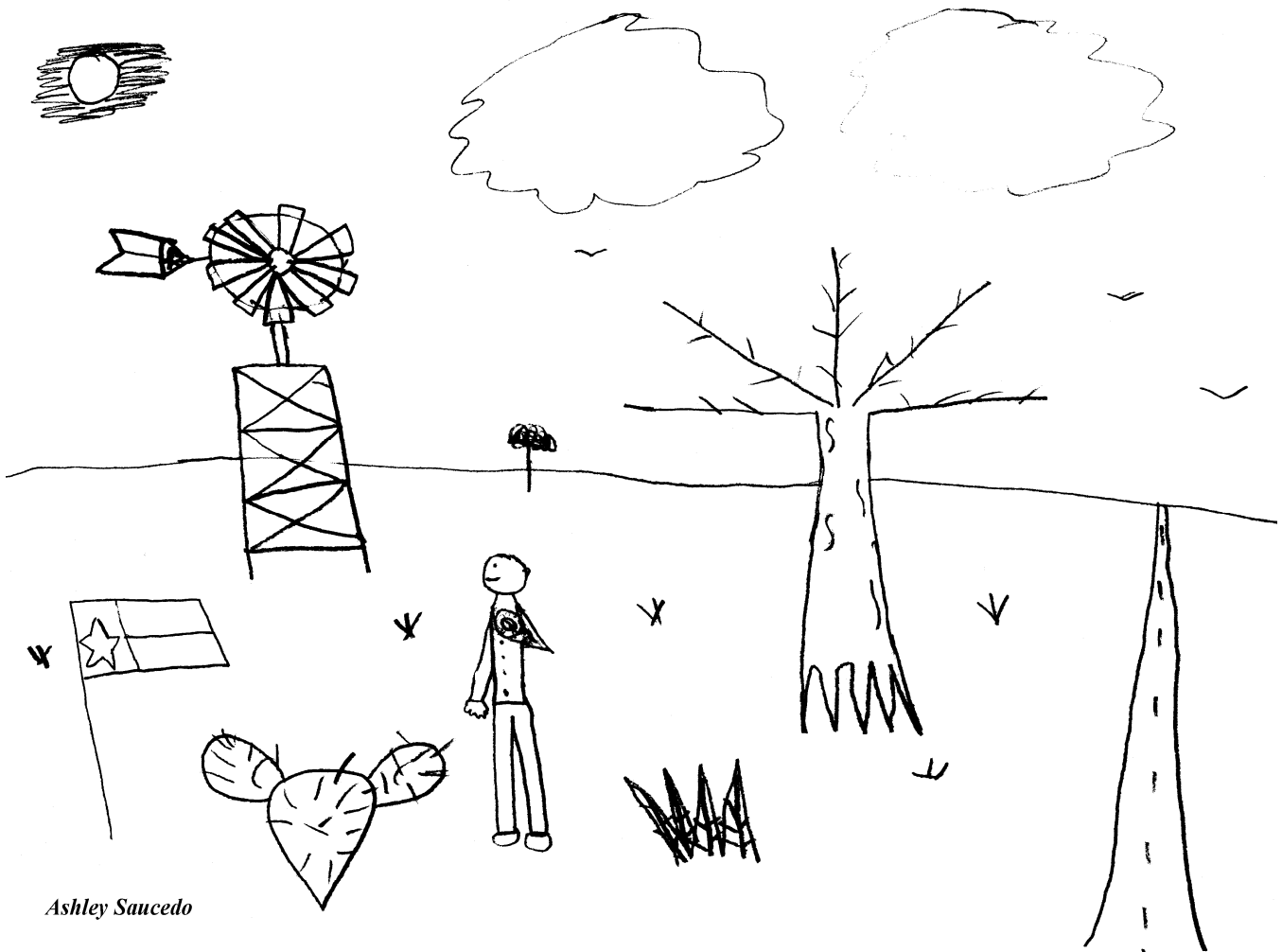

TEXAS REGISTER

Volume 36 Number 1

January 7, 2011

Pages 1 – 112



Ashley Saucedo

School children's artwork is used to decorate the front cover and blank filler pages of the *Texas Register*. Teachers throughout the state submit the drawings for students in grades K-12. The drawings dress up the otherwise gray pages of the *Texas Register* and introduce students to this obscure but important facet of state government.

The artwork featured on the front cover is chosen at random. Inside each issue, the artwork is published on what would otherwise be blank pages in the *Texas Register*. These blank pages are caused by the production process used to print the *Texas Register*.

Texas Register, (ISSN 0362-4781, USPS 120-090), is published weekly (52 times per year) for \$211.00 (\$311.00 for first class mail delivery) by LexisNexis Matthew Bender & Co., Inc., 1275 Broadway, Albany, N.Y. 12204-2694.

Material in the *Texas Register* is the property of the State of Texas. However, it may be copied, reproduced, or republished by any person without permission of the *Texas Register* director, provided no such republication shall bear the legend *Texas Register* or "Official" without the written permission of the director.

The *Texas Register* is published under the Government Code, Title 10, Chapter 2002. Periodicals Postage Paid at Albany, N.Y. and at additional mailing offices.

POSTMASTER: Send address changes to the *Texas Register*, 136 Carlin Rd., Conklin, N.Y. 13748-1531.

TEXAS REGISTER

a section of the
Office of the Secretary of State
P.O. Box 13824
Austin, TX 78711-3824
(512) 463-5561
FAX (512) 463-5569

<http://www.sos.state.tx.us>
register@sos.state.tx.us

Secretary of State –
Hope Andrade

Director –
Dan Procter

Staff
Leti Benavides
Dana Blanton
Kris Hogan
Belinda Kirk
Roberta Knight
Jill S. Ledbetter
Mirand Zepeda

IN THIS ISSUE

GOVERNOR

Appointments.....	7
Proclamation 41-3245.....	8

ATTORNEY GENERAL

Request for Opinions.....	9
Request for Opinions.....	9

EMERGENCY RULES

TEXAS BOARD OF PARDONS AND PAROLES

PAROLE

37 TAC §145.12, §145.15.....	11
------------------------------	----

PROPOSED RULES

TEXAS FUNERAL SERVICE COMMISSION

LICENSING AND ENFORCEMENT--SPECIFIC SUBSTANTIVE RULES

22 TAC §203.6.....	13
22 TAC §203.30.....	13
22 TAC §203.33.....	14
22 TAC §203.38.....	15

TEXAS REAL ESTATE COMMISSION

GENERAL PROVISIONS

22 TAC §535.400, §535.403.....	16
--------------------------------	----

RULES RELATING TO THE RESIDENTIAL SERVICE COMPANY ACT

22 TAC §539.61.....	17
22 TAC §539.121.....	18
22 TAC §539.150.....	18

DEPARTMENT OF STATE HEALTH SERVICES

COMMUNICABLE DISEASES

25 TAC §97.63.....	21
25 TAC §97.101, §97.102.....	22
25 TAC §97.221.....	24

GENERAL SANITATION

25 TAC §§265.51 - 265.61.....	24
-------------------------------	----

PATIENT CARE--MENTAL HEALTH SERVICES

25 TAC §§405.281 - 405.297.....	25
---------------------------------	----

DEPARTMENT OF AGING AND DISABILITY SERVICES

PILOT PROGRAM FOR MONITORING CERTAIN UNLICENSED LONG-TERM CARE FACILITIES

40 TAC §§17.101, 17.103, 17.105.....	27
--------------------------------------	----

NURSING FACILITY REQUIREMENTS FOR LICENSURE AND MEDICAID CERTIFICATION

40 TAC §19.1921.....	28
----------------------	----

WITHDRAWN RULES

TEXAS HIGHER EDUCATION COORDINATING BOARD

STUDENT SERVICES

19 TAC §21.129.....	31
---------------------	----

ADOPTED RULES

TEXAS DEPARTMENT OF AGRICULTURE

SPECIAL NUTRITION PROGRAMS

4 TAC §§25.1 - 25.4.....	33
4 TAC §§25.11 - 25.37.....	33
4 TAC §§25.61 - 25.68.....	34
4 TAC §§25.81 - 25.92.....	34
4 TAC §§25.111 - 25.122.....	34
4 TAC §§25.141 - 25.154.....	34
4 TAC §§25.161 - 25.165.....	34
4 TAC §§25.171 - 25.183.....	35
4 TAC §§25.191 - 25.198.....	35
4 TAC §§25.211 - 25.233.....	35
4 TAC §§25.261 - 25.269.....	35
4 TAC §§25.281 - 25.290.....	35
4 TAC §§25.311 - 25.317.....	36
4 TAC §§25.331 - 25.363.....	36
4 TAC §§25.381 - 25.383.....	36
4 TAC §§25.391 - 25.406.....	36
4 TAC §§25.421 - 25.425.....	37
4 TAC §§25.441 - 25.472.....	37
4 TAC §§25.491 - 25.497.....	37
4 TAC §§25.1 - 25.4.....	39
4 TAC §§25.11 - 25.17.....	39
4 TAC §§25.21 - 25.23.....	39
4 TAC §§25.31 - 25.33.....	39
4 TAC §§25.41 - 25.48.....	39
4 TAC §§25.51 - 25.53.....	40
4 TAC §§25.61, §25.62.....	40
4 TAC §§25.71 - 25.75.....	40
4 TAC §§25.81, §25.82.....	40
4 TAC §§25.91 - 25.96.....	40
4 TAC §25.101.....	41

4 TAC §§25.111 - 25.115	41	37 TAC §95.17	56
4 TAC §§25.121 - 25.127	41	FORT BEND COUNTY TAX ASSESSOR-COLLECTOR	
4 TAC §§25.131 - 25.143	41	REGULATION OF MOTOR VEHICLE TITLE	
4 TAC §§25.151, §25.152	41	SERVICES	
4 TAC §§25.161, §25.162	42	43 TAC §301.1	58
4 TAC §§25.171 - 25.174	42	RULE REVIEW	
4 TAC §§25.181 - 25.184	42	Adopted Rule Reviews	
4 TAC §25.191	42	Teacher Retirement System of Texas	59
TEXAS HOLOCAUST AND GENOCIDE COMMISSION		TABLES AND GRAPHICS	
COMMISSION PROCEDURES		65
13 TAC §§191.1, 191.3, 191.5, 191.7, 191.9	42	IN ADDITION	
STATE BOARD OF EXAMINERS FOR SPEECH-		Texas State Affordable Housing Corporation	
LANGUAGE PATHOLOGY AND AUDIOLOGY		Draft 2011 Annual Action Plan Now Available for Public Comment	67
SPEECH-LANGUAGE PATHOLOGISTS AND		Comptroller of Public Accounts	
AUDIOLOGISTS		Notice of Contract Awards	67
22 TAC §741.1	45	Notice of Contract Awards	67
22 TAC §§741.11 - 741.15	46	Notice of Contract Awards	69
22 TAC §§741.31 - 741.33	46	Notice of Contract Awards	69
22 TAC §§741.41 - 741.45	47	Notice of Contract Awards	70
22 TAC §§741.61 - 741.65	47	Notice of Contract Awards	71
22 TAC §§741.81 - 741.85	47	Notice of Request for Applications	71
22 TAC §741.91	48	Office of Consumer Credit Commissioner	
22 TAC §§741.101 - 741.103	48	Notice of Rate Ceilings	72
22 TAC §741.111, §741.112	48	Notice of Rate Ceilings	72
22 TAC §741.121, §741.122	50	Credit Union Department	
22 TAC §741.141	51	Application for a Merger or Consolidation	72
22 TAC §§741.161, 741.162, 741.164, 741.165	51	Application for Foreign Credit Union to Operate a Branch Office ...	72
22 TAC §741.163	51	Texas Education Agency	
22 TAC §741.181, §741.182	52	Request for Applications Concerning Prekindergarten Early Start	
22 TAC §§741.191 - 741.202	52	(PKES) Grant Program, Tier 1, Cycle 2, Year 1	73
22 TAC §§741.211 - 741.215	53	Request for Applications Concerning Texas 21st Century Community	
TEACHER RETIREMENT SYSTEM OF TEXAS		Learning Centers Grant Program, Cycle 7, Year 1	73
CERTIFICATION BY COMPANIES OFFERING		Texas Commission on Environmental Quality	
QUALIFIED INVESTMENT PRODUCTS		Agreed Orders	74
34 TAC §§53.2, 53.15, 53.16, 53.19	54	Enforcement Orders	75
TEXAS YOUTH COMMISSION		Notice of Opportunity to Comment on Agreed Orders of Administra-	
PROGRAM SERVICES		tive Enforcement Actions	81
37 TAC §91.97	55	Notice of Opportunity to Comment on Default Orders of Administra-	
37 TAC §91.97	55	tive Enforcement Actions	83
BEHAVIOR MANAGEMENT AND YOUTH		Notice of Opportunity to Request a Public Meeting for a New Munic-	
DISCIPLINE		ipal Solid Waste Facility Registration Application No. 40250	84

