CORPORATION, Docket No. 2000-0836-PWS-E; PWS ID NO. 1870126 on December 22, 2000 assessing \$925 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting LAURA CLARK, Enforcement Coordinator at (409)899-8760, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-200100147

LaDonna Castañuela

Chief Clerk

Texas Natural Resource Conservation Commission

Filed: January 9, 2001



Extension of Deadline for Written Comments

In the December 1, 2000 issue of the *Texas Register*, the Texas Natural Resource Conservation Commission published a proposed amendment to 30 TAC Chapter 328, Waste Minimization and Recycling, §328.71, Closure Cost Estimate for Financial Assurance (25 TexReg 11887). The preamble to the proposed rule incorrectly stated that comments must be received by December 18, 2000, when it should have stated by January 2, 2001. For this reason, the commission is extending the comment period for an additional 14 days. Comments may be mailed to Lola Brown, Office of Environmental Policy, Analysis, and Assessment, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. All comments should reference Rule Log Number 1999-083- 328-WS. Comments must be received by 5:00 p.m., February 2, 2001. For further information, please contact Jill Burditt, Policy and Regulations Division, (512) 239-0560.

TRD-200100153

Margaret Hoffman

Director, Environmental Law Division

Texas Natural Resource Conservation Commission

Filed: January 10, 2001



Notices of Application and Preliminary Decision for a Municipal Solid Waste Permit

For The Period of January 09,2001.

APPLICATION AND PRELIMINARY DECISION. The Applerock Group, L.L.C., 313 Genoa Red Bluff Road, Houston, Texas 77034, has submitted a partial application to the Texas Natural Resource Conservation Commission (TNRCC) for a permit to authorize a new Type IV municipal solid waste landfill facility. Such a facility is authorized to accept municipal solid waste consisting of brush, construction-demolition waste and/or rubbish that is free of putrescible and free of household wastes. The facility is located in Harris County, Texas. The application was originally submitted to the TNRCC on March 18, 1999 and the portion of the application which is the subject of this notice was submitted on March 31, 2000. The applicable portion of the application is available for reviewing and copying. The TNRCC granted Parts I and II of the application, relating to land use compatibility, pursuant to Texas Health and Safety Code Section 361.069 by Order dated November 5, 1999. The current application consists of Parts III and IV of a municipal solid waste application, relating to the Site Development Plan and Site Operating Plan, respectively. The application is subject to the goals and policies of the Texas Coastal Management Program and must be consistent with the applicable Coastal Management Program goals and policies. The TNRCC executive director has completed the technical review of the application and prepared a draft permit. The draft permit, if approved, would establish the conditions under which the facility must operate. The permit application, executive director's preliminary decision, as contained in the technical summary and/or fact sheet, and draft permit are available for viewing and copying at the Pasadena City Hall located at 1211 E. Southmore Avenue, Pasadena, Texas. MAILING LISTS. You may ask to be placed on a mailing list to obtain additional information on this application by sending a request to the Office of the Chief Clerk, at the address below. You may also ask to be on a county-wide mailing list to receive public notices for TNRCC permits in the county. PUBLIC COMMENT/PUBLIC MEETING. You may submit public comments on this application. However, the TNRCC has previously held a public meeting on this application on July 13, 2000 and will not hold another public meeting. Written Public Comments must be submitted to the Office of the Chief Clerk, MC 105, TNRCC, P.O. Box 13087, Austin, TX 78711-3087 within 30 days of the date of newspaper publication of this notice. OPPORTUNITY FOR A CONTESTED CASE HEARING. After the deadline for public comments, the executive director will consider the comments and prepare a response to all relevant and material, or significant public comments. The response to comments, along with the executive director's decision on the application, will be mailed to everyone who submitted public comments or who is on the mailing list for this application. The mailing will also provide instructions for requesting reconsideration of the executive director's decision and for requesting a contested case hearing. A contested case hearing is a legal proceeding similar to a civil trial in state district court. A contested case hearing will only be granted based on disputed issues of fact that are relevant and material to the Commission's decision on the application. Further, the Commission will only grant a hearing on issues that were raised during the public comment period and not withdrawn. Issues that are not raised in the public comments may not be considered during a public hearing. In addition, this

proceeding involves only Parts III and IV of the application, relating to the Site Development Plan and the Site Operating Plan. It does not include any matters or issues related to Parts I and II of the application which have already been decided by the Commission. The Site Development Plan contains information required in 30 TAC Sections 330.54, 330.55 and 330.56. This includes the solid waste data, identifying the nature, type and quality of the waste proposed for disposal at the facility, the proposed landfill method, liner construction, cell construction sequences, closure phases, all-weather operations, access controls, solid waste deposition and operating life, groundwater protection design and operation, rainfall run-on and run-off controls, drainage structures, drainage calculations, erosion controls, contaminated water controls, erosion controls, final cover design and landfill markers. The Site Operating Plan consists of information required in 30 TAC Sections 330.57 and 330.114. The Site Operating Plan describes the operating procedures to be undertaken to conduct day to day operations. INFORMATION. If you need more information about this permit application or the permitting process, please call the TNRCC Office of Public Assistance, Toll Free, at 1-800-687-4040. General information about the TNRCC can be found at our web site at www.tnrcc.state.tx.us. Further information may also be obtained from The Applerock Group, L.L.C. at the address stated above or by calling William Anthony Koby at 713-944-4253.

TRD-200100145
LaDonna Castañuela
Chief Clerk
Texas Natural Resource Conservation Commission
Filed: January 9, 2001



Notice of Opportunity to Comment on Settlement Agreements of Administrative Enforcement Actions

The Texas Natural Resource Conservation Commission (TNRCC or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) pursuant to Texas Water Code (the Code), §7.075, which requires that the TNRCC may not approve these AOs unless the public has been provided an opportunity to submit written comments. Section 7.075 requires that notice of the proposed orders and of the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **February 19, 2001**. Section 7.075 also requires that the TNRCC promptly consider any written comments received and that the TNRCC may withhold approval of an AO if a comment discloses facts or considerations that indicate the proposed AO is inappropriate, improper, inadequate, or inconsistent with the requirements of the Code, the Texas Health and Safety Code (THSC), and/or the Texas Clean Air Act (the Act). Additional notice is not required if changes to an AO are made in response to written comments.

A copy of each of the proposed AOs is available for public inspection at both the TNRCC's Central Office, located at 12100 Park 35 Circle, Building C, 1st Floor, Austin, Texas 78753, (512) 239-1864 and at the applicable Regional Office listed as follows. Written comments about these AOs should be sent to the enforcement coordinator designated for each AO at the TNRCC's Central Office at P.O. Box 13087, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on February 19, 2001**. Written comments may also be sent by facsimile machine to the enforcement coordinator at (512) 239-2550. The TNRCC enforcement coordinators are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, §7.075 provides that comments on the AOs should be submitted to the TNRCC in **writing**.

(1) COMPANY: Pepi Kohler dba Alpenhof Steak Haus; DOCKET NUMBER: 2000-0864-PWS- E; IDENTIFIER: Public Water Supply (PWS) Number 2270153; LOCATION: Bee Cave, Travis County, Texas; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.106(a)(1) and (e)(2), and the Code, §341.033(d), by failing to collect and submit routine monthly water samples for bacteriological analysis and provide public notice for coliform monitoring violations; and 30 TAC §290.51(a)(3) and the Code, §341.041, by failing to pay public health service fees; PENALTY: \$2,500; ENFORCEMENT COORDINATOR: Brian Lehmkuhle, (512) 239-4482; REGIONAL OFFICE: 1921 Cedar Bend Drive, Suite 150, Austin, Texas 78758-5336, (512) 339-2929.

(2) COMPANY: Berridge Manufacturing Company; DOCKET NUMBER: 2000-0676-MLM-E; IDENTIFIER: Air Account Number BG-0555-W and Solid Waste Registration Number 80959; LOCATION: San Antonio, Bexar County, Texas; TYPE OF FACILITY: coil coating; RULE VIOLATED: 30 TAC §116.115(b) and (c), Permit Number 20200, and the Code, §382.085(b), by failing to maintain the primer station and top coat station temperature controllers and recorders in good working order and maintain records of the temperature in the combustion chamber; 30 TAC §101.6(a)(1)(A) and (b), and the Code, §382.085(b), by failing to determine if the upset conditions documented constituted a reportable upset and failed to create records of reportable and non-reportable upsets; 30 TAC §335.10(b)(14), by failing to include on state manifest document number 01533432 the company name and site address of the facility; 30 TAC §335.4 and the Code, §26.121, by failing to prevent unauthorized discharges of industrial solid waste streams; 30 TAC §335.6(c), by failing to provide subsequent notification for a hazardous waste management unit and for two industrial solid waste streams; 30 TAC §335.69(a)(1)(A) and (B), (4), (a)(2), (d)(1), and 40 Code of Federal Regulations (CFR) §§265.16(d), 265.35, 265.171, 265.176, 265.193, and 265.195(c), by failing to hold hazardous waste in containers in good condition, keep containers holding ignitable hazardous waste located at least 15 meters from the site's property line, obtain and keep on file at the site, written statements by persons required to certify the design and supervise the installation of the wastewater treatment and storage tank system, provide aisle space between containers of hazardous wastes stored on-site, maintain documentation and records of both introductory and continuing training provided to facility personnel, label five 55-gallon drums holding hazardous waste, keep containers closed while holding hazardous waste in satellite accumulation, provide secondary containment for the wastewater treatment tank system and leak detection equipment, and document daily inspections of the wastewater treatment and storage tank system; 30 TAC §335.9(a)(1)(G), by failing to keep records which support the claims made regarding the locations of all hazardous waste accumulation areas; 30 TAC §335.431(c) and 40 CFR §268.7(a)(8), by failing to retain a copy of the initial land disposal restriction notification; and 30 TAC §335.62 and 40 CFR §262.11, by failing to perform hazardous waste determinations for the waste streams; PENALTY: \$43,125; ENFORCEMENT COORDINATOR: Malcolm Ferris, (210) 490-3096; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(3) COMPANY: Mr. Ellis Brumbeloe dba Ellis Cabinets; DOCKET NUMBER: 2000-0912- MLM-E; IDENTIFIER: Municipal Solid Waste Unauthorized Site Number 455100025 and Air Account Number HF-0234-A; LOCATION: Lumberton, Hardin County, Texas; TYPE OF FACILITY: residence and cabinet shop; RULE VIOLATED: 30 TAC §111.201 and the Code, §382.085, by failing to comply with the outdoor burning rules; and 30 TAC §330.4 and the Code, §26.121, by failing to properly dispose of waste at an authorized facility; PENALTY: \$2,400; ENFORCEMENT COORDINATOR:

Laura Clark, (409) 898-3838; REGIONAL OFFICE: 3870 Eastex Freeway, Suite 110, Beaumont, Texas 77703-1892, (409) 898-3838.