Notice of Receipt of Application and Intent to Obtain a Municipal Solid Waste Limited Scope Permit Amendment Permit No. 783A	85
Notice of Water Quality Applications.....	87
Notice of Water Quality Applications.....	88
Texas Facilities Commission	
Request for Proposals #303-1-20257.....	89
Request for Proposals #303-1-20263.....	90
Request for Proposals #303-1-20265.....	90
Texas Health and Human Services Commission	
Correction of Error.....	90
Notice of Public Hearing on Proposed Medicaid Payment Rates for Biofeedback Services.....	90
Notice of Public Hearing on Proposed Medicaid Payment Rates for Certified Respiratory Care Practitioner Services.....	91
Notice of Public Hearing on Proposed Medicaid Payment Rates for Esophageal pH Probe Monitoring Services.....	91
Notice of Public Hearing on Proposed Medicaid Payment Rates for Implantable Infusion Pump.....	92
Notice of Public Hearing on Proposed Medicaid Payment Rates for Incontinence Supplies - Home Health	93
Notice of Public Hearing on Proposed Medicaid Payment Rates for Physician Evaluation and Management Services	93
Notice of Public Hearing on Proposed Medicaid Payment Rates for the 2011 Annual Healthcare Common Procedure Coding System Update	94
Notice of Public Hearing on Proposed Medicaid Payment Rates for the 2011 Annual Healthcare Common Procedure Coding System Update - Vaccine Administration Procedure Codes	94
Notice of Public Hearing on Proposed Medicaid Payment Rates for Quarterly Fee Reviews.....	95
Public Notice	96
Public Notice	96
Public Notice	96
Texas Department of Housing and Community Affairs	
Program Year (PY) 2011 State Community Services Block Grant Discretionary Funds Notice of Funding Availability	96

Texas Department of Insurance	
Company Licensing	97
Company Licensing	97
Notice of Call for Issues Related to the 2010 Biennial Title Hearing	97
Third Party Administrator Application.....	98
Third Party Administrator Application.....	98
Texas Lottery Commission	
Instant Game Number 1303 "\$100,000 Jackpot"	98
Instant Game Number 1309 "5 Star Cash"	103
Revised Instant Game Number 1296 "Monopoly™"	107
Public Utility Commission of Texas	
Announcement of Application for Amendment to a State-Issued Certificate of Franchise Authority	108
Announcement of Application for State-Issued Certificate of Franchise Authority	108
Announcement of Application for State-Issued Certificate of Franchise Authority	108
Notice of Application for Designation as an Eligible Telecommunications Carrier and Eligible Telecommunications Provider	108
Notice of Application to Amend Designation as an Eligible Telecommunications Carrier and for Designation as an Eligible Telecommunications Provider	109
Notice of Application to Relinquish Designation as an Eligible Telecommunications Carrier	109
Notice of Filing to Withdraw FibreMAN Service Pursuant to P.U.C. Substantive Rule §26.208(h).....	109
Notice of Intent to File LRIC Study Pursuant to P.U.C. Substantive Rule §26.214.....	110
Texas Department of Transportation	
Aviation Division - Request for Proposal for Professional Engineering Services.....	110
Notice Affording Opportunity for Public Hearing.....	111
Public Notice - Aviation	111

Open Meetings

Statewide agencies and regional agencies that extend into four or more counties post meeting notices with the Secretary of State.

Meeting agendas are available on the *Texas Register's* Internet site:
<http://www.sos.state.tx.us/open/index.shtml>

Members of the public also may view these notices during regular office hours from a computer terminal in the lobby of the James Earl Rudder Building, 1019 Brazos (corner of 11th Street and Brazos) Austin, Texas. To request a copy by telephone, please call 512-463-5561. Or request a copy by email: register@sos.state.tx.us

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

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

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

<http://www.oag.state.tx.us/open/index.shtml>

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

Additional information about state government may be found here:

<http://www.texas.gov>

...

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

THE GOVERNOR

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

Appointments

Appointments for November 30, 2010

Appointed to the 2011 Inaugural Committee for a term at the pleasure of the Governor, Carol Lynn Villarreal Bush of Waxahachie.

Appointed to the 2011 Inaugural Committee for a term at the pleasure of the Governor, Sigifredo Gonzalez, Jr. of Zapata.

Appointed to the 2011 Inaugural Committee for a term at the pleasure of the Governor, Patti H. Johnson of Canyon Lake.

Appointed to the 2011 Inaugural Committee for a term at the pleasure of the Governor, Alicia Landry of Dallas.

Appointed to the 2011 Inaugural Committee for a term at the pleasure of the Governor, James H. Lee of Houston.

Appointed to the 2011 Inaugural Committee for a term at the pleasure of the Governor, Thomas C. Leppert of Dallas.

Appointed to the 2011 Inaugural Committee for a term at the pleasure of the Governor, Eugene Harold "Stretch" Lund of Sherman.

Appointed to the 2011 Inaugural Committee for a term at the pleasure of the Governor, John A. McCall, Jr. of Grapeland.

Appointed to the 2011 Inaugural Committee for a term at the pleasure of the Governor, Daniel P. Moran of Cypress.

Appointed to the 2011 Inaugural Committee for a term at the pleasure of the Governor, Michele "Mica" Mosbacher of Houston.

Appointed to the 2011 Inaugural Committee for a term at the pleasure of the Governor, Farouk Shami of Spring.

Appointed to the 2011 Inaugural Committee for a term at the pleasure of the Governor, Edward G. Steves of San Antonio.

Appointed to the 2011 Inaugural Committee for a term at the pleasure of the Governor, Senfronia Thompson of Houston.

Appointed to the 2011 Inaugural Committee for a term at the pleasure of the Governor, Pamela Pitzer Willeford of Austin.

Appointed to the 2011 Inaugural Committee for a term at the pleasure of the Governor, Jay S. Zeidman of Houston.

Appointed to the Assistive and Rehabilitative Services Council for a term to expire February 1, 2015, Judy Scott of Dallas (replacing Jody Unruh of Houston who resigned).

Appointments for December 2, 2010

Appointed to the Pharmaceutical and Therapeutics Committee for a term to expire September 1, 2011, Mario R. Anzaldua of Mission (Dr. Anzaldua is being reappointed).

Appointed to the Pharmaceutical and Therapeutics Committee for a term to expire September 1, 2011, Oralia V. Bazaldua of San Antonio (replacing Anthony J. Busti of Salado whose term expired).

Appointed to the Pharmaceutical and Therapeutics Committee for a term to expire September 1, 2011, Donna Burkett of Austin (Ms. Burkett is being reappointed).

Appointed to the Pharmaceutical and Therapeutics Committee for a term to expire September 1, 2011, John A. Dennison, Jr. of Orange (replacing J.C. Jackson of Seabrook whose term expired).

Appointed to the Pharmaceutical and Therapeutics Committee for a term to expire September 1, 2011, Harris M. Hauser of Houston (Dr. Hauser is being reappointed).

Appointed to the Pharmaceutical and Therapeutics Committee for a term to expire September 1, 2011, Daniel R. Hernandez of Harlingen (Mr. Hernandez is being reappointed).

Appointed to the Pharmaceutical and Therapeutics Committee for a term to expire September 1, 2011, Melbert C. Hillert, Jr. of Dallas (Dr. Hillert is being reappointed).

Appointed to the Pharmaceutical and Therapeutics Committee for a term to expire September 1, 2011, Dorinda Martin of Austin (Ms. Martin is being reappointed).

Appointed to the Pharmaceutical and Therapeutics Committee for a term to expire September 1, 2011, Valerie W. Robinson of Lubbock (Dr. Robinson is being reappointed).

Appointed to the Pharmaceutical and Therapeutics Committee for a term to expire September 1, 2011, Carl Tapia of Houston (replacing Richard Adams of Plano whose term expired).

Appointed to the Pharmaceutical and Therapeutics Committee for a term to expire September 1, 2011, Guadalupe Zamora of Austin (Dr. Zamora is being reappointed).

Designating David Cabrales as presiding officer of the Texas Economic Development Corporation, effective immediately, for a term at the pleasure of the Governor.

Appointed to the Coastal Water Authority Board of Directors for a term to expire April 1, 2011, Douglas E. Walker of Beach City (replacing Alan Senac of Beach City who resigned).

Appointed to the Texas Economic Development Corporation for a term at the pleasure of the Governor, Marc A. Farmer of Lubbock (replacing Nicholas Serafy, Jr. of Brownsville).

Appointments for December 3, 2010

Appointed to the Commission on Law Enforcement Officer Standards and Education for a term to expire August 30, 2015, John Randall Watson of Burleson (replacing Melissa Goodwin of Austin who resigned).

Appointments for December 9, 2010

Appointed to the Texas Economic Development Corporation for a term at the pleasure of the Governor, Mario Omar Garcia of La Vernia (replacing Robert Wingo of El Paso).

Designating Edward Vaughan as presiding officer of the Texas Water Development Board, effective December 17, 2010, for a term at the

pleasure of the Governor. Mr. Vaughan is replacing James E. Herring of Amarillo as presiding officer.

Appointments for December 10, 2010

Appointed as Judge of the 378th Judicial District Court, Ellis County, effective January 1, 2011, for a term until the next General Election and until his successor shall be duly elected and qualified, Joe F. Grubbs of Waxahachie. Mr. Grubbs is replacing Judge Roy Alfred Scoggins, Jr. who is vacating the office.

Appointments for December 17, 2010

Appointed to the Lower Colorado River Authority for a term to expire February 1, 2015, Jett Jay Johnson of Goldthwaite (replacing Richard Scott of Wimberley who resigned).

Appointments for December 21, 2010

Appointed to the Commission on State Emergency Communications for a term to expire September 1, 2015, Mitchell F. Fuller, II of Cedar Park (replacing John De Noyelles of Flint whose term expired).

Appointed to the Risk Management Board for a term to expire February 1, 2013, John W. Youngblood of Cameron (replacing Ruben Hope, Jr. of Montgomery who resigned).