(4) COMPANY: Fair Road Properties, Inc. dba Light Ranch Estates; DOCKET NUMBER: 2000-0803-PWS-E; IDENTIFIER: PWS Number 0610226; LOCATION: Pilot Point, Denton County, Texas; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.46(f)(2)(B), (i), (j)(3), (l), (n), (p), and (y), by failing to provide a diethyl-p-phenylenediamine chlorine residual test kit, provide customer service agreements or a plumbing ordinance, maintain copies of customer service inspection certifications, test and record daily chlorine residuals, flush dead end mains monthly, provide an up-to-date map of the distribution system, document annual ground storage and pressure tank inspections, and provide electrical wiring in conduit; 30 TAC §290.106(a)(1), by failing to develop a bacteriological sample siting plan; 30 TAC §290.109(g), by failing to collect bacteriological samples; 30 TAC §290.42(i), by failing to provide American National Standards Institute/National Sanitation Foundation approved chlorine; 30 TAC §290.43(c)(2), (3), and (4), and (d)(2), by failing to provide a roof access opening, provide a ladder on the ground storage tank, provide a properly designed overflow pipe on the ground storage tank, provide a water level indicator on the ground storage tank, and provide a pressure release device on the pressure tanks; 30 TAC §290.41(c)(1)(F), (3)(A), (B), (J), (N), and (P), by failing to provide a sanitary easement for both wells, maintain well logs, extend well casing 18 inches above ground level for both wells, provide a proper concrete sealing block, provide a working well meter and provide an all weather access road; and 30 TAC §290.45(b)(1)(C)(ii) and (iv), by failing to meet the minimum water system capacity of 200 gallons per connection total storage capacity and meet the minimum water system capacity requirement of 20 gallons per connection; PENALTY: \$4,813; ENFORCEMENT COORDINATOR: Wendy Cooper, (817) 469-6750; REGIONAL OFFICE: 1101 East Arkansas Lane, Arlington, Texas 76010-6499, (817) 469-6750.

(5) COMPANY: Fina, Inc.; DOCKET NUMBER: 2000-0925-IHW-E; IDENTIFIER: Industrial and Hazardous Waste Registration Number 33770; LOCATION: Abilene, Jones County, Texas; TYPE OF FACILITY: bulk terminal; RULE VIOLATED: 30 TAC 335.2(b) and 40 CFR §270.1, by transporting to an unauthorized facility; and 30 TAC §335.10(a)(1), by failing to prepare a manifest for consignment of waste to an off-site facility; PENALTY: \$12,000; ENFORCEMENT COORDINATOR: Kara Dudash, (915) 698-9674; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (915) 698-9674.

(6) COMPANY: First Chemical Texas, L.P.; DOCKET NUMBER: 2000-0763-IHW-E; IDENTIFIER: Solid Waste Registration Number 85386; LOCATION: near Baytown, Chambers County, Texas; TYPE OF FACILITY: aniline manufacturing; RULE VIOLATED: 30 TAC §335.69(a)(1)(B), §335.112(a)(9), and 40 CFR §§262.34(a)(1)(ii), 265.192, and 265.193(a)(1), by failing to provide secondary containment for hazardous waste tank TK-2004 and failing to obtain a certified written assessment of the tank system; PENALTY: \$8,800; ENFORCEMENT COORDINATOR: Catherine Sherman, (713) 767-3500; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(7) COMPANY: Florida Gas Transmission Company; DOCKET NUMBER: 2000-1005-AIR-E; IDENTIFIER: Air Account Numbers NE-0222-V and CB-0051-B; LOCATION: Robstown, Nueces County, Texas; TYPE OF FACILITY: natural gas transmission; RULE VIOLATED: 30 TAC §122.146(2) and the Act, §382.085(b), by failing to submit the initial annual compliance certifications; PENALTY: \$3,600; ENFORCEMENT COORDINATOR: Carol McGrath, (361)

825- 3100; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5503, (361) 825-3100.

(8) COMPANY: The Grove Water Supply Corporation; DOCKET NUMBER: 2000-1192-PWS- E; IDENTIFIER: PWS Number 0500023; LOCATION: The Grove, Coryell County, Texas; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.46(e)(1)(B), (formerly §290.46(e)(1)), by failing to provide an operator with a current Grade C or higher groundwater or surface water certification; and 30 TAC §290.43(c)(8) and (d)(4), by failing to maintain adequate coatings on the ground storage and pressure tank; PENALTY: \$375; ENFORCEMENT COORDINATOR: James Jackson, (254) 751-0335; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(9) COMPANY: Kmal Enterprises, Inc. dba Friendly Mart; DOCKET NUMBER: 2000-0680- PWS-E; IDENTIFIER: PWS Number 1012339; LOCATION: Spring, Harris County, Texas; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.46(f)(1) and (y), by failing to operate and maintain the chlorination facilities and contain all electrical wiring of the water system in a securely mounted conduit; 30 TAC §290.41(c)(1)(F) and (3)(B), (I), and (O), by failing to provide a sanitary control easement, provide a well casing 18 inches above the elevation of the natural ground surface, and maintain and lock the well house cover and prevent the accumulation of water around the wellhead; 30 TAC §290.45(d)(2)(A)(ii), by failing to meet the minimum pressure tank capacity requirements; and 30 TAC §290.43(e), by failing to lock the gate of the fence surrounding the pressure maintenance facility; PENALTY: \$1,188; ENFORCEMENT COORDINATOR: Catherine Albrecht, (713) 767-3500; REGIONAL OFFICE: 5425 Polk Avenue, Houston, Texas 77023-1486, (713) 767-3500.

(10) COMPANY: Mesa View Water Service, Inc.; DOCKET NUMBER: 2000-1212-PWS-E; IDENTIFIER: PWS Number 1860009; LOCATION: Fort Stockton, Pecos County, Texas; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.117(c), (formerly §290.120(e)), by failing to conduct reduced tap monitoring for lead and copper; and 30 TAC §290.41 and the Code, §341.041, by failing to pay public health service fees; PENALTY: \$375; ENFORCEMENT COORDINATOR: Shawn Stewart, (512) 239-6684; REGIONAL OFFICE: 3300 North A Street, Building 4, Suite 107, Midland, Texas 79705-5404, (915) 570-1359.

(11) COMPANY: Peaster Independent School District; DOCKET NUMBER: 2000-0931-MWD- E; IDENTIFIER: Water Quality Permit Number 13589-001; LOCATION: Peaster, Parker County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §305.125(1), Water Quality Permit Number 13589-001, and the Code, §26.121, by failing to comply with the total suspended solids (TSS) daily average permit limit of 15 milligram per liter (mg/l), TSS daily average permit limit of 2.3 pounds per day (lbs/day), five-day carbonaceous biochemical oxygen demand (CBOD5) daily average permit limit of 10 mg/l, CBOD5 single grab permit limit of 35 mg/l, ammonia nitrogen daily average loading permit limit of 0.4500 lbs/day, and dissolved oxygen minimum permit limit of four mg/l; PENALTY: \$1,500; ENFORCEMENT COORDINATOR: Cheryl Thompson, (512) 239-1057; REGIONAL OFFICE: 1101 East Arkansas Lane, Arlington, Texas 76010-6499, (817) 469-6750.

(12) COMPANY: Lonnie K. Pence; DOCKET NUMBER: 2000-1062-OSI-E; IDENTIFIER: Installer Certification Number OS3452; LOCATION: Marion, Guadalupe County, Texas; TYPE OF FACILITY: on-site sewage; RULE VIOLATED: 30 TAC §285.58(a)(3) and (11), and the Code, §366.051(c) and §366.054, by failing to verify proof of a permit and approved plan from the authorized agent before repairing or extending an on-site sewage facility and notify

the permitting authority and call for required inspections; PENALTY: \$400; ENFORCEMENT COORDINATOR: Cheryl Thompson, (512) 239-1057; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(13) COMPANY: Mr. Roy Cullison dba R C S; DOCKET NUMBER: 2000-0900-AIR-E; IDENTIFIER: Air Account Number JH-0414-W; LOCATION: Joshua, Johnson County, Texas; TYPE OF FACILITY: used car lot; RULE VIOLATED: 30 TAC §114.20(c)(1) and the Code, §382.085(b), by allegedly offering for sale to the general public a vehicle with missing or inoperable air control devices; PENALTY: \$400; ENFORCEMENT COORDINATOR: Wendy Cooper, (817) 469-6750; REGIONAL OFFICE: 1101 East Arkansas Lane, Arlington, Texas 76010- 6499, (817) 469-6750.

(14) COMPANY: Rock Hill Water Supply Corporation; DOCKET NUMBER: 2000-0808-PWS- E; IDENTIFIER: PWS Number 1830014; LOCATION: Beckville, Panola County, Texas; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.45(b)(1)(D)(ii), (iii), and (v), by failing to provide a total storage capacity of 200 gallons per connection in the pressure plane, have two or more pumps with a total rated capacity of two gallons per minute per connection, and provide an elevated storage capacity of 100 gallons per connection or a pressure tank capacity of 20 gallons per connection in the pressure plane; 30 TAC §290.45(f)(4), by failing to meet the minimum water system capacity requirement of 0.6 gallons per minute per connection in the maximum authorized daily purchase rate; and 30 TAC §290.43(c)(1), (2), and (8), and §290.46(m), by failing to keep the roof hatch on the ground storage tank locked at all times to prevent any contamination, protect vent openings on the ground storage tank with a 16-mesh or finer corrosion resistant screen and conduct a proper maintenance program on the ground storage tank; PENALTY: \$2,363; ENFORCEMENT COORDINATOR: Carolyn Lind, (903) 535-5100; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3756, (903) 535-5100.

(15) COMPANY: Terra Southwest, Inc. dba East Ponder Estates; DOCKET NUMBER: 2000- 0594-PWS-E; IDENTIFIER: PWS Number 0610161; LOCATION: Ponder, Denton County, Texas; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.46(f)(1) and (2), and (j)(1)(C), by failing to conduct or record weekly chlorine residuals and conduct or record the customer service inspections; 30 TAC §290.45(b)(1)(C)(i), by failing to provide adequate well capacity of 0.6 gallons per minute per connection; 30 TAC §290.41(c)(3)(K), by failing to have the wellhead sealed and a proper vent screen on the wellhead; and 30 TAC §290.43(d)(3), by failing to have a filter or other device on a air compressor discharge line; PENALTY: \$1,063; ENFORCEMENT COORDINATOR: Craig Fleming, (512) 239-5806; REGIONAL OFFICE: 1101 East Arkansas Lane, Arlington, Texas 76010-6499, (817) 469-6750.

(16) COMPANY: Upper Valley Material, Ltd.; DOCKET NUMBER: 2000-0897-AIR-E; IDENTIFIER: Air Permit Number 19787; LOCATION: La Joya, Hidalgo County, Texas; TYPE OF FACILITY: sand and gravel processing; RULE VIOLATED: 30 TAC §122.121, §122.130, and the Code, §382.054, by failing to submit a Title V federal operating permit application; 30 TAC §101.20(1), §116.115(c), 40 CFR §60.7 and §60.8, Air Permit Number 19787, and the Code, §382.085(b), by failing to furnish notification after commencement of construction and initial startup, conduct performance tests within 60 days after achieving the maximum production rate but no later than 180 days after initial startup of the plant and furnish a report of the results of the performance tests, conduct opacity observations, install permanently mounted shrouds at the inlet and outlet of all crushers, and spray water or cover with a canvas the material loads of all transporting vehicles; and 30 TAC §101.27, by failing to pay late

payment penalty assessed for delinquent emission fees; PENALTY: \$13,000; ENFORCEMENT COORDINATOR: Merrilee Gerberding, (512) 239-4490; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

TRD-200100109
Paul Sarahan
Director, Litigation Division
Texas Natural Resource Conservation Commission
Filed: January 9, 2001



Notice of Opportunity to Participate in Permitting Matters

A person may request to be added to a mailing list for public notices processed through the Office of the Chief Clerk for air, water, and waste permitting activities at the TNRCC. You may request to be added to: (1) a permanent mailing list for a specific applicant name and permit number; and/or (2) a permanent mailing list for a specific county or counties.

Note that a request to be added to a mailing list for a specific county will result in notification of all permitting matters affecting that particular county.

To be added to a mailing list, send us your name and address, clearly specifying which mailing list(s) to which you wish to be added. Your request should be sent to the TNRCC, Office of the Chief Clerk, Mail Code 105, P. O. Box 13087, Austin, TX 78711-3087.

Individual members of the public who wish to inquire about the information contained in this notice, or to inquire about other agency permit applications or permitting processes, should call the TNRCC Office of Public Assistance, Toll Free, at 1-800-687-4040.

TRD-200100154
LaDonna Castañuela
Chief Clerk
Texas Natural Resource Conservation Commission
Filed: January 10, 2001



Notice of Revised Water District Applications

The Texas Natural Resource Conservation Commission (TNRCC) will conduct a hearing on a petition for dissolution of Harris County Municipal Utility District No. 324 (District) The petition was signed by Robert M. Allen, managing partner of Yaupon Ranch, L.L.C., a Texas Limited Liability Company, being the owner of a majority of the property located within the District (Petitioner). The TNRCC will conduct this hearing under the authority of Chapters 49 and 54 of the Texas Water Code, 30 Texas Administrative Code Chapter 293 and the procedural rules of the TNRCC. The TNRCC will conduct the hearing at: 9:30 a.m., Wednesday, March 7, 2001 Building E, Room 201S 12100 Park 35 Circle Austin, Texas . On June 3, 1987, the Texas Water Commission created the District. It operates under Texas Water Code Chapters 49 and 54 as a municipal utility district. The Petitioner states the dissolution is desirable since an adjacent district has expressed a willingness to annex the Petitioner's land and provide it with utility service. The petition states the District: (1) has performed none of the functions for which it was created for five consecutive years preceding the date of the petition, (2) is financially dormant, and (3) has no outstanding bonded indebtedness. Certified copies of the Annual Financial Dormancy and Filing Affidavits for the years 1994 through 1996 and evidence on nonfiling for 1997 and 1998 are on file. An affidavit from the State Comptroller of Public Accounts has been included in the petition, certifying that the District has no bonded indebtedness. If the request

for dissolution is approved, the District's assets, if any, will escheat to the State of Texas and will be administered by the State Comptroller of Public Accounts and disposed of in the manner provided by Chapter 74, Property Code.

The TNRCC may grant a contested case hearing on this application if a written hearing request is filed within 30 days after the newspaper publication of this notice. The Executive Director may approve the application unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this 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 applicant and the TNRCC Internal Control Number; (3) the statement "I/we request a contested case hearing"; and (4) a brief description of how you would be affected by the granting of the request in a way not common to the general public. You may also submit your proposed adjustments to the application which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the TNRCC Office of the Chief Clerk at the address provided in the information section below. If a hearing request is filed, the Executive Director will not approve the application and will forward the application and hearing request to the TNRCC 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, TNRCC, P.O. Box 13087, Austin, TX 78711-3087. For information concerning hearing process, contact the Public Interest Counsel, MC 103, the same address. For additional information, individual members of the general public may contact the Office of Public Assistance, at 1-800-687-4040. General information regarding the TNRCC can be found at our web site at www.tnrcc.state.tx.us.

TRD-200100051
LaDonna Castañuela
Chief Clerk
Texas Natural Resource Conservation Commission
Filed: January 3, 2001



Notice of Water Rights Applications

Thomas J. Fatjo, Jr; and Wife, Amy Fatjo, deceased, One Riverway, Suite 1400, Houston, Texas 77056, applicant, seeks a Water Use Permit pursuant to §11.121, Texas Water Code, and Texas Natural Resource Conservation Commission Rules 30 TAC §§ 295.1, et seq. Applicant seeks authorization to divert and use 32 acre-feet of water per annum from the Guadalupe River, Guadalupe River Basin, at a point on the north bank located N 63° E, 190 feet from the southwest corner of the J. A. Wickson Survey No. 674, Abstract No. 370, also being Latitude 30.07° N, Longitude 99.31° W; at a maximum rate of 0.22 cfs (98.74 gpm) to be conditionally supplied by an "Upstream Surface Diversion Contract" with the Guadalupe-Blanco River Authority. This water will be diverted directly from the Guadalupe River for impoundment and subsequent irrigation use. Applicant also seeks to maintain an existing dam and reservoir and impound therein not to exceed 11 acre-feet of water, also to be provided by the aforesaid upstream contract, on an unnamed tributary (locally called Bumble Bee Creek) of the Guadalupe River, Guadalupe River Basin, located in aforesaid Survey, located approximately 1.7 miles in a easterly direction from Hunt, Kerr County, Texas. Midpoint on the centerline of the dam is N 18.2° E, 2160 feet from the Southwest corner of the J. A. Wickson Survey No. 674, Abstract No. 370 in Kerr County, also being Latitude 30.07° N, Longitude

99.31°W; and has a surface area of 2.2 acres. Applicant also seeks to subsequently divert up to 30 acre-feet of water per annum from the aforementioned reservoir at a point on the reservoir located N 17°E, 2375 feet from the southwest corner of aforesaid Survey, also being Latitude 30.07° N, Longitude 99.31°W, at a maximum rate of 0.22 cfs (98.74 gpm) for irrigation of 23 acres of land out of a 173 acre-tract located in the aforesaid Wickson Survey, the A. Z. Zumwalt Survey No. 1837, Abstract No. 988; and the R. Jones Survey No. 1578, Abstract No. 1735, Kerco, Texas. Two acre-feet of the 32 acre-feet diverted and impounded will be utilized to account for evaporative loss. The applicant has indicated that groundwater is available to supplement irrigation during times of low streamflow and for maintaining the aforesaid reservoir full at all times. The requested permit, if granted, will remain in effect contingent upon maintenance of the aforesaid upstream contract with the Guadalupe-Blanco River Authority.

Written public comments and requests for a public meeting should be submitted to the Office of Chief Clerk, at the address provided in the information section below, within 30 days of the date of newspaper publication of the notice. A public meeting is intended for the taking of public comment, and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application.

The TNRCC may grant a contested case hearing on this application if a written hearing request is filed within 30 days from the date of newspaper publication of this notice. The Executive Director may approve the application unless a written request for a contested case hearing is filed within 30 days after newspaper publication of this 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) applicant's name and permit number; (3) the statement "[I/we] request a contested case hearing;" (4) a brief and specific description of how you would be affected by the application in a way not common to the general public; and (5) the location and distance of your property relative to the proposed activity. You may also submit proposed conditions to the requested permit which would satisfy your concerns. 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. If a hearing request is filed, the Executive Director will not issue the permit and will forward the application and hearing request to the TNRCC Commissioners for their consideration at a scheduled Commission meeting.

Written hearing requests, public comments or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TNRCC, P.O. Box 13087, Austin, TX 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, the same address. For additional information, individual members of the general public may contact the Office of Public Assistance at 1-800-687-4040. General information regarding the TNRCC can be found at our web site at www.tnrcc.state.tx.us.