Appointed to the Texas State Board of Examiners of Psychologists for a term to expire October 31, 2015, Jeffrey M. Baker of League City (replacing Diane Stoebner-May of Montgomery who resigned).

Appointments for December 23, 2010

Appointed as the Presiding Judge of the Fifth Administrative Judicial Region, effective January 4, 2011, for a term to expire four years from the date of qualification, J. Rolando Olvera, Jr. of Brownsville (replacing J. Manuel Banales of Corpus Christi whose term expired).

Rick Perry, Governor

TRD-201007349



Proclamation 41-3245

TO ALL TO WHOM THESE PRESENTS SHALL COME:

I, RICK PERRY, Governor of Texas, do hereby certify that 244 counties in Texas are currently threatened by extreme fire hazard. Lack of precipitation has dried grass and other vegetation across the state, posing significant fire danger which is expected to continue. This threat exists in the following counties in Texas:

Anderson, Andrews, Aransas, Archer, Armstrong, Atascosa, Austin, Bailey, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Borden, Bosque, Bowie, Brazoria, Brazos, Brewster, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Camp, Carson, Cass, Castro, Chambers, Cherokee, Childress, Clay, Cochran,

Coke, Coleman, Collin, Collingsworth, Colorado, Comal, Comanche, Concho, Cooke, Coryell, Cottle, Crane, Crockett, Crosby, Culbertson, Dallam, Dallas, Dawson, Deaf Smith, Delta, Denton, De Witt, Dickens, Dimmit, Donley, Duval, Eastland, Ector, Edwards, Ellis, El Paso, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Foard, Fort Bend, Franklin, Freestone, Frio, Gaines, Galveston, Garza, Gillespie, Glasscock, Goliad, Gonzales, Gray, Grayson, Gregg, Grimes, Guadalupe, Hale, Hall, Hamilton, Hansford, Hardeman, Harris, Harrison, Hartley, Haskell, Hays, Hemphill, Henderson, Hidalgo, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hudspeth, Hunt, Hutchinson, Irion, Jack, Jackson, Jeff Davis, Jefferson, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kendall, Kenedy, Kent, Kerr, Kimble, King, Kinney, Kleberg, Knox, La Salle, Lamar, Lamb, Lampasas, Lavaca, Lee, Leon, Liberty, Limestone, Lipscomb, Live Oak, Llano, Loving, Lubbock, Lynn, Madison, Marion, Martin, Mason, Matagorda, Maverick, McCulloch, McLennan, McMullen, Medina, Menard, Midland, Milam, Mills, Mitchell, Montague, Montgomery, Moore, Morris, Motley, Navarro, Nolan, Nueces, Ochiltree, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Pecos, Potter, Presidio, Rains, Randall, Reagan, Real, Red River, Reeves, Refugio, Roberts, Robertson, Rockwall, Runnels, Rusk, San Jacinto, San Patricio, San Saba, Schleicher, Scurry, Shackelford, Sherman, Smith, Somervell, Starr, Stephens, Sterling, Stonewall, Sutton, Swisher, Tarrant, Taylor, Terrell, Terry, Throckmorton, Titus, Tom Green, Travis, Trinity, Upshur, Upton, Uvalde, Val Verde, Van Zandt, Victoria, Walker, Waller, Ward, Washington, Webb, Wharton, Wheeler, Wichita, Wilbarger, Willacy, Williamson, Wilson, Winkler, Wise, Wood, Yoakum, Young, Zapata, and Zavala.

THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby declare a state of disaster based on the existence of such threat and direct that all necessary measures both public and private as authorized under Section 418.017 of the code be implemented to meet that threat.

As provided in Section 418.016 of the code, all rules and regulations that may inhibit or prevent prompt response to this threat are suspended for the duration of the state of disaster.

In accordance with the statutory requirements, copies of this proclamation shall be filed with the applicable authorities.

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my Office in the City of Austin, Texas, this the 21st day of December, 2010.

Rick Perry, Governor

Attested by: Esperanza "Hope" Andrade, Secretary of State

TRD-201007380



THE ATTORNEY GENERAL

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

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

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

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

Request for Opinions

RQ-0930-GA

Requestor:

Mr. Jeff May

Collin County Auditor

2300 Bloomdale Road, Suite 3100

McKinney, Texas 75071

Re: Authority of a commissioners court with regard to working hours, overtime and compensatory time, and timekeeping by county employees (RQ-0930-GA)

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

TRD-201007386

Jay Dyer

Deputy Attorney General

Office of the Attorney General

Filed: December 28, 2010



Request for Opinions

RQ-0936-GA

Requestor:

Mr. Rolando Pablos, Chair

Texas Racing Commission

Post Office Box 12080

Austin, Texas 78711-2080

Re: Constitutionality of section 6.06(d) of article 179e, V.T.C.S., the Texas Racing Act, which imposes racetrack licensing residency requirements (RQ-0936-GA)

Briefs requested by January 24, 2011

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

TRD-201007391

Jay Dyer

Deputy Attorney General

Office of the Attorney General

Filed: December 28, 2010



EMERGENCY RULES

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

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 5. TEXAS BOARD OF PARDONS AND PAROLES

CHAPTER 145. PAROLE

SUBCHAPTER A. PAROLE PROCESS

37 TAC §145.12, §145.15

The Texas Board of Pardons and Paroles adopts, on an emergency basis, amendments to 37 TAC Chapter 145, Subchapter A, §145.12 and §145.15 concerning action upon review and action upon review; extraordinary vote.

The amendments are adopted on an emergency basis to utilize new voting option FI-9 R Sex Offender Treatment Program (SOTP-9). The adoption of the amendments, on an emergency basis, permits the Texas Board of Pardons and Paroles to immediately take action on the new voting option.

The agency filed proposed amendments to §145.12 and §145.15 to establish the amendments on a permanent basis. The proposed amendments were published in the December 31, 2010, issue of the *Texas Register* (35 TexReg 11827).

The amendments are adopted on an emergency basis under §§508.036, 508.0441 and 508.045, Government Code. Section 508.036 authorizes the board to adopt rules relating to the decision-making processes used by the board and parole panels. Section 508.0441 and §508.045 authorize the Board to adopt reasonable rules as proper or necessary relating to the eligibility of an offender for release to mandatory supervision and to act on matters of release to mandatory supervision.

The amendments are also adopted on an emergency basis under Government Code, §2001.034.

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

§145.12. *Action upon Review.*

A case reviewed by a parole panel for parole consideration may be:

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

(4) determined that the totality of the circumstances favor the offender's release on parole, further investigation (FI) is ordered with the following available voting options ~~[in the following manner]~~; and, impose ~~[upon release to parole,]~~ all conditions of parole or release to mandatory supervision that the parole panel is required or authorized by law to impose as a condition of parole or release to mandatory supervision; ~~[are imposed];~~

(A) FI-1--Release the offender when eligible;

(B) FI-2 (Month/Year)--Release on a specified future date;

(C) FI-3 R (Month/Year)--Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and not earlier than three months from specified date. Such TDCJ program may include either CHANGES/Lifeskills, Voyager, Segovia Pre-Release Center (Segovia PRC), or any other approved tier program;

(D) FI-4 (Month/Year)--Transfer to a Pre-Parole Transfer facility prior to presumptive parole date set by a board panel and release to parole supervision on presumptive parole date;

(E) FI-4 R (Month/Year)--Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and not earlier than four months from specified date. Such TDCJ program shall be ~~[either] the Sex Offender Education Program (SOEP) [or the Sex Offender Treatment Program (SOTP)];~~

(F) FI-5--Transfer to In-Prison Therapeutic Community Program. Release to aftercare component only after completion of IPTC program;

(G) FI-6--Transfer to a DWI Program. Release to continuum of care program as required by paragraph (5) of this section;

(H) FI-6 R (Month/Year)--Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and not earlier than six months from specified date. Such TDCJ program may include the Pre-Release Therapeutic Community (PRTC), Pre-Release Substance Abuse Program (PRSAP), or In-Prison Therapeutic Community Program (IPTC), or any other approved tier program;

(I) FI-7 R (Month/Year)--Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and not earlier than seven months from the specified date. Such TDCJ program shall be the Serious and Violent Offender Reentry Initiative (SVORI);

(J) FI-9 R (Month/Year)--Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and not earlier than nine months from specified date. Such TDCJ program shall be the Sex Offender Treatment Program (SOTP-9);

~~(K) [(F)]~~ FI-18 R (Month/Year)--Transfer to a TDCJ rehabilitation treatment program. Release to parole only after program completion and not earlier than 18 months from specified date. Such TDCJ program shall be either the Sex Offender Treatment Program (SOTP-18), or the InnerChange Freedom Initiative (IFI);

(5) any person released to parole after completing a TDCJ program as a prerequisite for parole, must participate in and complete any required post-release program. A parole panel shall require as a condition of release on parole or release to mandatory supervision that an offender who immediately before release is a participant in the program established under §501.0931, Government Code, participate as a releasee in a drug or alcohol abuse continuum of care treatment program; or

(6) any offender receiving an FI vote, as listed in paragraph (4)(A) - ~~(K)~~ ~~[(F)]~~ of this section, shall be placed in a program consistent with the vote. If treatment program managers recommend a different

program for an offender, a transmittal shall be forwarded to the parole panel requesting approval to place the offender in a different program.

§145.15. Action Upon Review; Extraordinary Vote.

(a) This section applies to any offender convicted of a capital offense under §§21.02, 21.11(a)(1) or 22.021, Penal Code, or who is required under §508.145(c), Government Code, to serve 35 calendar years before becoming eligible for parole review. All members of the board shall vote on the release of an eligible offender. At least two-thirds of the members must vote favorably for the offender to be released to parole. Members of the board shall not vote until they receive and review a copy of a written report from the department on the probability of the offender committing an offense after being released.

(1) Upon review, use of the full range of voting options is not conducive to determining whether two-thirds of the board considers the offender ready for release to parole.

(2) If it is determined that circumstances favor the offender's release to parole the board has the following voting options available:

(A) FI-1--[:] Release the offender when eligible; [ø]

(B) FI-4 R (Month/Year)--[:] Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and not earlier than four months from specified date. Such TDCJ program shall be [either] the Sex Offender Education Program (SOEP); ~~or the Sex Offender Treatment Program (SOTP);~~

(C) FI-9 R (Month/Year)--[:] Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and not earlier than nine months from specified date. Such TDCJ program shall be the Sex Offender Treatment Program (SOTP-9); or

(D) [~~€~~] FI-18 R (Month/Year)--[:] Transfer to a TDCJ rehabilitation treatment program. Release to parole only after program completion and no earlier than eighteen months from the specified date. Such TDCJ program may include the Sex Offender Treatment Program (SOTP-18). In no event shall the specified date be set more than three years from the current panel decision date.

(3) If it is determined that circumstances do not support a favorable action upon review, the following options are available:

(A) NR (Month/Year)--[:] Deny release and set the next review date for 36 months following the panel decision date; or

(B) SA--[:] The offender's minimum or maximum expiration date is less than 36 months away. The offender will continue to serve their sentence until that date.

(b) If the offender is sentenced to serve consecutive sentences and each sentence in the series is for an offense committed on or after September 1, 1987, the following voting options are available to the board panel:

(1) CU/FI (Month/Year-Cause Number)--[:] A favorable parole action that designates the date an offender would have been released if the offender had been sentenced to serve a single sentence;

(2) CU/NR (Month/Year-Cause Number)--[:] Deny release and set the next review date for 36 months following the panel decision date; or

(3) CU/SA (Month/Year-Cause Number)--[:] Deny release and order serve-all if the offender is within 36 months of their maximum expiration date.

(c) Some offenders are eligible for consideration for release to Discretionary Mandatory Supervision if the sentence is for an offense

committed on or after September 1, 1996. Prior to the offender reaching the projected release date, the voting options are the same as those listed in subsections (a) and (b) of this section. If TDCJ-CID determines that release of the offender will occur because the offender will reach the projected release date, the case shall be referred to a three-member parole panel within 30 days of the offender's projected release date for consideration for release to mandatory supervision using the following options:

(1) RMS--[:] Release to mandatory supervision; or

(2) DMS (Month/Year)--[:] Deny release to mandatory supervision and set for review on a future specific month and year. The next mandatory supervision review date shall be set one year from the panel decision date.

(d) Upon review of any eligible offender who qualifies for release to Medically Recommended Intensive Supervision (MRIS), the MRIS panel shall initially vote to either recommend or deny MRIS consideration. The MRIS panel shall base this decision on the offender's medical condition and medical evaluation, and shall determine whether the offender constitutes a threat to public safety.

(1) If the MRIS panel determines the offender does constitute a threat to public safety, no further voting is required.

(2) If the MRIS panel determines that the offender does not constitute a threat to public safety, the case shall be sent to the full board, which shall determine whether to approve or deny the offender's release to parole. The following voting options are available to the board:

(A) Approve MRIS--[:] The board shall vote FI-1 and impose special condition "O" - "The offender shall comply with the terms and conditions of the MRIS program and abide by a Texas Correctional Office for Offenders with Mental or Medical Impairments (TCOOMMI)-approved release plan. At any time this condition is in effect, an offender shall remain under the care of a physician and in a medically suitable placement"; the board shall provide appropriate reasons for the decision to approve MRIS; or[:]

(B) Deny MRIS--[:] The board shall provide appropriate reasons for the decision to deny MRIS.

(3) The decision to approve release to MRIS for an offender remains in effect until specifically withdrawn by the board.

(e) (No change.)

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

Filed with the Office of the Secretary of State on December 20, 2010.

TRD-201007271

Bettie Wells

General Counsel

Texas Board of Pardons and Paroles

Effective Date: December 20, 2010

Expiration Date: April 18, 2011

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



PROPOSED RULES

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

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

TITLE 22. EXAMINING BOARDS

PART 10. TEXAS FUNERAL SERVICE COMMISSION

CHAPTER 203. LICENSING AND ENFORCEMENT--SPECIFIC SUBSTANTIVE RULES

22 TAC §203.6

The Texas Funeral Service Commission (commission) proposes an amendment to §203.6 concerning Provisional Licensees.

The proposed amendment of §203.6 is to allow for additional professionally prepared examinations without restrictions.

O.C. "Chet" Robbins, Executive Director, has determined that for the first five-year period the amendment is in effect, there will be no fiscal implication for state or local governments as a result of enforcing or administering the proposed amendment.

Mr. Robbins further has determined that for each year of the first five-year period the amendment is in effect, a public benefit anticipated as a result of enforcing the amendment will be the elimination of administering the Texas State Board Examination by the International Conference of Funeral Service Examining Boards, Inc., and allowing other professionally prepared examinations to be considered. There will be no effect on large, small or micro-businesses. There is no anticipated economic cost to persons who are required to comply with the amendment as proposed. There is no impact on local employment.

Comments on the proposal may be submitted to Mr. Robbins at P.O. Box 12217, Capitol Station, Austin, Texas 78711-1440, (512) 479-5064 (fax), or electronically to chet.robins@tfsc.state.tx.us.

The amendment is proposed under Texas Occupations Code, §651.152. The commission interprets §651.152 as authorizing it to adopt rules as necessary to administer Chapter 651.

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

§203.6. *Provisional Licensees.*

(a) - (i) (No change.)

(j) Examination Requirements

(1) Applicants for licensure as a funeral director from the certificate program must sit for the Texas State Board Examination as described in the Texas Occupations Code §651.255, examinations required for funeral director's license. ~~[administered by the International Conference of Funeral Service Examining Boards, Inc. (International Conference)-]~~

(2) Applicants for licensure who hold associate of applied science degrees are required to sit, as applicable, for either or both of the examinations as described in the Texas Occupations Code §651.255 and §651.256, examinations required for funeral director's license and/or embalmer license. ~~[National Board Examinations in Funeral Directing and Embalming administered by the International Conference.]~~

(3) All applicants for licensure shall sit for the State Mortuary Law Examination administered by the commission. If full licensure has not been met within 24 months from the date the applicant initially took the State Mortuary Law Examination the applicant must retake the examination before full licensure can be accomplished regardless if the applicant passed or failed the examination.

(4) A passing score is 75% for each examination described in paragraphs (1) - (3) of this subsection. Passing scores are not determined by averaging scores on two or more examinations.

(k) - (n) (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 December 21, 2010.

TRD-201007281

O.C. "Chet" Robbins

Executive Director

Texas Funeral Service Commission

Earliest possible date of adoption: February 6, 2011

For further information, please call: (512) 936-2469



22 TAC §203.30

The Texas Funeral Service Commission (commission) proposes an amendment to §203.30 concerning Continuing Education.

The proposed amendment of §203.30 is to assist in enforcement of the continuing education requirements.

O.C. "Chet" Robbins, Executive Director, has determined that for the first five-year period the amendment is in effect, there will be no fiscal implication for state or local governments as a result of enforcing or administering the proposed amendment.

Mr. Robbins further has determined that for each year of the first five-year period the amendment is in effect, a public benefit anticipated as a result of enforcing the amendment will be the elimination of obtaining continuing education credits in a fraudulent manner. Mr. Robbins also has determined that there will be no effect on large, small or micro-businesses, that there is no

anticipated economic costs to persons who are required to comply with the amendment as proposed and that there is no impact on local employment or economies.

Comments on the proposal may be submitted to Mr. Robbins at P.O. Box 12217, Capitol Station, Austin, Texas 78711-1440, (512) 479-5064 (fax), or electronically to chet.robbins@tfsc.state.tx.us.

The amendment is proposed under Texas Occupations Code, §651.152. The commission interprets §651.152 as authorizing it to adopt rules as necessary to administer Chapter 651.

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

§203.30. *Continuing Education.*

(a) - (i) (No change.)

(j) Any licensee receiving continuing education in a fraudulent manner shall be required to obtain all continuing education on site for (2) two consecutive renewal periods.

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 December 21, 2010.

TRD-201007283

O.C. "Chet" Robbins

Executive Director

Texas Funeral Service Commission

Earliest possible date of adoption: February 6, 2011

For further information, please call: (512) 936-2469



22 TAC §203.33

The Texas Funeral Service Commission (commission) proposes an amendment to §203.33 concerning Consequences of Criminal Conviction.

The proposed amendment of §203.33 is to address licensees with criminal convictions resulting in incarceration.

O.C. "Chet" Robbins, Executive Director, has determined that for the first five-year period the amendment is in effect, there will be no fiscal implication for state or local governments as a result of enforcing or administering the proposed amendment.

Mr. Robbins has determined that for each year of the first five-year period the amended rule is in effect, the public benefits anticipated as result of enforcing the rule will be revocation of licensed funeral director or embalmers who are convicted of a crime that results in incarceration. Mr. Robbins also has determined that there will be no effect on large, small or micro-businesses, that there is no anticipated economic costs to persons who are required to comply with the amendment as proposed and that there is no impact on local employment or economies.

Comments on the proposal may be submitted to Mr. Robbins at P.O. Box 12217, Capitol Station, Austin, Texas 78711-1440, (512) 479-5064 (fax), or electronically to chet.robbins@tfsc.state.tx.us.

The amendment is proposed under Texas Occupations Code, §651.152. The commission interprets §651.152 as authorizing it to adopt rules as necessary to administer Chapter 651.

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

§203.33. *Consequences of Criminal Conviction.*

(a) The commission may suspend or revoke a license, disqualify a person from receiving a license, or deny to a person the opportunity to take a licensing examination on the grounds that the person has been convicted of a felony or misdemeanor that directly relates to the duties and responsibilities of an occupation required to be licensed by Texas Occupations Code, Chapter 651 (Chapter 651) [~~chapter 651 (chapter 651)~~].

(b) The commission shall revoke the license of a person who is imprisoned following a felony conviction, felony community supervision revocation, revocation of parole, or revocation of mandatory supervision.

(c) A person in prison is ineligible for licensure.

(d) The commission shall revoke the license of a person for any felony conviction which results in incarceration.

(e) [~~(d)~~] The commission shall consider the following factors in determining whether a criminal conviction directly relates to an occupation required to be licensed by Chapter 651 [~~chapter 651~~]:

(1) the nature and seriousness of the crime;

(2) the relationship of the crime to the purposes for requiring a license to engage in the occupation;

(3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and

(4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the licensed occupation.

(f) [~~(e)~~] If a person has been convicted of a crime, the commission shall consider the following in determining a person's fitness to perform the duties and discharge the responsibilities of a Chapter 651 [~~chapter 651~~] occupation:

(1) the extent and nature of the person's past criminal activity;

(2) the age of the person when the crime was committed;

(3) the amount of time that has elapsed since the person's last criminal activity;

(4) the conduct and work activity of the person before and after the criminal activity;

(5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or after release;

(6) letters of recommendation from:

(A) prosecutors and law enforcement and correctional officers who prosecuted, arrested, or had custodial responsibility for the person;

(B) the sheriff or chief of police in the community where the person resides; and

(C) any other person in contact with the convicted person; and

(7) evidence that the applicant has:

(A) maintained a record of steady employment;

(B) supported the applicant's dependents;

(C) maintained a record of good conduct; and

(D) paid all outstanding court costs, supervision fees, fines, and restitution ordered in any criminal case in which the applicant has been convicted.

(g) [(f)] The following are related to the occupations of funeral directing or embalming because they are classified as Class B misdemeanors by Occupations Code, §651.602 [Section 651.602]:

(1) acting or holding oneself out as a funeral director, embalmer, or provisional license holder without being licensed under this chapter;

(2) making a first call in a manner that violates §651.401 [Section 651.401];

(3) engaging in a funeral practice that violates Chapter 651 [chapter 651] or a rule adopted under Chapter 651 [chapter 651]; or

(4) violating Chapter 154, Finance Code, or a rule adopted under that chapter, regardless of whether the Texas Department of Banking or another governmental agency takes action relating to the violation.

(h) [(g)] The commission of acts within the definition of Abuse of Corpse, Penal Code, §42.08 [Section 42.08], is related to the Chapter 651 [chapter 651] occupations because those acts indicate a lack of respect for the dead.

(i) [(h)] The crimes listed in paragraphs (1) - (3) of this subsection [(1)-(3)] relate to the Chapter 651 [chapter 651] occupations because the commission of each reflects a lack of respect for human life and dignity or a lack of fitness to practice the occupations.