TRD-200100146
LaDonna Castañuela
Chief Clerk
Texas Natural Resource Conservation Commission
Filed: January 9, 2001



Proposal for Decision

The State Office Administrative Hearing issued a Proposal for Decision and Order to the Texas Natural Resource Conservation Commission on December 7, 2000. Executive Director of the Texas Natural Resource Conservation Commission, Petitioner v. Fred Morris; Respondent; SOAH Docket No. 582-01-0310; TNRCC Docket No. 1999-0733-MSW-E. In the matter to be considered by the Texas Natural Resource Conservation Commission on a date and time to be determined by the Chief Clerk's Office in Room 201S of Building E, 12118 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 publication. Written public comments should be submitted to the Office of the Chief Clerk, MC-105 TNRCC PO Box 13087, Austin Texas 78711- 3087. If you have any questions or need assistance, please contact Doug Kitts, Chief Clerk's Office, (512) 239-3317.

TRD-200100052

Doug Kitts

Certifying Official

Texas Natural Resource Conservation Commission

Filed: January 3, 2001



Public Notice

The Texas Natural Resource Conservation Commission (TNRCC or commission) is required under the Texas Solid Waste Disposal Act, Texas Health and Safety Code, Chapter 361, as amended (the Act), to annually publish a state registry that identifies facilities that may constitute an imminent and substantial endangerment to public health and safety or the environment due to a release or threatened release of hazardous substances into the environment. The most recent registry listing of these facilities was published in the November 24, 2000, issue of the *Texas Register* (25 TexReg 11756).

Pursuant to §361.184(a), the commission must publish a notice of intent to list a facility on the state registry of state Superfund sites in the *Texas Register* and in a newspaper of general circulation in the county in which the facility is located. With this publication, TNRCC hereby gives notice of a facility or area that the executive director has determined eligible for listing, and which the executive director proposes to list on the state registry. By this publication, TNRCC also gives notice pursuant to the Act, §361.1855, that it proposes a land use other than residential as appropriate for the facility identified as Kingsbury Metal Finishing, Inc. (the site). The TNRCC proposes a portion of the site as commercial/industrial. Determination of future land use will impact the remedial investigation and remedial action for the site.

This publication also specifies the general nature of the potential endangerment to public health and safety or the environment as determined by information currently available to the executive director. This notice of intent to list this facility was also published on January 19, 2001, in the *Seguin Gazette*.

The facility proposed for listing is the Kingsbury Metal Finishing, Inc. at 1720 Farm-to-Market Road 1104, Kingsbury, Texas. This site is approximately 14.94 acres located approximately 0.75 mile southeast of Kingsbury, Texas. The entrance to the site is Latitude 29° 38' 29.42"N and Longitude 97° 48' 55.05"W.

Kingsbury Metal Finishing Company was a electroplating facility that began business in May 1986. The facility was composed of four primary areas, the main processing building, the wastewater treatment area, the discharge area covered with fill, and the outdoor storage area. The main process building contains approximately 30 plating process tanks filled with mixed plating waste. The wastewater treatment area

contains approximately seven tanks and 19 drums. Within the site are residences.

A public meeting will be held Thursday, February 22, 2001, 6:30 p.m. at the City Council Chambers, 205 North River, 1st Floor, Seguin, Texas. The purpose of this meeting is to obtain additional information regarding the site relative to its eligibility for listing on the state registry, identify additional potentially responsible parties, and obtain public input and information regarding the appropriate use of land on which the facility subject of this notice is located. The public meeting will be legislative in nature and not a contested case hearing under the Texas Administrative Procedure Act (Texas Government Code, Chapter 2001).

Written comments may also be submitted to the attention of Ms. Carol Dye, Project Manager, TNRCC, Superfund Cleanup Section, Remediation Division, MC-143, P. O. Box 13087, Austin, Texas 78711-3087, telephone number (512) 239-1504. All comments must be received by the commission on or before February 22, 2001.

The executive director of TNRCC prepared a brief summary of the commission's records regarding this site. This summary and a portion of the records for this site, including documents pertinent to the executive director's determination of eligibility, are available for review at the Guadalupe County Public Library, 707 East College, Seguin, Texas, Monday - Thursday, 9:00 a.m. - 9 p.m., Friday and Saturday 9:00 a.m. - 5 p.m., closed Sunday. Copies of the complete public record file may be obtained during regular business hours, 8:00 a.m. - 5:00 p.m., at the TNRCC Records Management Center, Building D, Room 190, 12100 Park 35 Circle, Austin, Texas 78753; telephone numbers (800) 633-9363 or (512) 239-2920. Photocopying of file information is subject to payment of a fee.

Handicapped parking is available on the east side of TNRCC Building D, convenient to access ramps that are between Buildings D and E.

TRD-200100158

Margaret Hoffman

Director, Environmental Law Division

Texas Natural Resource Conservation Commission

Filed: January 10, 2001



Public Utility Commission of Texas

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 (commission) of an application on December 21, 2000, for retail electric provider (REP) certification, pursuant to §§39.101 - 39.109 of the Public Utility Regulatory Act (PURA). A summary of the application follows.

Docket Title and Number: Application of Entergy Solutions Ltd. for Retail Electric Provider (REP) certification, Docket Number 23460 before the Public Utility Commission of Texas.

Applicant's requested service area by geography includes the entire state of Texas.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326, or call the commission's Customer Protection Division at (512) 936-7120 no later than January 26, 2001. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136.

TRD-200100047

Rhonda Dempsey
Rules Coordinator
Public Utility Commission of Texas
Filed: January 3, 2001



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 (commission) of an application on December 28, 2000, for retail electric provider (REP) certification, pursuant to §§39.101 - 39.109 of the Public Utility Regulatory Act (PURA). A summary of the application follows.

Docket Title and Number: Application of Strategic Energy, L.L.C., doing business as Texas Strategic Energy, L.L.C. for Retail Electric Provider (REP) certification, Docket Number 23489 before the Public Utility Commission of Texas.

Applicant's requested service area by geography includes the entire state of Texas.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326, or call the commission's Customer Protection Division at (512) 936-7120 no later than January 26, 2001. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136.

TRD-200100050
Rhonda Dempsey
Rules Coordinator
Public Utility Commission of Texas
Filed: January 3, 2001



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 (commission) of an application on January 3, 2001, for retail electric provider (REP) certification, pursuant to §§39.101 - 39.109 of the Public Utility Regulatory Act (PURA). A summary of the application follows.

Docket Title and Number: Application of XERS, Inc. for Retail Electric Provider (REP) certification, Docket Number 23510 before the Public Utility Commission of Texas.

Applicant's requested service area by geography includes the entire state of Texas.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326, or call the commission's Customer Protection Division at (512) 936-7120 no later than January 26, 2001. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136.

TRD-200100083
Rhonda Dempsey
Rules Coordinator
Public Utility Commission of Texas
Filed: January 8, 2001



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 (commission) of an application on January 5, 2001, for retail electric provider (REP) certification, pursuant to §§39.101 - 39.109 of the Public Utility Regulatory Act (PURA). A summary of the application follows.

Docket Title and Number: Application of Star Power, LLC for Retail Electric Provider (REP) certification, Docket Number 23521 before the Public Utility Commission of Texas.

Applicant's requested service area by geography includes the geographic area of the Electric Reliability Council of Texas (ERCOT).

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326, or call the commission's Customer Protection Division at (512) 936-7120 no later than January 26, 2001. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136.

TRD-200100112
Rhonda Dempsey
Rules Coordinator
Public Utility Commission of Texas
Filed: January 9, 2001



Notice of Application for Service Provider Certificate of Operating Authority

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) of an application on December 21, 2000, for a service provider certificate of operating authority (SPCOA), pursuant to §§54.151 - 54.156 of the Public Utility Regulatory Act (PURA). A summary of the application follows.

Docket Title and Number: Application of LightWave Communications, LLC for a Service Provider Certificate of Operating Authority, Docket Number 23382 before the Public Utility Commission of Texas.

Applicant intends to provide fiber optic leased-line service to business customers.

Applicant's requested SPCOA geographic area includes the area served by incumbent local exchange carriers Southwestern Bell Telephone Company and Verizon Southwest throughout the state of Texas.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326, or call the commission's Customer Protection Division at (512) 936-7120 no later than January 24, 2001. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136.

TRD-200100046
Rhonda Dempsey
Rules Coordinator
Public Utility Commission of Texas
Filed: January 3, 2001



Notice of Application for Service Provider Certificate of Operating Authority

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) of an application on December 22,

2000, for a service provider certificate of operating authority (SPCOA), pursuant to §§54.151 - 54.156 of the Public Utility Regulatory Act (PURA). A summary of the application follows.

Docket Title and Number: Application of SoftSwitch Communications, Inc. for a Service Provider Certificate of Operating Authority, Docket Number 23465 before the Public Utility Commission of Texas.

Applicant intends to provide plain old telephone service, ADSL, ISDN, HDSL, SDSL, VDSL, T1-Private Line, Fractional T1, and long distance services.

Applicant's requested SPCOA geographic area includes the entire state of Texas.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326, or call the commission's Customer Protection Division at (512) 936-7120 no later than January 24, 2001. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136.

TRD-200100048
Rhonda Dempsey
Rules Coordinator
Public Utility Commission of Texas
Filed: January 3, 2001



Notice of Application for Service Provider Certificate of Operating Authority

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) of an application on December 27, 2000, for a service provider certificate of operating authority (SPCOA), pursuant to §§54.151 - 54.156 of the Public Utility Regulatory Act (PURA). A summary of the application follows.

Docket Title and Number: Application of American Fiber Network, Inc., doing business as AFN, Inc. for a Service Provider Certificate of Operating Authority, Docket Number 23473 before the Public Utility Commission of Texas.

Applicant intends to provide plain old telephone service, ADSL, ISDN, long distance, directory assistance, and operator services.

Applicant's requested SPCOA geographic area includes the entire state of Texas.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326, or call the commission's Customer Protection Division at (512) 936-7120 no later than January 24, 2001. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136.