(1) a misdemeanor or felony offense involving:

- (A) murder;
- (B) assault;
- (C) burglary;
- (D) robbery;
- (E) theft;
- (F) sexual assault;
- (G) injury to a child;
- (H) injury to an elderly person;
- (I) child abuse or neglect;
- (J) tampering with a governmental record;
- (L) perjury;
- (M) bribery;
- (N) harassment;
- (O) insurance claim fraud; or
- (P) mail fraud;

(2) delivery, possession, manufacture, or use of or the dispensing or prescribing a controlled substance, dangerous drug, or narcotic; or

(3) violations of the Penal Code, Titles 4, 5, 7, 9, and 10, which indicate an inability or tendency for the person to be unable to perform as a licensee or to be unfit for licensure or registration if action or inaction by the commission will protect the public health, safety, and welfare.

(j) [(i)] An applicant for licensure shall disclose in writing to the commission any conviction against him or her at the time of application. A current licensee shall disclose in writing to the commission any conviction at the time of renewal or no later than 30 days after judgment in the trial court, whichever date is earlier.

(k) [(j)] Upon notification of a conviction, the commission shall provide a copy of this section to the person and request that the person respond by filing information demonstrating why the commission should not deny the application or take disciplinary action against the person, if already licensed or registered. The response must be filed with the commission within 21 days of the date of receipt of notice from the commission. An applicant for licensure is responsible for filing documentation that will allow the commission to conduct an analysis under subsection (f) [(e)] of this section.

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 December 21, 2010.

TRD-201007284

O.C. "Chet" Robbins

Executive Director

Texas Funeral Service Commission

Earliest possible date of adoption: February 6, 2011

For further information, please call: (512) 936-2469



22 TAC §203.38

The Texas Funeral Service Commission (commission) proposes an amendment to §203.38 concerning Reinstatement of Funeral Director and/or Embalmer Licenses.

The proposed amendment of §203.38 allows the commission to reinstate a license and include an agreed order.

O.C. "Chet" Robbins, Executive Director, has determined that for the first five-year period the amendment is in effect, there will be no fiscal implication for state or local governments as a result of enforcing or administering the proposed amendment.

Mr. Robbins also has determined that for each year of the first five-year period the amendment is in effect, the public benefit anticipated as a result of enforcing the new rule will be to include a written agreement to ensure that licensees remain in compliance in order that the public might be protected from unethical/unlawful funeral directors and/or embalmers. There will be no effect on large, small or micro-businesses. There is no anticipated economic cost to persons who are required to comply with the amendment as proposed. There is no impact on local employment.

Comments on the proposal may be submitted to Mr. Robbins at P.O. Box 12217, Capitol Station, Austin, Texas 78711-1440, (512) 479-5064 (fax), or electronically to chet.robbs@tfsc.state.tx.us

The amendment is proposed under Texas Occupations Code, §651.152. The commission interprets §651.152 as authorizing it to adopt rules as necessary to administer Chapter 651.

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

§203.38. *Reinstatement of Funeral Director and/or Embalmer Licenses.*

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

(h) If the Commission or Board grants the petition for reinstatement, the petitioner must successfully complete the Texas State Mortuary Law Exam during the regularly scheduled examination times. The Commission or Board may also require the petitioner to complete additional ~~[testing and]~~ training to assure the petitioner's competency to practice funeral directing and/or embalming. With an agreed order, the commission may probate the license not less than (2) two years.

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

Filed with the Office of the Secretary of State on December 21, 2010.

TRD-201007282

O.C. "Chet" Robbins

Executive Director

Texas Funeral Service Commission

Earliest possible date of adoption: February 6, 2011

For further information, please call: (512) 936-2469



PART 23. TEXAS REAL ESTATE COMMISSION

CHAPTER 535. GENERAL PROVISIONS SUBCHAPTER T. EASEMENT OR RIGHT-OF-WAY AGENTS

22 TAC §535.400, §535.403

The Texas Real Estate Commission (TREC) proposes amendments to Subchapter T regarding Easement or Right-of-Way; §535.400 regarding Registration of Easement or Right-of-Way Agents; and §535.403 concerning Renewal of Registration. Application forms will no longer be promulgated by the commission, but they will be approved when substantive changes are made. The amendments to §535.403 change the renewal fee from \$83 to \$80 to remove the \$3 fee that registrants are required to pay for TexasOnline fees. Since such fees are adopted by Department of Information Resources Rules, the fee does not need to be separately adopted as a fee by the commission.

Loretta R. DeHay, General Counsel, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the sections. There is no anticipated economic effect on small businesses, micro-businesses or local or state employment as a result of implementing the sections.

Ms. DeHay also has determined that for each year of the first five years the sections as proposed are in effect the public benefit anticipated as a result of enforcing the sections will be enhanced application and renewal processes for Easement or Right-of-Way Agents. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Comments on the proposal may be submitted to Loretta R. DeHay, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188.

The amendments are proposed under Texas Occupations Code, §1101.051, which authorizes the Texas Real Estate Commission to adopt rules necessary to implement Chapter 1101.

The statute affected by this proposal is Texas Occupations Code, Chapter 1101. No other statute, code or article is affected by the proposed amendments.

§535.400. *Registration of Easement or Right-of-Way Agents.*

~~[(a) The Texas Real Estate Commission adopts by reference the following forms approved by the Texas Real Estate Commission in 2000. These forms are published by and available from the Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188.]~~

~~[(1) ERW 1-3, Application For Easement Or Right-of-Way Agent Registration For An Individual; and]~~

~~[(2) ERW 2-3, Application For Easement Or Right-of-Way Agent Registration For A Business.]~~

~~(a) [(b)] An individual desiring to be registered by the commission as an easement or right-of-way agent must file an application on form ERW 1-3 approved by [with] the commission. If the applicant is a business, the applicant must file form ERW 2-3. All applicants must submit a fee of \$80 [the applicable fees set forth in The Real Estate License Act, Texas Occupations Code, Chapter 1101, (the Act)]. The commission will not accept an application which has been submitted without the correct filing fees or which has been submitted in pencil. A person also may apply for registration by accessing the commission's Internet web site, entering the required information on the application form and paying the appropriate fee in accordance with the instructions provided at the site by the commission. If the person is an individual, the person must provide the commission with the person's photograph and signature prior to issuance of a registration certificate. The person may provide the photograph [and signature] prior to the submission of an electronic application. If the applicant does not complete the application process as required by this subsection, the commission shall terminate the application.~~

~~(b) [(e)] After the commission has accepted an application for filing, the commission shall process the application and promptly issue a certificate of registration, request any information required to complete the registration, or advise the applicant that the application has been terminated or disapproved, as the case may be.~~

~~(c) [(d)] The commission shall assign a registration number to each registrant and shall provide each registrant with a certificate of registration. Each registration issued by the commission is valid until the last day of the month one year from the day the registration was issued. Each registrant shall display the certificate of registration issued by the commission in a prominent location in the registrant's place of business, as required by the Act, §1101.507. If the registrant maintains more than one place of business, the registrant shall display either the certificate or a copy of the certificate in each place of business.~~

~~(d) [(e)] The commission may terminate an application with written notice to the applicant for failure to submit information or documentation within 60 days after the commission makes written request for the information or documentation.~~

~~(e) [(f)] The commission may disapprove an application for registration with written notice to the applicant if the applicant has been convicted of a criminal offense which is grounds for disapproval of an application under §541.1 of this title (relating to Criminal Offense Guidelines) or the applicant has engaged in conduct prohibited by the~~

Act. Provided a timely written request for a hearing is made by the applicant in accordance with the Act, §1101.364, an applicant whose application for registration has been disapproved is entitled to a hearing. The hearing on the application will be conducted in accordance with the provisions of the Act, §1101.364, and Chapter 533 of this title (relating to Practice and Procedure).

§535.403. *Renewal of Registration.*

(a) The commission shall establish a time period for renewal of each registration, which shall end with the expiration date of the current registration. Each registrant has the responsibility to apply for renewal of a registration by making proper application as specified by this section. Applications must be made on the current renewal application form approved by the commission accompanied by an annual fee of ~~§80~~ [§83]. Failure to receive a registration renewal application form from the commission does not relieve a registrant of the obligation to obtain the appropriate form and to apply for renewal to maintain registration. A registrant also may renew an unexpired registration by accessing the commission's Internet web site, entering the required information on the renewal application form and paying the appropriate fee in accordance with the instructions provided at the site by the commission. Failure to provide information requested by the commission in connection with a renewal application is grounds for disciplinary action under the Act, §1101.653. A registrant who fails timely to pay a renewal fee must apply for and receive a new registration in order to act as an easement or right-of-way agent.

~~[(b) The Texas Real Estate Commission adopts by reference Renewal Application Form ERW 5-2, approved by the commission in 2003. This form is published by and available from the Texas Real Estate Commission, P.O. Box 42188, Austin, Texas 78711-2188.]~~

~~(b)~~ [(e)] The commission shall advise each registrant of the time period for filing a renewal application and paying the renewal fee by mailing a renewal application form to the registrant's last known permanent mailing address as shown in the commission's computerized records at least three months before expiration of the current registration. Each registrant shall furnish a permanent mailing address to the commission and report a change in permanent mailing address within 10 days after the change occurs. If a registrant fails to provide a permanent mailing address, the last known mailing address for the registrant will be deemed to be the registrant's permanent mailing address. The commission shall have no obligation to so notify a business entity such as a corporation, limited liability company or partnership, that has failed to designate an officer, manager or partner who meets the requirements of §1101.502 of the Act. The commission may not renew a registration issued to a business entity unless the entity has designated an officer, manager or partner who meets the requirements of the Act.

(c) [(d)] An application for renewal will be deemed to have been timely filed if it shows a postmark on or before the expiration date of the registration. When the last day of the renewal period falls on a non-business day, renewal applications also will be deemed to have been timely filed if received or postmarked no later than the first business day following the last day of the renewal period. "Non-business" days are Saturday, Sunday and any other day upon which the commission offices are closed due to a state holiday designated in the General Appropriations Act or by other law.

(d) [(e)] Renewals by registrants who are on active duty in the United States armed forces or who are subject to the provisions of the Texas Education Code, §57.491, concerning certain student loans also will be governed by §535.92 of this title (relating to Renewal: Time for Filing; Satisfaction of Mandatory Continuing Education Requirements [Miscellaneous Provisions Concerning License Renewals]).

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 December 20, 2010.

TRD-201007267

Loretta R. DeHay

General Counsel

Texas Real Estate Commission

Earliest possible date of adoption: February 6, 2011

For further information, please call: (512) 465-3926



CHAPTER 539. RULES RELATING TO THE RESIDENTIAL SERVICE COMPANY ACT

SUBCHAPTER G. APPLICATION FOR LICENSE

22 TAC §539.61

The Texas Real Estate Commission (TREC) proposes amendments to §539.61 concerning Application and Licensing. The proposed amendments add new subsection (c) to provide a deadline for applicants to provide information to the commission in connection with an application.

There is currently no deadline for responding to a request for information. Creating a time certain for termination of an incomplete application will allow the Commission to create a records retention period for TREC to maintain the application and related materials.

Loretta R. DeHay, General Counsel, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the sections. There is no anticipated economic effect on small businesses, micro-businesses or local or state employment as a result of implementing the sections.

Ms. DeHay also has determined that for each year of the first five years the sections as proposed are in effect the public benefit anticipated as a result of enforcing the sections will be enhanced consumer protection for purchasers of residential service contracts. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Comments on the proposal may be submitted to Loretta R. DeHay, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188.

The amendments are proposed under Texas Occupations Code, §1303.051, which authorizes the Texas Real Estate Commission to adopt rules necessary to implement Chapter 1303.

The statute affected by this proposal is Texas Occupations Code, Chapter 1303. No other statute, code or article is affected by the proposed amendments.