TRD-200100049
Rhonda Dempsey
Rules Coordinator
Public Utility Commission of Texas
Filed: January 3, 2001



Notice of Application for Service Provider Certificate of Operating Authority

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) of an application on January 2, 2001, for a service provider certificate of operating authority (SPCOA),

pursuant to §§54.151 - 54.156 of the Public Utility Regulatory Act (PURA). A summary of the application follows.

Docket Title and Number: Application of NxGen Networks, Inc. for a Service Provider Certificate of Operating Authority, Docket Number 23508 before the Public Utility Commission of Texas.

Applicant intends to provide plain old telephone service, ADSL, ISDN, HDSL, Optical Services, T1-Private Line, Switch 56 KBPS, Frame Relay, Fractional T1, and long distance services.

Applicant's requested SPCOA geographic area includes the area currently served by Southwestern Bell Telephone Company throughout the state of Texas.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326, or call the commission's Customer Protection Division at (512) 936-7120 no later than January 24, 2001. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136.

TRD-200100066
Rhonda Dempsey
Rules Coordinator
Public Utility Commission of Texas
Filed: January 4, 2001



Notice of Application for Waiver of Requirements in P.U.C. Substantive Rule §26.130

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) of an application on December 22, 2000, for waiver of requirements in P.U.C. Substantive Rule §26.130, Selection of Telecommunications Utilities.

Docket Title and Number: Application of Bell Atlantic Communications, Inc. doing business as Verizon Long Distance for Waiver of Requirements in P.U.C. Substantive Rule §26.130. Docket Number 23466.

The Application: Bell Atlantic Communications, Inc. doing business as Verizon Long Distance (Verizon) seeks waiver or clarification from the commission of the applicability of certain slamming provisions of P.U.C. Substantive Rule §26.130, as they apply in a §26.130(k) acquisition proceeding such as is proposed herein. Due to merger and corporate restructuring, Verizon wishes to streamline its operations and overlapping long distance service offerings in the state of Texas. The consolidation will require the transfer of customers from Verizon Select Services, Inc. to Verizon Long Distance.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas, 78711-3326, or call the commission's Customer Protection Division at (512) 936-7120. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All comments should reference Docket Number 23466.

TRD-200100076
Rhonda Dempsey
Rules Coordinator
Public Utility Commission of Texas
Filed: January 5, 2001



Notice of Application to Amend Certificated Service Area Boundaries

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) of a joint application, filed on December 21, 2000, to amend certificated service area boundaries pursuant to §§14.001, 37.051, 37.054, 37.056 and 37.057 of the Public Utility Regulatory Act, Texas Utilities Code Annotated (Vernon 1998 & Supplement 2000) (PURA). A summary of the application follows.

Docket Style and Number: Joint Application of Nueces Electric Cooperative, Inc. and Central Power and Light Company to Amend Certificated Service Area Boundaries. Docket Number 23454.

The Application: A joint application was filed by Nueces Electric Cooperative, Inc. (NEC) and Central Power and Light (CPL) as a result of the August 10, 1999, Stipulation and Agreement (the "Agreement") between American Electric Power Company, Inc. (AEP), Central and South West Corporation (CSW), West Texas Utilities Company, and South Texas Electric Cooperative, Inc. and its six member distribution cooperatives, including NEC. The Agreement was reached in the context of the AEP/CSW merger proceeding, Docket Number 19265. Applicants seek amendment of their Certificates of Convenience and Necessity consistent with those portions of the agreement that would divide the service areas served dually by CPL and NEC and transfer customers, including the decertification of any grandfathered areas associated with any existing or retired facilities within proposed singly certificated territory of the other Applicant.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, P. O. Box 13326, Austin, Texas 78711-3326, or call the commission's Customer Protection Division at (512) 936-7120 or (888) 782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or use Relay Texas (toll-free) 1-800- 735-2989. The deadline for intervention in the proceeding will be established. The commission should receive a letter requesting intervention on or before the intervention deadline.

TRD-200100063
Rhonda Dempsey
Rules Coordinator
Public Utility Commission of Texas
Filed: January 4, 2001



Notice of Application to Amend Certificated Service Area Boundary

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) of an application, filed on December 21, 2000, to amend certificated service area boundary pursuant to §§14.001, 37.051, 37.054, 37.056 and 37.057 of the Public Utility Regulatory Act, Texas Utilities Code Annotated (Vernon 1998 & Supplement 2000) (PURA). A summary of the application follows.

Docket Style and Number: Application to Amend Certificated Service Area Boundary for Valentine Ranch Subdivision in Bandera County, Texas. Docket Number 23464.

The Application: Due to recent development activities, City Public Service (CPS) and Bandera Electric Cooperative, Inc. (BEC) met with developers of proposed Valentine Ranch Subdivision and mutually decided that it would be more cost effective and aesthetically acceptable for a single electric utility to provide power to the subdivision in its entirety. Initial plans indicate a total of approximately 116 lots, with approximately 11 lots being partially or entirely in BEC's certificated service boundary and the balance of about 105 lots being partially or entirely in CPS's certificated service boundary. Since the majority of

proposed lots lie within the existing certificated service area boundary of CPS and CPS has existing capacity to service this entire subdivision, BEC agreed to amend their service boundary with CPS to accommodate this realignment.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, P. O. Box 13326, Austin, Texas 78711-3326, or call the commission's Customer Protection Division at (512) 936-7120 or (888) 782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or use Relay Texas (toll-free) 1-800-735-2989. The deadline for intervention in the proceeding will be established. The commission should receive a letter requesting intervention on or before the intervention deadline.

TRD-200100065
Rhonda Dempsey
Rules Coordinator
Public Utility Commission of Texas
Filed: January 4, 2001



Notice of Application to Divide Multiply Certificated Service Area Boundaries

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) of a joint application, filed on December 21, 2000, to divide multiply certificated service area boundaries pursuant to §§14.001, 37.051, 37.054, 37.056, 37.057 and 41.051 of the Public Utility Regulatory Act, Texas Utilities Code Annotated (Vernon 1998 & Supplement 2000) (PURA). A summary of the application follows.

Docket Style and Number: Joint Application of San Patricio Electric Cooperative, Inc. and Central Power and Light Company to Divide Multiply Certificated Service Areas. Docket Number 23455.

The Application: A joint application was filed by San Patricio Electric Cooperative, Inc. (SPEC) and Central Power and Light Company (CPL) seeking amendment of their certificates of convenience and necessity (CCN) consistent with their agreement to divide their dually certificated service areas to achieve single certification to be effective June 1, 2001, the beginning date of the Texas Retail Competition Pilot. CPL and SPEC currently share dually certificated service areas in south Texas and have reached an agreement which, if approved and implemented, would result in these dually certificated service areas becoming singly certificated. In general, customers currently taking service from SPEC in areas to be singly certificated to CPL will be transferred to CPL, and vice-versa. Certain distribution facilities would also be exchanged between SPEC and CPL in connection with the single certification. As part of SPEC and CPL's agreement, SPEC has adopted a resolution, pursuant to §41.051 of the Public Utility Regulatory Act (PURA), that will allow its customers, like CPL's customers, to exercise customer choice beginning January 1, 2002.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, P. O. Box 13326, Austin, Texas 78711-3326, or call the commission's Customer Protection Division at (512) 936-7120 or (888) 782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or use Relay Texas (toll-free) 1-800-735-2989. The deadline for intervention in the proceeding will be established. The commission should receive a letter requesting intervention on or before the intervention deadline.

TRD-200100064

Rhonda Dempsey
Rules Coordinator
Public Utility Commission of Texas
Filed: January 4, 2001



Notice of Petition for Expanded Local Calling Service

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) of a petition on December 8, 2000, for expanded local calling service (ELCS), pursuant to Chapter 55, Subchapter C of the Public Utility Regulatory Act (PURA). A summary of the application follows.

Project Title and Number: Petition of the Lexington Exchange for Expanded Local Calling Service, Project Number 23387.

The petitioners in the Lexington Exchange request ELCS to the exchanges of Caldwell, Elgin, Rockdale, Taylor, and Thorndale.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326, or call the commission's Customer Protection Division at (512) 936-7120 no later than January 24, 2001. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136.

TRD-200100075
Rhonda Dempsey
Rules Coordinator
Public Utility Commission of Texas
Filed: January 5, 2001



Notice of Petition for Expanded Local Calling Service

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) of a petition on November 30, 2000, for expanded local calling service (ELCS), pursuant to Chapter 55, Subchapter C of the Public Utility Regulatory Act (PURA). A summary of the application follows.

Project Title and Number: Petition of the McAdoo Exchange for Expanded Local Calling Service, Project Number 23340.

The petitioners in the McAdoo exchange request ELCS to the exchanges of Dickens, Floydada, Lubbock, Ralls, and Spur.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326, or call the commission's Customer Protection Division at (512) 936-7120 no later than January 24, 2001. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136.

TRD-200100073
Rhonda Dempsey
Rules Coordinator
Public Utility Commission of Texas
Filed: January 5, 2001



Notice of Petition for Expanded Local Calling Service

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) of a petition on December 6, 2000, for

expanded local calling service (ELCS), pursuant to Chapter 55, Subchapter C of the Public Utility Regulatory Act (PURA). A summary of the application follows.

Project Title and Number: Petition of the Westhoff Exchange for Expanded Local Calling Service, Project Number 23385.

The petitioners in the Westhoff Exchange request ELCS to the exchanges of Cost, Gonzales, Nixon, and Smiley.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326, or call the commission's Customer Protection Division at (512) 936-7120 no later than January 24, 2001. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136.

TRD-200100074
Rhonda Dempsey
Rules Coordinator
Public Utility Commission of Texas
Filed: January 5, 2001



Public Notice of Amendment to Interconnection Agreement

On December 21, 2000, Southwestern Bell Telephone Company and Allegiance Telecom of Texas, Inc., collectively referred to as applicants, filed a joint application for approval of amendment to an existing interconnection agreement under §252(i) of the federal Telecommunications Act of 1996, Public Law Number 104-104, 110 Statute 56, (codified as amended in scattered sections of 15 and 47 United States Code) (FTA) and the Public Utility Regulatory Act, Texas Utilities Code Annotated, Chapters 52 and 60 (Vernon 1998) (PURA). The joint application has been designated Docket Number 23456. The joint application and the underlying interconnection agreement are available for public inspection at the commission's offices in Austin, Texas.