§539.61. *Application and Licensing.*

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

(c) An application for residential service company license or an application to approve evidence of coverage/schedule of charges in §539.71(2) of this chapter (relating to Miscellaneous Forms) will

be terminated and the commission shall take no further action if the applicant fails to submit a response within 90 days after the commission mails a request to the applicant for curative action.

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 December 20, 2010.

07268

Loretta R. DeHay
General Counsel

Texas Real Estate Commission

Earliest possible date of adoption: February 6, 2011

For further information, please call: (512) 465-3926



SUBCHAPTER M. EXAMINATIONS

22 TAC §539.121

The Texas Real Estate Commission (TREC) proposes amendments to §539.121 concerning Examinations. The proposed amendments change the examination period from three to five years.

Experience with recent examinations has shown that most, if not all, licensees are generally in compliance with the commission's requirements and that examinations may be conducted less frequently without compromising consumer protection. In addition, the significant increase in the number of licensed companies in recent years combined with limited staff and resources further necessitates extending the time between examinations from three years to five years.

Loretta R. DeHay, General Counsel, has determined that for the first five-year period the amendment is in effect there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the sections. There is no anticipated economic effect on small businesses, micro-businesses or local or state employment as a result of implementing the sections.

Ms. DeHay also has determined that for each year of the first five years the amendment as proposed is in effect the public benefit anticipated as a result of enforcing the section will be enhanced consumer protection for purchasers of residential service contracts. There is no anticipated economic cost to persons who are required to comply with the proposed amendment.

Comments on the proposal may be submitted to Loretta R. DeHay, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188.

The amendment is proposed under Texas Occupations Code, §1303.051, which authorizes the Texas Real Estate Commission to adopt rules necessary to implement Chapter 1303.

The statute affected by this proposal is Texas Occupations Code, Chapter 1303. No other statute, code or article is affected by the proposed amendment.

§539.121. *Examinations.*

The commission shall examine the affairs of each licensed residential service company as the commission deems necessary, but no less than once every five [~~three~~] years. A company's failure to provide access to

the commission to the books and records of the company is a violation of Texas Occupations Code, Chapter 1303, §1303.053, and may subject the company to the penalties provided in Chapter 1303.

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 December 20, 2010.

07269

Loretta R. DeHay
General Counsel

Texas Real Estate Commission

Earliest possible date of adoption: February 6, 2011

For further information, please call: (512) 465-3926



SUBCHAPTER P. COMPLAINTS

22 TAC §539.150

The Texas Real Estate Commission (TREC) proposes new Subchapter P, Complaints, and new §539.150 concerning Complaints. The proposed new section establishes a complaint procedure for filing complaints against residential service companies licensed by the commission. The new section establishes a deadline in which complaints may be filed with the commission and establishes a deadline in which respondents must respond to requests for information from the commission. The procedure and time periods are the same as those established by rule for other licensees subject to the commission's jurisdiction.

Loretta R. DeHay, General Counsel, has determined that for the first five-year period the section is in effect there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the section. There is no anticipated economic effect on small businesses, micro-businesses or local or state employment as a result of implementing the section.

Ms. DeHay also has determined that for each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcing the section will be enhanced consumer protection for purchasers of residential service contracts. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Comments on the proposal may be submitted to Loretta R. DeHay, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188.

The new section is proposed under Texas Occupations Code, §1303.051, which authorizes the Texas Real Estate Commission to adopt rules necessary to implement Chapter 1303.

The statute affected by this proposal is Texas Occupations Code, Chapter 1303. No other statute, code or article is affected by the proposed section.

§539.150. *Complaints.*

(a) Complaints regarding licensed residential service companies and contracts issued by those companies shall be in writing and signed by the person filing the complaint.

(b) The commission shall not investigate a complaint submitted more than four years after the date of the transaction that is the subject of the complaint.

(c) A residential service company shall provide information or documents requested by the commission or a commission representative in the course of the investigation of a complaint within 10 working days of receipt of the request.

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 December 20, 2010.

TRD-201007270

Loretta R. DeHay

General Counsel

Texas Real Estate Commission

Earliest possible date of adoption: February 6, 2011

For further information, please call: (512) 465-3926



TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 97. COMMUNICABLE DISEASES

The Executive Commissioner of the Health and Human Services Commission, on behalf of the Department of State Health Services (department), proposes amendments to §97.63 concerning immunization requirements in Texas elementary and secondary schools, §97.101 and §97.102 concerning statewide immunization of children, and the repeal of §97.221 concerning the Department of State Health Services Immunization Schedule.

BACKGROUND AND PURPOSE

Government Code, §2001.039, requires that each state agency review and consider for reoption each rule adopted by that agency pursuant to the Government Code, Chapter 2001 (Administrative Procedure Act), according to the schedule listed therein. Sections 97.63, 97.101, 97.102, and 97.221 have been reviewed, and the department has determined that §§97.63, 97.101 and 97.102 should continue to exist (with amendments as proposed) because rules on that subject are needed. However, the department is proposing the repeal of §97.221, for the reasons stated in the Section-By-Section Summary. Together, these proposed changes to the rules would more closely adhere to requirements in the enabling statute and more clearly distinguish immunizations required for school entry from immunizations which are recommended by the department but which are not required for school entry. The proposed amendments and repeal would not substantively change the immunizations required for school entry.

SECTION-BY-SECTION SUMMARY

Section 97.63.

In order to provide better clarity and accuracy concerning immunization requirements, the department proposes rule amendments to §97.63. The title of the rule section is proposed to be amended to reflect the fact that the rule has always contained im-

munization requirements regarding entry to child-care facilities, pre-kindergarten and early childhood programs.

The rule is also proposed to be amended with language to help clarify the distinction between immunization requirements and the department's immunization recommendations. This rule contains, and would continue to contain under the proposed amendments, the vaccine school-entry requirements for Texas for the grade-levels referenced in the rule title (higher education requirements are found in §97.64 (relating to Required Vaccinations for Students Enrolled in Health-related and Veterinary Courses in Institutions of Higher Education)). Proposed rule amendments would make this clear and also state that persons can obtain copies of the department's recommendations from the agency website (www.immunizetexas.com) or by writing to the given address (since §97.221, which currently contains the department's recommendations, is proposed for repeal).

These proposed rule amendments in §97.63(1) would provide greater clarity and readability regarding how to determine compliance with vaccine dose requirements, given the individual child's birthday. Also, the cross-reference to §97.221 is proposed for deletion, since that rule is proposed for repeal and such a cross-reference is not needed in this provision.

Amendments to §97.63(2)(A) are proposed to improve clarity and readability in the first sentence. Also, the cross-reference to §97.221 is proposed for deletion, since that rule is proposed for repeal. In order to follow the same format as the remainder of the rule section, the vaccine requirements for child-care facilities, pre-kindergarten, and early childhood programs are proposed to be actually listed out in the rule, as opposed to being simply cross-referenced. There are no substantive changes proposed to the requirements themselves--they are simply being moved from §97.221 to §97.63(2)(A). Doing so eliminates the need for a reader to go to a different rule to get these particular requirements, and thus makes this entire rule section more user-friendly.

The word "current" is proposed to be added in §97.63(2)(B)(vi) to clarify that the list of geographical areas which can be obtained from the department, as stated in the rule, would be a current list.

Section 97.101.

The department proposes amendments to §97.101 to avoid redundancy regarding vaccine requirements, improve clarity, and to ensure the rule properly reflects the enabling statute.

The titles of Subchapter D and §97.101 are proposed to be amended to more accurately reflect the content under each given the reorganization proposed in this rulemaking.

The proposed amendments to §97.101 rule text include deletion of the language contained in subsections (a), (b), (f), and (g).

One of the main reasons for the amendments proposed in this rulemaking is to more clearly differentiate between immunizations which are required for school entry and immunizations which are recommended by the department but are not required for school entry (see full discussion in the paragraph regarding proposed repeal of §97.221). As part of this effort to make those distinctions easier to understand for Texas parents, students, school nurses, etc., subsections (a) and (b) of §97.101 are proposed for deletion. The required vaccines and doses for school entry are currently specified in §97.63 and §97.64 of this title, and nothing in this rulemaking proposal would change that. Sections 97.63 and 97.64 satisfy the Texas Health and Safety

Code, §161.004(a) mandate that the department have vaccine requirements in rule. There has been confusion regarding the use of the phrase "immunization schedule" as it pertains to requirements versus recommendations. As part of the proposed reorganization to make these distinctions more clear, §97.221 is proposed for repeal. Section 97.101(a) contains a cross-reference to §97.221, and so that language would need to be deleted as part of the proposed reorganization. Remaining language in §97.101(a) and (b) would be deleted as redundant and unnecessary.

Section 97.101(f) is proposed for deletion because the Texas Health and Safety Code, §81.061, articulates the power granted to the department regarding investigations, and does not grant similar powers to other entities. The proposed change is to ensure the rules properly reflect the enabling statute. The statutory provision at issue can stand alone regarding department investigative power, such that no rule language on the subject is needed here.

Section 97.101(g) is proposed for repeal because a cross-reference to §97.62 is no longer necessary or appropriate here, given the reorganization of the section. Nothing in this repeal affects the applicability of §97.62 itself.

The remaining rule amendments to §97.101 are for relettering purposes only, because of the proposed reorganization of the section. The language in new subsections (a), (b), and (c) needs to remain in order to satisfy Texas Health and Safety Code, §161.004.

Section 97.102.

The department proposes an amendment to §97.102(a) to reflect the proposed amendment in §97.63 that changes the rule title to "Immunization Requirements in Child-care Facilities, Pre-Kindergarten, Early Childhood Programs, and Texas Elementary and Secondary Schools" and amends the department's mailing address. Also, §97.102(b) was amended to reflect the correct rule title references.

Section 97.221.

Section 97.221 is proposed for repeal. Texas Health and Safety Code, §161.004, states that the department must promulgate childhood immunization requirements through adoption of an immunization schedule in rulemaking. The current department rules, which require certain immunizations for school entry, are found in §97.63 and §97.64. At the same time, vaccines recommended by the department are currently articulated in §97.221, titled "Department of State Health Services Immunization Schedule." The use of the word "schedule" accompanying these recommendations has caused confusion, given the use of the word in Texas Health and Safety Code, §161.004 to state how immunization requirements must be written into rule. Under this statutory wording, the "schedule" is where requirements--not recommendations--must be located. Contributing to this problem is the fact that federal immunization recommendations are listed in a document called a "schedule." All of this has led to inconsistent terminology and problematic cross-references in the Texas rules as they exist today. The proposed amendments and repeal would correct these problems.

There is no statutory directive for department recommendations regarding immunizations to be contained in a rule, as opposed to being communicated to the public in a more informal manner. Therefore, in order to better adhere to the statutory wording, to be able to react more quickly to new developments in

medicine, and to avoid confusion between requirements versus department recommendations, the department proposes repealing §97.221. Once repealed, the department would make its recommendations for immunizations through its website and included in its ongoing public outreach regarding immunization in Texas. The department would continue making copies of recommendations regarding immunizations available to the public, upon request. Immunization school entry requirements for the State of Texas would remain in rule (as they are now), as required by Texas Health and Safety Code, §161.004, and other statutory provisions.

FISCAL NOTE

Ms. Janna Zumbrun, Section Director, Infectious Disease Prevention Section, has determined that for each year of the first five years that the sections will be in effect, if future funds are appropriated at current levels, there will be no additional fiscal implications to state or local governments as a result of enforcing and administering the sections as proposed since funds needed to implement the rules were appropriated.

SMALL AND MICRO-BUSINESS IMPACT ANALYSIS

Ms. Zumbrun has also determined that there will be no effect on small businesses or micro-businesses required to comply with the sections as proposed. This was determined by interpretation of the rules that small businesses and micro-businesses will not be required to alter their business practices in order to comply with the sections. The proposed amendments and repeal would improve the clarity, readability and user-friendliness of the rules, which should increase the efficiency of any of the impacted businesses who routinely use these rules (e.g., doctor's offices).

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT

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

PUBLIC BENEFIT

In addition, Ms. Zumbrun has also determined that for each year of the first five years the sections are in effect, the public will benefit from adoption of the sections. The public benefit anticipated would be a result of the improved clarity, readability, and user-friendliness of the rules for persons and entities affected by the rules at issue (e.g., parents; directors and school nurses at child-care facilities, public or private primary and secondary schools, and institutions of higher education; physicians; health care clinics and hospitals).

REGULATORY ANALYSIS

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

TAKINGS IMPACT ASSESSMENT

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

PUBLIC COMMENT

Comments on the proposal may be submitted to Tim Hawkins, Infectious Disease Prevention Section, Department of State Health Services, Mail Code 1946, P.O. Box 149347, Austin, Texas 78714-9437, (512) 458-7111, extension 3394, or (800) 252-9152. Comments will be accepted for 30 days following publication of this proposal in the *Texas Register*.

LEGAL CERTIFICATION

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

SUBCHAPTER B. IMMUNIZATION REQUIREMENTS IN TEXAS ELEMENTARY AND SECONDARY SCHOOLS AND INSTITUTIONS OF HIGHER EDUCATION

25 TAC §97.63

STATUTORY AUTHORITY

The amendment is authorized under Health and Safety Code, §81.023, which requires the department to develop immunization requirements for children; and §161.004 and §161.0041 regarding statewide immunization of children and associated logistics; and Government Code, §531.0055, and Health and Safety Code, §1001.075, which authorize the Executive Commissioner of the Health and Human Services Commission to adopt rules and policies necessary for the operation and provision of health and human services by the department and for the administration of Health and Safety Code, Chapter 1001. The review of the section implements Government Code, §2001.039.

The amendment affects Health and Safety Code, §§81.023, 161.004, and 161.0041; Texas Education Code, §38.001 and §51.933; and Human Resources Code, §42.043.

§97.63. Immunization Requirements in Child-care Facilities, Pre-Kindergarten, Early Childhood Programs, and Texas Elementary and Secondary Schools.

Every child in the state shall be vaccinated against vaccine-preventable diseases caused by infectious agents, in accordance with the following immunization schedule. While the department recommends that providers immunize children according to the recommendations found on the department's website at www.ImmunizeTexas.com, this section sets out minimum immunization requirements for school entry for the child. A copy of the current recommended schedule is available at www.ImmunizeTexas.com, or by mail by writing the Department of State Health Services, Mail Code 1946, P.O. Box 149347, Austin, Texas 78714-9347.

(1) For those vaccines for which it is stated in this section that a certain dose must be received on or after a certain birthday, a [A] vaccine administered up to four days prior to the deadline is [for that vaccine in the department Immunization Schedule, §97.221 of this title (relating to Department of State Health Services Immunization Schedule) and in the schedules in this section, are] considered compliant with that deadline.

(2) For diseases listed below, a child or student shall show acceptable evidence of vaccination prior to entry, attendance, or transfer to a child-care facility or public or private elementary or secondary school.

(A) Children enrolled in child-care facilities, pre-kindergarten, or early childhood programs shall be immunized ~~against:~~ [have the following immunizations (at the ages indicated) against:] diphtheria, pertussis, tetanus, poliomyelitis, *Haemophilus influenzae* type b (Hib), measles, mumps, rubella, hepatitis B, hepatitis A, invasive pneumococcal, and varicella diseases. In recognition of the fact that immunization needs vary depending on the age of the child, the minimum number of doses required for each vaccine is indicated in the schedule below: [in accordance with the department Immunization Schedule, §97.221 of this title. A copy of the current schedule is available at www.ImmunizeTexas.com or by mail to the Department of State Health Services, P.O. Box 149347, Austin, Texas 78714-9347.]

Figure: 25 TAC §97.63(2)(A)

(B) Students in kindergarten through twelfth grade shall have the following vaccines, according to the schedule listed.

(i) Poliomyelitis.

(I) Kindergarten entry. Students are required to have four doses of polio vaccine--one of which must have been received on or after the fourth birthday. Or, if the third dose was administered on or after the fourth birthday, only three doses are required. Four doses of oral polio vaccine (OPV) or inactivated poliovirus vaccine (IPV) in any combination by age four to six years old is considered a complete series, regardless of age at the time of the third dose.

(II) Polio vaccine is not required for persons eighteen years of age or older.

(ii) Diphtheria/Tetanus/Pertussis.

(I) Kindergarten entry. Students are required to have five doses of a diphtheria/tetanus/pertussis-containing vaccine--one of which must have been received on or after the fourth birthday. Or, if the fourth dose was administered on or after the fourth birthday, only four doses are required.

(II) Students seven years of age or older. Students seven years of age or older are required to have at least three doses of a tetanus/diphtheria-containing vaccine, provided at least one dose was administered on or after the fourth birthday. Any combination of three doses of a tetanus/diphtheria-containing vaccine will meet this requirement.

(III) Tdap.

(-a-) For the school year (SY) 2008 - 2009 through the end of any summer session of the SY 2008 - 2009, students are required to have one dose of a tetanus/diphtheria-containing vaccine within the last ten years.

(-b-) Seventh grade. Beginning SY 2009 - 2010, students will be required to have one booster dose of a tetanus/diphtheria/pertussis-containing vaccine for entry into the 7th grade, if at least five years have passed since the last dose of a tetanus-containing vaccine. If five years have not elapsed since the last dose of a tetanus-containing vaccine at entry into the 7th grade, then this dose will become due as soon as the five-year interval has passed. Td vaccine is an acceptable substitute, if Tdap vaccine is medically contraindicated.

(-c-) Grades 8 - 12. Beginning SY 2009 - 2010, students who have not already received Tdap vaccine are required to receive one booster dose of Tdap when ten years have passed since the last dose of a tetanus-diphtheria-containing vaccine.

(IV) Children who were enrolled in school, grades K - 12, prior to August 1, 2004, and who received a booster dose of DTaP or polio vaccine in the calendar month of (or prior to) their fourth birthday, shall be considered in compliance with clause (i)(I) (polio) and clause (ii)(I) (DTaP) of this subparagraph.

(iii) MMR.

(I) For the SY 2008 - 2009 through the end of any summer session of the SY 2008 - 2009, students are required to have two doses of a measles-containing vaccine, and one dose each of rubella vaccine and mumps vaccine.

(II) Beginning SY 2009 - 2010, students are required to have two doses of MMR vaccine with the first dose received on or after the first birthday for the following grades and school years:

- (-a-) SY 2009 - 2010: K;
- (-b-) SY 2010 - 2011: K - 1;
- (-c-) SY 2011 - 2012: K - 2;
- (-d-) SY 2012 - 2013: K - 3;
- (-e-) SY 2013 - 2014: K - 4;
- (-f-) SY 2014 - 2015: K - 5;
- (-g-) SY 2015 - 2016: K - 6;
- (-h-) SY 2016 - 2017: K - 7;
- (-i-) SY 2017 - 2018: K - 8;
- (-j-) SY 2018 - 2019: K - 9;
- (-k-) SY 2019 - 2020: K - 10;
- (-l-) SY 2020 - 2021: K - 11; and
- (-m-) SY 2021 - 2022: K - 12.

(iv) Hepatitis B.

(I) Students are required to have three doses of hepatitis B vaccine no later than entry into kindergarten.

(II) In some circumstances, the United States Food and Drug Administration may officially approve in writing the use of an alternative dosage schedule for this vaccine. Such an alternative regimen may be used to meet the requirements under this section only when alternative regimens are fully documented. Such documentation must include vaccine manufacturer and dosage received for each dose of that vaccine.

(v) Varicella.

(I) For the SY 2008 - 2009 through the end of any summer session of the SY 2008 - 2009, students are required to have one dose of varicella vaccine received on or after the first birthday for grades K - 12.

(II) Beginning SY 2009 - 2010, students are required to have two doses of varicella vaccine received on or after the first birthday for the following grades and school years (Two doses are required if the child was thirteen years old or older at the time the first dose of varicella vaccine was received):

- (-a-) SY 2009 - 2010: K, 7;
- (-b-) SY 2010 - 2011: K - 1, 7 - 8;
- (-c-) SY 2011 - 2012: K - 2, 7 - 9;
- (-d-) SY 2012 - 2013: K - 3, 7 - 10;
- (-e-) SY 2013 - 2014: K - 4, 7 - 11;
- (-f-) SY 2014 - 2015: K - 5, 7 - 12; and
- (-g-) SY 2015 - 2016: K - 12.

(vi) Hepatitis A.

(I) For the SY 2008 - 2009 through the end of any summer session of the SY 2008 - 2009, upon entry into kindergarten through third grade, two doses of hepatitis A vaccine are required for students attending a school located in a high incidence geographic area as designated by the department. The first dose shall be administered

on or after the second birthday. A current list of geographic areas, for which hepatitis A is mandated for this time period, is available at www.ImmunizeTexas.com, or by mail request at Department of State Health Services, P.O. Box 149347, Austin Texas 78714-9347.

(II) For SY 2009 - 2010, students are required to have two doses of hepatitis A vaccine with the first dose received on or after the first birthday for the following grades and school years:

- (-a-) SY 2009 - 2010: K;
- (-b-) SY 2010 - 2011: K - 1;
- (-c-) SY 2011 - 2012: K - 2;
- (-d-) SY 2012 - 2013: K - 3;
- (-e-) SY 2013 - 2014: K - 4;
- (-f-) SY 2014 - 2015: K - 5;
- (-g-) SY 2015 - 2016: K - 6;
- (-h-) SY 2016 - 2017: K - 7;
- (-i-) SY 2017 - 2018: K - 8;
- (-j-) SY 2018 - 2019: K - 9;
- (-k-) SY 2019 - 2020: K - 10;
- (-l-) SY 2020 - 2021: K - 11; and
- (-m-) SY 2021 - 2022: K - 12.

(vii) Meningococcal. Students are required to have one dose of meningococcal vaccine for the following grades and school years:

- (I) SY 2009 - 2010: 7;
- (II) SY 2010 - 2011: 7 - 8;
- (III) SY 2011 - 2012: 7 - 9;
- (IV) SY 2012 - 2013: 7 - 10;
- (V) SY 2013 - 2014: 7 - 11; and
- (VI) SY 2014 - 2015: 7 - 12.

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 December 21, 2010.

TRD-201007278

Lisa Hernandez

General Counsel

Department of State Health Services

Earliest possible date of adoption: February 6, 2011

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



SUBCHAPTER D. STATEWIDE IMMUNIZATION OF CHILDREN IN CERTAIN FACILITIES AND BY HOSPITALS, PHYSICIANS, AND OTHER HEALTH CARE PROVIDERS

25 TAC §97.101, §97.102

STATUTORY AUTHORITY

The amendments are authorized under Health and Safety Code, §81.023, which requires the department to develop immunization requirements for children; and §161.004 and §161.0041 regarding statewide immunization of children and associated logistics; and Government Code, §531.0055, and Health and Safety Code, §1001.075, which authorize the Executive Commissioner

of the Health and Human Services Commission to adopt rules and policies necessary for the operation and provision of health and human services by the department and for the administration of Health and Safety Code, Chapter 1001. The review of the sections implements Government Code, §2001.039.