The commission must act to approve the interconnection agreement within 35 days after it is submitted by the parties.

The commission finds that additional public comment should be allowed before the commission issues a final decision approving or rejecting the amendment to the interconnection agreement. Any interested person may file written comments on the joint application by filing ten copies of the comments with the commission's filing clerk. Additionally, a copy of the comments should be served on each of the applicants. The comments should specifically refer to Docket Number 23456. As a part of the comments, an interested person may request that a public hearing be conducted. The comments, including any request for public hearing, shall be filed by January 25, 2001, and shall include:

- 1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;
- 2) specific allegations that the agreement, or some portion thereof:
 - a) discriminates against a telecommunications carrier that is not a party to the agreement; or
 - b) is not consistent with the public interest, convenience, and necessity; or
 - c) is not consistent with other requirements of state law; and
- 3) the specific facts upon which the allegations are based.

After reviewing any comments, the commission will issue a notice of approval, denial, or determine whether to conduct further proceedings

concerning the joint application. The commission shall have the authority given to a presiding officer pursuant to P.U.C. Procedural Rule §22.202. The commission may identify issues raised by the joint application and comments and establish a schedule for addressing those issues, including the submission of evidence by the applicants, if necessary, and briefing and oral argument. The commission may conduct a public hearing. Interested persons who file comments are not entitled to participate as intervenors in the public hearing.

Persons with questions about this project or who wish to comment on the joint application should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, P. O. Box 13326, Austin, Texas 78711-3326. You may call the commission's Customer Protection Division at (512) 936-7120. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 23456.

TRD-200100103
Rhonda Dempsey
Rules Coordinator
Public Utility Commission of Texas
Filed: January 8, 2001



Public Notice of Amendment to Interconnection Agreement

On January 5, 2001, Southwestern Bell Telephone Company and Addison CLEC Networks, Inc. doing business as BuzNet Communications, collectively referred to as applicants, filed a joint application for approval of amendment to an existing interconnection agreement under §252(i) of the federal Telecommunications Act of 1996, Public Law Number 104-104, 110 Statute 56, (codified as amended in scattered sections of 15 and 47 United States Code) (FTA) and the Public Utility Regulatory Act, Texas Utilities Code Annotated, Chapters 52 and 60 (Vernon 1998) (PURA). The joint application has been designated Docket Number 23519. The joint application and the underlying interconnection agreement are available for public inspection at the commission's offices in Austin, Texas.

The commission must act to approve the interconnection agreement within 35 days after it is submitted by the parties.

The commission finds that additional public comment should be allowed before the commission issues a final decision approving or rejecting the amendment to the interconnection agreement. Any interested person may file written comments on the joint application by filing ten copies of the comments with the commission's filing clerk. Additionally, a copy of the comments should be served on each of the applicants. The comments should specifically refer to Docket Number 23519. As a part of the comments, an interested person may request that a public hearing be conducted. The comments, including any request for public hearing, shall be filed by February 5, 2001, and shall include:

- 1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;
- 2) specific allegations that the agreement, or some portion thereof:
 - a) discriminates against a telecommunications carrier that is not a party to the agreement; or
 - b) is not consistent with the public interest, convenience, and necessity; or
 - c) is not consistent with other requirements of state law; and
- 3) the specific facts upon which the allegations are based.

After reviewing any comments, the commission will issue a notice of approval, denial, or determine whether to conduct further proceedings concerning the joint application. The commission shall have the authority given to a presiding officer pursuant to P.U.C. Procedural Rule §22.202. The commission may identify issues raised by the joint application and comments and establish a schedule for addressing those issues, including the submission of evidence by the applicants, if necessary, and briefing and oral argument. The commission may conduct a public hearing. Interested persons who file comments are not entitled to participate as intervenors in the public hearing.

Persons with questions about this project or who wish to comment on the joint application should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, P. O. Box 13326, Austin, Texas 78711-3326. You may call the commission's Customer Protection Division at (512) 936-7120. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 23519.

TRD-200100142
Rhonda Dempsey
Rules Coordinator
Public Utility Commission of Texas
Filed: January 9, 2001



Public Notice of Amendment to Interconnection Agreement

On January 5, 2001, Southwestern Bell Telephone Company and Sage Telecom, Inc., collectively referred to as applicants, filed a joint application for approval of amendment to an existing interconnection agreement under §252(i) of the federal Telecommunications Act of 1996, Public Law Number 104-104, 110 Statute 56, (codified as amended in scattered sections of 15 and 47 United States Code) (FTA) and the Public Utility Regulatory Act, Texas Utilities Code Annotated, Chapters 52 and 60 (Vernon 1998) (PURA). The joint application has been designated Docket Number 23527. The joint application and the underlying interconnection agreement are available for public inspection at the commission's offices in Austin, Texas.

The commission must act to approve the interconnection agreement within 35 days after it is submitted by the parties.

The commission finds that additional public comment should be allowed before the commission issues a final decision approving or rejecting the amendment to the interconnection agreement. Any interested person may file written comments on the joint application by filing ten copies of the comments with the commission's filing clerk. Additionally, a copy of the comments should be served on each of the applicants. The comments should specifically refer to Docket Number 23527. As a part of the comments, an interested person may request that a public hearing be conducted. The comments, including any request for public hearing, shall be filed by February 5, 2001, and shall include:

- 1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;
- 2) specific allegations that the agreement, or some portion thereof:
 - a) discriminates against a telecommunications carrier that is not a party to the agreement; or
 - b) is not consistent with the public interest, convenience, and necessity; or
 - c) is not consistent with other requirements of state law; and

3) the specific facts upon which the allegations are based.

After reviewing any comments, the commission will issue a notice of approval, denial, or determine whether to conduct further proceedings concerning the joint application. The commission shall have the authority given to a presiding officer pursuant to P.U.C. Procedural Rule §22.202. The commission may identify issues raised by the joint application and comments and establish a schedule for addressing those issues, including the submission of evidence by the applicants, if necessary, and briefing and oral argument. The commission may conduct a public hearing. Interested persons who file comments are not entitled to participate as intervenors in the public hearing.

Persons with questions about this project or who wish to comment on the joint application should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, P. O. Box 13326, Austin, Texas 78711-3326. You may call the commission's Customer Protection Division at (512) 936-7120. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 23527.

TRD-200100143
Rhonda Dempsey
Rules Coordinator
Public Utility Commission of Texas
Filed: January 9, 2001



Public Notice of Draft Standard Protective Order for Parties Submitting Generating Capacity Reports; and Request for Comments

The staff of the Public Utility Commission of Texas (commission) is establishing a standard protective order for parties to use when submitting reports pursuant to §25.91, Generating Capacity Reports.

The commission requests interested persons file comments addressing proposed changes to the draft standard protective order. The draft standard protective order is based on the protective order adopted in Docket Number 22344, *Generic Issues Associated with Applications for Approval of Unbundled Cost of Service Rate Pursuant to PURA §39.201 and P.U.C. Subst. R. §25.344*. The draft will be available in Central Records under Project Number 21081, and on the commission's web site, on Friday, January 19, 2001. Parties are requested to provide comments on the draft standard protective order by February 2, 2001.

Sixteen copies of comments may be filed with the commission's Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711- 3326. All comments should reference Project Number 21081.

Questions concerning Project Number 21081 may be referred to Richard Greffe, Market Oversight Division, (512) 936-7404. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136.

TRD-200100111
Rhonda Dempsey
Rules Coordinator
Public Utility Commission of Texas
Filed: January 9, 2001



Public Notice of Interconnection Agreement

On December 28, 2000, CenturyTel of Lake Dallas, Inc., CenturyTel of San Marcos, Inc., CenturyTel of Port Aransas, Inc., and Sprint Spectrum, LP, collectively referred to as applicants, filed a joint application for approval of interconnection agreement under §252(i) of the federal Telecommunications Act of 1996, Public Law Number 104-104, 110 Statute 56, (codified as amended in scattered sections of 15 and 47 United States Code) (FTA) and the Public Utility Regulatory Act, Texas Utilities Code Annotated, Chapters 52 and 60 (Vernon 1998) (PURA). The joint application has been designated Docket Number 23490. The joint application and the underlying interconnection agreement are available for public inspection at the commission's offices in Austin, Texas.

The commission must act to approve the interconnection agreement within 35 days after it is submitted by the parties.

The commission finds that additional public comment should be allowed before the commission issues a final decision approving or rejecting the interconnection agreement. Any interested person may file written comments on the joint application by filing ten copies of the comments with the commission's filing clerk. Additionally, a copy of the comments should be served on each of the applicants. The comments should specifically refer to Docket Number 23490. As a part of the comments, an interested person may request that a public hearing be conducted. The comments, including any request for public hearing, shall be filed by January 31, 2001, and shall include:

- 1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;
- 2) specific allegations that the agreement, or some portion thereof:
 - a) discriminates against a telecommunications carrier that is not a party to the agreement; or
 - b) is not consistent with the public interest, convenience, and necessity; or
 - c) is not consistent with other requirements of state law; and
- 3) the specific facts upon which the allegations are based.

After reviewing any comments, the commission will issue a notice of approval, denial, or determine whether to conduct further proceedings concerning the joint application. The commission shall have the authority given to a presiding officer pursuant to P.U.C. Procedural Rule §22.202. The commission may identify issues raised by the joint application and comments and establish a schedule for addressing those issues, including the submission of evidence by the applicants, if necessary, and briefing and oral argument. The commission may conduct a public hearing. Interested persons who file comments are not entitled to participate as intervenors in the public hearing.

Persons with questions about this project or who wish to comment on the joint application should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, P. O. Box 13326, Austin, Texas 78711-3326. You may call the commission's Customer Protection Division at (512) 936-7120. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 23490.

TRD-200100105
Rhonda Dempsey
Rules Coordinator
Public Utility Commission of Texas
Filed: January 8, 2001



Public Notice of Interconnection Agreement

On December 21, 2000, Southwestern Bell Telephone Company and Preferred Carrier Services, Inc. doing business as Phones For All and Telefonos Para Todos, collectively referred to as applicants, filed a joint application for approval of interconnection agreement under §252(i) of the federal Telecommunications Act of 1996, Public Law Number 104-104, 110 Statute 56, (codified as amended in scattered sections of 15 and 47 United States Code) (FTA) and the Public Utility Regulatory Act, Texas Utilities Code Annotated, Chapters 52 and 60 (Vernon 1998) (PURA). The joint application has been designated Docket Number 23458. The joint application and the underlying interconnection agreement are available for public inspection at the commission's offices in Austin, Texas.

The commission must act to approve the interconnection agreement within 35 days after it is submitted by the parties.

The commission finds that additional public comment should be allowed before the commission issues a final decision approving or rejecting the interconnection agreement. Any interested person may file written comments on the joint application by filing ten copies of the comments with the commission's filing clerk. Additionally, a copy of the comments should be served on each of the applicants. The comments should specifically refer to Docket Number 23458. As a part of the comments, an interested person may request that a public hearing be conducted. The comments, including any request for public hearing, shall be filed by January 25, 2001, and shall include:

- 1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;
- 2) specific allegations that the agreement, or some portion thereof:
 - a) discriminates against a telecommunications carrier that is not a party to the agreement; or
 - b) is not consistent with the public interest, convenience, and necessity; or
 - c) is not consistent with other requirements of state law; and
- 3) the specific facts upon which the allegations are based.

After reviewing any comments, the commission will issue a notice of approval, denial, or determine whether to conduct further proceedings concerning the joint application. The commission shall have the authority given to a presiding officer pursuant to P.U.C. Procedural Rule §22.202. The commission may identify issues raised by the joint application and comments and establish a schedule for addressing those issues, including the submission of evidence by the applicants, if necessary, and briefing and oral argument. The commission may conduct a public hearing. Interested persons who file comments are not entitled to participate as intervenors in the public hearing.

Persons with questions about this project or who wish to comment on the joint application should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, P. O. Box 13326, Austin, Texas 78711-3326. You may call the commission's Customer Protection Division at (512) 936-7120. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 23458.

TRD-200100104
Rhonda Dempsey
Rules Coordinator
Public Utility Commission of Texas
Filed: January 8, 2001

Public Notice of Interconnection Agreement

On December 29, 2000, Southwestern Bell Telephone Company and Go-Comm, Inc., collectively referred to as applicants, filed a joint application for approval of interconnection agreement under §252(i) of the federal Telecommunications Act of 1996, Public Law Number 104-104, 110 Statute 56, (codified as amended in scattered sections of 15 and 47 United States Code) (FTA) and the Public Utility Regulatory Act, Texas Utilities Code Annotated, Chapters 52 and 60 (Vernon 1998) (PURA). The joint application has been designated Docket Number 23498. The joint application and the underlying interconnection agreement are available for public inspection at the commission's offices in Austin, Texas.

The commission must act to approve the interconnection agreement within 35 days after it is submitted by the parties.

The commission finds that additional public comment should be allowed before the commission issues a final decision approving or rejecting the interconnection agreement. Any interested person may file written comments on the joint application by filing ten copies of the comments with the commission's filing clerk. Additionally, a copy of the comments should be served on each of the applicants. The comments should specifically refer to Docket Number 23498. As a part of the comments, an interested person may request that a public hearing be conducted. The comments, including any request for public hearing, shall be filed by January 31, 2001, and shall include:

- 1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;
- 2) specific allegations that the agreement, or some portion thereof:
 - a) discriminates against a telecommunications carrier that is not a party to the agreement; or
 - b) is not consistent with the public interest, convenience, and necessity; or
 - c) is not consistent with other requirements of state law; and
- 3) the specific facts upon which the allegations are based.

After reviewing any comments, the commission will issue a notice of approval, denial, or determine whether to conduct further proceedings concerning the joint application. The commission shall have the authority given to a presiding officer pursuant to P.U.C. Procedural Rule §22.202. The commission may identify issues raised by the joint application and comments and establish a schedule for addressing those issues, including the submission of evidence by the applicants, if necessary, and briefing and oral argument. The commission may conduct a public hearing. Interested persons who file comments are not entitled to participate as intervenors in the public hearing.

Persons with questions about this project or who wish to comment on the joint application should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, P. O. Box 13326, Austin, Texas 78711-3326. You may call the commission's Customer Protection Division at (512) 936-7120. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 23498.

TRD-200100106
Rhonda Dempsey
Rules Coordinator
Public Utility Commission of Texas
Filed: January 8, 2001

◆ ◆ ◆
Public Notice of New Form for Filing Generating Capacity Reports Pursuant to P.U.C. Substantive Rule §25.91; and Request For Comments

The staff of the Public Utility Commission of Texas (commission) requests comments on a draft form for filing generating capacity reports pursuant to §25.91, Generating Capacity Reports.

The commission will make copies of the draft form available for comment in Central Records and on the commission's web site for Project Number 21081 on January 19, 2001. Parties are requested to provide comments on the draft forms by February 2, 2001.

Sixteen copies of the comments may be filed with the commission's Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326. All comments should reference Project Number 21081.

Questions concerning Project Number 21081 may be referred to Richard Greffe, Market Oversight Division, (512) 936-7404. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136.

TRD-200100110
Rhonda Dempsey
Rules Coordinator
Public Utility Commission of Texas
Filed: January 9, 2001

◆ ◆ ◆
Public Notice of Proposed Revisions to the Automatic Dial Announcing Devices (ADADs) Form and Request for Comments

The Public Utility Commission of Texas (commission) has initiated Project Number 23528, *Rulemaking to Consider Changes to §26.125, Automatic Dial Announcing Devices (ADADs) and Associated Forms*. As a first step in this project, staff is proposing changes to the permit application form. A draft of the proposed changes to the form will be available in Central Records and on the commission's web site under Project Number 23528 no later than January 19, 2001.

Interested persons may file written comments on the proposed changes to the form no later than February 9, 2001, by filing 16 copies of comments with the commission's Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326. All comments should reference Project Number 23528.

Any questions concerning the proposed form or Project Number 23528 may be directed to Betsy Tyson, Network Analyst, Telecommunications Division, (512) 936-7323 or at email address betsy.tyson@puc.state.tx.us. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136.

TRD-200100144
Rhonda Dempsey
Rules Coordinator
Public Utility Commission of Texas
Filed: January 9, 2001

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Sam Houston State University

Consultant Contract Award

Sam Houston State University (SHSU), in accordance with provisions of Government Code, Section 2254.030, announces the awarding of a consultant contract to a consulting firm based in Washington, D.C. The solicitation for proposals was published in the December 1, 2000 issue of the *Texas Register* (Volume 25, TexReg 12017).

The consultant will represent and assist the university in developing projects deemed important to the university, assist the university in obtaining funding for university projects, and provide consulting and representation as directed by Sam Houston State University.

One proposal was received in response to this solicitation for proposals. The proposal was from Mr. Bobby Mills/The Advocacy Group, 1350 I Street, NW, Suite #680, Washington, D.C. 20005.

The consultant awarded the contract was: Mr. Bobby Mills/The Advocacy Group, 1350 I Street NW, Suite #680, Washington, D.C. 20005.

The consultant contract begins January 1, 2001 and ends December 31, 2001 with the option to renew. The fee estimate is \$48,000, excluding expenses.

Reports and documents will be submitted as required.

TRD-200100058
B.K. Marks
President
Sam Houston State University
Filed: January 4, 2001

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Texas Department of Transportation

Request for Proposals-Intercity Bus

In accordance with Transportation Code, Chapter 455, the Texas Department of Transportation (TxDOT) is requesting proposals to develop and support intercity bus service within Texas. Specifically, funding for intercity bus service is to strengthen the connection between nonurbanized areas and the larger regional or national system of intercity bus service; to support services to meet the intercity travel needs of residents in nonurbanized areas; and to support the infrastructure of the intercity bus network through planning and marketing assistance and capital investment in facilities and vehicles.

For purposes of this RFP, the term "intercity service" is defined as regularly-scheduled bus service for the general public which operates with limited stops over fixed routes connecting two or more urban areas not in close proximity, which has the capacity for transporting baggage carried by passengers, and which makes meaningful connections with scheduled intercity bus service to more distant points, if such service is available.

For purposes of this RFP, the term "firm" is defined to include members of the intercity bus industry and local public bodies and agencies. The applicant must have the authority to enter into an agreement with TxDOT. Projects will be funded with grants of Federal Transit Administration funds (49 United States Code § 5311(f)) which can provide up to 80% of the cost of capital projects. The remaining balance must be from local funds. No state-appropriated funds will be available as match for the federal funds. Funds will be distributed on a reimbursement basis and must be obligated within 60 days from the date of award. All work must be completed within a specified time-period after the contract is executed. The contract period is one year for vehicle capital projects, one year for service planning and marketing activities, and two years for facility projects.

Description of Service. TxDOT has identified eligible projects in consultation with members of the public transportation industry and the intercity bus industry for:

1. The construction, rehabilitation, maintenance, or acquisition of public transit facilities;
2. Vehicle capital projects such as the modification of buses to board, secure, and transport persons with disabilities or the purchase of wheelchair-accessible vehicles with provisions for passenger luggage; and
3. Service or facility planning and marketing aimed at increasing public awareness and ridership of intercity bus transportation.

Proposals for public transit facilities must include open and equal access for all intercity bus carriers serving the community and at least one of the following: passenger rail, urbanized public transit, rural public transit, or common carrier air passenger service. TxDOT can provide up to 80% of the cost of construction, rehabilitation, maintenance, or purchase of public transit facilities. The appraised value of the land may be applied toward the local match if the land is owned by the entity submitting the proposal, and all environmental clearances have been completed on the land prior to the submission of the proposal. Funding for capital projects in urbanized areas (population over 50,000) is limited to those aspects of the project which directly benefit and support service to and from nonurbanized areas (population less than 50,000).

Proposals for vehicle capital projects may include but are not limited to the modification of over-the-road coaches to transport persons with disabilities, the purchase of wheelchair lifts, the installation of securement devices, the retrofitting of onboard restroom accommodations, and the purchase of lift-equipped vehicles with provisions for passenger luggage. Typical vehicles purchased through this program include conversion vans, cutaway vehicles, and medium-duty buses. TxDOT can pay up to 80% of the costs of the mobility aid modifications on currently owned or leased over the road coaches, or 80% of the cost of new, lift-equipped vehicles. TxDOT can pay up to 100% of the costs of the mobility aid modifications of new over-the-road coach purchases (not to exceed 20% of the total cost of the vehicle including modifications).

Proposals for planning and marketing activities may include but are not limited to route feasibility and route realignment studies, facility studies, television, radio, and print media advertising; billboards and signs; market research; route maps and schedules; information kiosks; and promotions. TxDOT can provide up to 80% of the cost of planning and marketing activities for the purpose of increasing public awareness and ridership of intercity bus transportation.

Funding Source. Funds to enhance intercity bus service in Texas are to be drawn from "set aside" dollars from the Federal nonurbanized public transportation program.

Evaluation Criteria. All proposals will be evaluated by addressing the qualifications of the contractor (30%), the proposed budget (20%), and the technical merits of the proposal (50%).

Public Transit Facilities. Preference will be given to projects located in areas with a population of less than 200,000. Preference will be given to projects offering an increased number of transportation mode choices (transit, air, rail, etc.). The proposed facility must serve more than one public transportation or intercity provider. Facility proposals should describe all phases of the project. Each phase should have enough detail to permit the department to fund each phase of the project upon completion. This will enable the department to establish a multiyear contract which will facilitate the funding for the entire project.

Funds are available for construction to include rehabilitation of terminals. Rehabilitation may include, but is not limited to, modifications required to make terminals accessible to persons with disabilities, roof renovation, and heating and air conditioning modernization. No funds for current or future terminal operations will be available.

Projects must comply with all local, state, and federal laws and rules, including environmental clearances. A typical intercity bus facility project may be considered as a categorical exclusion, requiring the completion of an environmental checklist available through the local TxDOT office. This checklist is also available through the public transportation and intercity bus links at

<http://www.dot.state.tx.us/>

The checklist must be completed within 90 days of the execution of the grant agreement. The finished facility must be owned by the firm, including private bus companies providing scheduled service, submitting the proposal. Land must be clear of liens and owned by the firm prior to the beginning of any construction activity.

The technical merits of proposals for public transit facilities will be determined by:

1. Cost of improvement - Number of passengers served annually divided by the cost of the project (20 points).
2. Terminal(s) located in area(s) with population less than 200,000 (20 points).
3. Number of different transportation modes using the terminal (20 points). The transportation mode must currently exist in the community to be considered for scoring.
4. Number of passenger amenities in completed terminal project (15 points).
5. Percent of local share. Itemize source and amount of local share. (10 points).
6. Project implementation timetable (15 points).

Vehicle Capital Projects. Preference will be given to proposals that increase the number of persons with disabilities served. Vehicle capital projects are limited to the purchase of wheelchair-accessible vehicles with provisions for passenger baggage and the conversion or retrofitting of vehicles to make them accessible to wheelchair passengers. Funds are not available for the purchase of over-the-road coaches. Modifications should be such that passengers requiring the use of mobility aids can safely enter and be secured. Modifications to existing vehicles should be done as part of a total rehabilitation to extend the life of the vehicle.

The technical merits of proposals for vehicle capital projects will be determined by:

1. Projected increase in number of persons with disabilities served - persons with disabilities served annually divided by number of passengers served annually (25 points).
2. Work with other public transportation and intercity providers (10 points).
3. Percentage of fleet to be converted or percentage increase in fleet accessibility (10 points).
4. Project goals and objectives clearly defined (20 points).
5. Project implementation timetable (20 points).
6. Percent of local share. Itemize source and amount of local share. (15 points).

Planning and Marketing Activities. Preference will be given to projects that target and clearly define a specific market segment and projects that improve intercity customer service.

The technical merits of proposals for planning and marketing activities will be determined by:

1. Goals and Objectives of project (20 points).
2. Work with other public transportation and intercity providers (20 points).
3. Cost of reaching target audience (marketing) or ridership (planning). Target audience or ridership divided by project cost (20 Points).
4. Project implementation timetable (20 points).
5. Percent of local share. Itemize source and amount of local share. (20 points).

TxDOT reserves the right to contact a firm to obtain written clarification of information submitted or any other matter deemed appropriate for the evaluations. No negotiations, decisions, or actions shall be executed by the bidder, or firm, as a result of any discussions with any state employee. TxDOT will contact the designated project manager in the event clarification is required during the proposal evaluation process. TxDOT will consider from firms only the addenda that are in writing and signed by an authorized officer of the firm.

In evaluating proposals, TxDOT has the right to accept or reject all or any proposal, and award the proposal to best serve the intercity bus industry in Texas. TxDOT has the right to accept or reject any part of a proposal, or modify any proposal to best serve the intercity bus industry in Texas. TxDOT has the right to limit the total amount awarded in any category to a third of the available funds. TxDOT has the right to use any or all information contained in the proposal, without limitation.

Proposal Submission and Requirements. Firms responding to this RFP must submit to TxDOT six identical copies of the proposal.

Proposals must contain at least the following information:

1. Cover Letter - This should include a brief summary of the proposed project, the name, address, and telephone number/fax number of the firm, and the name of the designated contact person.
2. Qualifications of the firm submitting the proposal - This is 30% of the evaluation of the proposal. This narrative shall articulate the firm's understanding of the project and demonstrate the firm's ability to complete the project. Describe any related projects the firm has completed that demonstrate the firm's abilities. List key personnel, qualifications, and roles in the project. Firms with existing intercity bus contracts must address contract performance including any lessons learned. Poor performance on past contracts may lead to disqualification of the proposal. The narrative must include evidence of coordination efforts. This evidence must include a certification that, whenever possible, and to the maximum extent feasible, the existing network of providers, and in particular the fixed route components of public transportation systems, will be used to meet the client transportation requirements of the state's social service agencies and their clients. A set of coordination questions that may be used to develop coordination evidence is available through the public transportation and intercity bus links at <http://www.dot.state.tx.us/>.
3. Technical Project Description - The firm should provide a detailed project outline/ work plan describing the technical merits of the proposal. The criteria for this part of the proposal will vary depending on the type of project being proposed. This is 50% of the evaluation of the proposal. The purpose of the project outline/work plan is to specify the exact nature of the project. The workplan should include a project implementation timetable that describes the sequence of key events in

the project. Applicants should fully address how the project meets the scoring criteria specific to the type of project.

4. Project Budget - The firm is expected to provide detailed, itemized, specific project cost information with the understanding that supporting detail may be requested during the selection process. This is 20% of the evaluation of the proposal. Transit facility budgets must contain at a minimum: site preparation (if applicable), construction, material, supplies, labor, salary, and equipment costs. All facility budgets should include a separate contingency amount not to exceed 15% of the project budget. Vehicle capital budgets must include the estimated unit price of the vehicle(s) with an itemized price list of optional equipment or the unit cost of vehicle modification. Marketing and planning budgets must contain at a minimum: salary costs (by staff titles), fringe benefits (by staff titles), travel, equipment, supplies, and contract costs. All sources of match funds must be listed and documented for all projects.

3. Certifications - Each applicant is required to provide certifications and assurances with their proposal. These certifications and assurances include but are not limited to: Labor; Substance Abuse; Debarment and Suspension, Lobbying, and Environmental Compliance. Standard certifications may be previewed by selecting the "legal" tab at <http://www.fta.dot.gov/ntl/index.html>

4. Signature Page - All proposals must be signed by an officer of the firm.

Proposals must arrive at 150 E. Riverside, Austin, Texas 78704, (TxDOT, Public Transportation Division, Attn.: Paul Moon) no later than 4 p.m. on April 5, 2001. Proposals may be delivered by hand or by courier to 150 E. Riverside, Austin, Texas 78704, (TxDOT, Public Transportation Division, Attn.: Paul Moon). Proposals may be mailed to Paul Moon, TxDOT, Public Transportation Division, 125 E. 11th. Street, Austin, Texas 78701-2483. Facsimile or e-mail submissions will not be accepted by TxDOT. Proposals or modifications or addenda to proposals received after the prescribed date and time will not be considered. Any proposal may be modified or withdrawn by written notice received in the location designated above at any time prior to 4 p.m. on April 5, 2001. All proposals received, even those withdrawn from consideration, become the property of TxDOT.

Notification of Award. TxDOT will notify all firms submitting proposals in response to this RFP after the selection has been made. It is anticipated that projects will be selected on or about May 25, 2001. The relative standing or merits of unsuccessful projects will not be discussed. It is anticipated that contracts will be awarded on or about August 29, 2001.

Agency Contact. This request for proposals is also available on the TxDOT web page through the public transportation link at <http://www.dot.state.tx.us/> until April 5, 2001. Questions concerning this request for proposals should be submitted to Paul Moon, TxDOT, Public Transportation Division, 125 E. 11th. Street, Austin, Texas 78701-2483, phone (512) 416-2825, e-mail:

pmoon@dot.state.tx.us

Interested parties may attend a pre-proposal conference at 1:30 p.m. on February 15, 2001, in the Motor Vehicle Division Board Room (1B1) at 150 East Riverside Drive in Austin, Texas. Written questions received before the pre-proposal conference will be answered during the conference.

TRD-200100192

Bob Jackson

Deputy General Counsel

Texas Department of Transportation

Filed: January 10, 2001

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How to Use the Texas Register

Information Available: The 13 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 a 30-day 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.

Open Meetings - notices of open meetings.

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 26 (2001) is cited as follows: 26 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 "26 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 26 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 subscription information, see the back

cover or 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 (using Arabic numerals) and Parts (using Roman 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 19, April 13, July 13, and October 12, 2001). 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

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