The amendments affect Health and Safety Code, §§81.023, 161.004, and 161.0041; Texas Education Code, §38.001 and §51.933; and Human Resources Code, §42.043.

§97.101. Statewide Immunization of Children by Hospitals, Physicians, and other Health Care Providers.

~~{(a) Every person less than 18 years old shall be immunized against vaccine-preventable diseases in accordance with the immunization schedule adopted by the Executive Commissioner of the Health and Human Services Commission as referenced in §97.221 of this title (relating to the Department of State Health Services Immunization Schedule). The immunization requirements are also adopted as a statewide "control measure" for communicable diseases as that term is used in the Health and Safety Code, §§81.081 - 81.082, and as an "instruction of the department" as that term is used in the Health and Safety Code, §81.007.}~~

~~{(b) The vaccine requirements shall be those required for children and students under §§97.61 - 97.72 of this title (relating to Immunization Requirements in Texas Elementary and Secondary Schools and Institutions of Higher Education). Additional copies of Immunization Requirements in Texas Elementary and Secondary Schools and Institutions of Higher Education may be obtained from the Department of State Health Services, 1100 West 49th Street, Austin, Texas 78756-3180, (512) 458-7284.}~~

~~(a) [(e)] All private and public hospitals in Texas that provide health care to children shall:~~

~~(1) administer age-appropriate vaccines or refer newborns for immunizations to other health care providers at the time of the newborn screening test;~~

~~(2) review the immunization history of every child admitted to the hospital, examined in the hospital's emergency room, or outpatient clinic; and~~

~~(3) administer the needed vaccines or refer the child to another health care provider for immunizations.~~

~~(b) [(d)] All physicians and other health care providers who provide health care to children in Texas shall:~~

~~(1) review the immunization history of every child examined; and~~

~~(2) administer vaccine(s) or refer every child who needs immunizations to another health care provider.~~

~~(c) [(e)] Hospitals, all physicians, and other health care providers, who provide health care to children in Texas, must document in a newborn's or other child's hospital or medical record that the newborn or child has either received age-appropriate immunizations or has been referred for immunizations at the time of the newborn screening or upon a child's admission to the hospital, examination in a hospital emergency room or visit to an outpatient clinic. Hospitals, all physicians, and other health care providers who provide health care to children in Texas must document in a newborn's or other child's hospital or medical record that the:~~

~~(1) newborn's or other child's immunization history has been reviewed; and~~

~~(2) that the newborn or child has been age-appropriately immunized or that the newborn has been referred to another health care provider for immunizations.~~

~~{(f) If requested by the local health unit, local health department, public health district, or the department, the provider shall furnish identifying information on those children who have been immunized or referred for immunizations. The information, if available, must include at least the name and date of birth of the child, the child's address, the name and telephone number of a parent or guardian, the month, day, and year of vaccine administration, the name or type of vaccines administered, the name and address of the provider that administered the vaccines; or other evidence of immunity to a vaccine-preventable disease.}~~

~~{(g) Children are exempt from immunizations as referenced in §97.62 of this title (relating to Exclusions from Compliance).}~~

§97.102. Immunizations Required upon Admission of a Child to the Texas Department of Criminal Justice, Department of Aging and Disability Services, Department of State Health Services, or the Texas Youth Commission.

(a) On admission of a child to a facility of the Department of Aging and Disability Services, Department of State Health Services, the Texas Department of Criminal Justice, or the Texas Youth Commission, the facility physician shall review the immunization history of the child, if available, and administer any needed immunization(s) or refer the child for immunization(s) to another health care provider. Required immunizations are those set out in §97.63 of this title (relating to Immunization Requirements in Child-care Facilities, Pre-Kindergarten, Early Childhood Programs, and Texas Elementary and Secondary Schools [Required Immunizations]). Copies of Immunization Requirements in Texas Elementary and Secondary Schools and Institutions of Higher Education may be obtained from the Department of State Health Services, Mail Code 1946, P.O. Box 149347, 78714-9347 [1100 West 49th Street], Austin, Texas 78714-9347 [78756-3180], (512) 458-7284.

(b) The provisions of §97.62 of this title (relating to Exclusions of Compliance) and §97.66 and §97.69 of this title (relating to Provisional Enrollment for (Non-Higher Education; Non-Veterinary) Students and relating to Transfer of Immunization Records) apply to this section.

(c) The facility covered by this section shall keep an individual's immunization record during the child's period of admission, detention, or commitment in the facility. Representatives of the department and local health authorities may advise and assist these agencies in meeting these requirements. The department may conduct periodic review of these agencies' identified immunization records in order to allow public health officials to obtain information required for public health purposes. The information, if available, must include at least the name and date of birth of the child, the child's address, the name and telephone number of a parent or guardian, the month, day, and year of vaccine administration, the name or type of vaccines administered, the name and address of the provider that administered the vaccines; or other evidence of immunity to a vaccine-preventable disease.

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 December 21, 2010.

TRD-201007279

Lisa Hernandez
General Counsel
Department of State Health Services
Earliest possible date of adoption: February 6, 2011
For further information, please call: (512) 458-7111 x6972



SUBCHAPTER J. DEPARTMENT OF STATE HEALTH SERVICES IMMUNIZATION SCHEDULE

25 TAC §97.221

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

STATUTORY AUTHORITY

The repeal is authorized under Health and Safety Code, §81.023, which requires the department to develop immunization requirements for children; and §161.004 and §161.0041 regarding statewide immunization of children and associated logistics; and Government Code, §531.0055, and Health and Safety Code, §1001.075, which authorize the Executive Commissioner of the Health and Human Services Commission to adopt rules and policies necessary for the operation and provision of health and human services by the department and for the administration of Health and Safety Code, Chapter 1001. The review of the section implements Government Code, §2001.039.

The repeal affects Health and Safety Code, §§81.023, 161.004, and 161.0041; Texas Education Code, §38.001 and §51.933; and Human Resources Code, §42.043.

§97.221. *Department of State Health Services Immunization Schedule.*

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 December 21, 2010.

TRD-201007280
Lisa Hernandez
General Counsel
Department of State Health Services
Earliest possible date of adoption: February 6, 2011
For further information, please call: (512) 458-7111 x6972



CHAPTER 265. GENERAL SANITATION SUBCHAPTER D. MINIMUM ACCEPTABLE OPERATING STANDARDS FOR WATER SYSTEMS SERVING CAMPS

25 TAC §§265.51 - 265.61

(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 Department of State Health Services or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin, Texas.)

The Executive Commissioner of the Health and Human Services Commission, on behalf of the Department of State Health Services (department), proposes the repeal of §§265.51 - 265.61, concerning the minimum acceptable operating standards for water systems serving camps.

BACKGROUND AND PURPOSE

The Texas Youth Camp Safety and Health Act, Health and Safety Code, Chapter 141, requires the department to develop health and safety standards for youth camp water supplies. The Texas Commission on Environmental Quality regulates public water systems serving youth camps. The repeal of the rules is a result of changes incorporated into the amended Texas youth camps safety and health rule, which included operating standards for private water supplies at youth camps. The amendments to 25 TAC §265.13, were in response to recommendations made by the Youth Camp Advisory Committee, as well as by state program personnel based on statutory authority found in the Texas Youth Camp Safety and Health Act, Health and Safety Code, Chapter 141.

SECTION-BY-SECTION SUMMARY

The repeal of §§265.51 - 265.61 is in response to changes in §265.13(r) that were effective in May 2010, establishing current operating standards for private water supplies at youth camps. The repeals will eliminate duplication concerning water standards for youth camps in the rules.

FISCAL NOTE

Susan E. Tennyson, Section Director, Environmental and Consumer Safety Section, has determined that for each year of the first five-year period that the repeals are in effect, there will be no fiscal implications to state or local governments as a result of enforcing and administering the sections as proposed for repeal.

SMALL AND MICRO-BUSINESS IMPACT ANALYSIS

Ms. Tennyson has also determined that there will be no effect on small businesses or micro-businesses required to comply with the sections as proposed for repeal. This was determined by interpretation of the rules that small businesses and micro-businesses will not be required to alter their business practices in order to comply with the repealed sections.

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT

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

PUBLIC BENEFIT

In addition, Ms. Tennyson has also determined that for each year of the first five years the repeals are in effect, the public will benefit by eliminating duplicate rule requirements in favor of those that in May 2010 were incorporated in §265.13(r); therefore, providing more clear and concise rules.

REGULATORY ANALYSIS

The department has determined that this proposal is not a "major environmental rule" as defined by Government Code, §2001.0225. "Major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment

or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

TAKINGS IMPACT ASSESSMENT

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

PUBLIC COMMENT

Comments on the proposed repeals may be submitted to Paula Anderson, Public Health Sanitation and Consumer Product Safety Group, Department of State Health Services, Mail Code 1987, P.O. Box 149347, Austin, Texas 78714-9347, (512) 834-6770, extension 2303, or by email to paula.anderson@dshs.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

LEGAL CERTIFICATION

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

STATUTORY AUTHORITY

The repeals are authorized by Health and Safety Code, §141.008, which authorizes the Executive Commissioner of the Health and Human Services Commission to adopt rules to implement the Youth Camp Safety and Health Act; and by Government Code, §531.0055, and Health and Safety Code, §1001.075, which authorize the Executive Commissioner of the Health and Human Services Commission to adopt rules and policies necessary for the operation and provision of health and human services by the department and for the administration of Health and Safety Code, Chapter 1001.

The repeals affect the Health and Safety Code, Chapters 141 and 1001; and Government Code, Chapter 531.

§265.51. *General Provisions.*

§265.52. *Bacteriological.*

§265.53. *Chemical.*

§265.54. *Chlorination.*

§265.55. *Disinfection of New or Repaired Facilities.*

§265.56. *Calcium Hypochlorite.*

§265.57. *Cross Connection Control.*

§265.58. *Flushing of Mains.*

§265.59. *Collection System Location.*

§265.60. *Well Logs.*

§265.61. *Interconnection.*

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 December 27, 2010.

TRD-201007357

Lisa Hernandez
General Counsel

Department of State Health Services

Earliest possible date of adoption: February 6, 2011

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



CHAPTER 405. PATIENT CARE--MENTAL HEALTH SERVICES

SUBCHAPTER L. HUMAN IMMUNODEFICIENCY VIRUS (HIV) PREVENTION, TESTING, AND TREATMENT

25 TAC §§405.281 - 405.297

(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 Department of State Health Services or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin, Texas.)

The Executive Commissioner of the Health and Human Services Commission, on behalf of the Department of State Health Services (department), proposes the repeal of §§405.281 - 405.297, concerning Human Immunodeficiency Virus (HIV) Prevention, Testing, and Treatment.

BACKGROUND AND PURPOSE

The repeal is necessary to better conform HIV prevention, testing, and treatment in state hospitals (Austin State Hospital, Big Spring State Hospital, El Paso Psychiatric Center, Kerrville State Hospital, North Texas State Hospital, Rusk State Hospital, San Antonio State Hospital, Terrell State Hospital, Rio Grande State Center, and Waco Center for Youth) to state law and the Centers for Disease Control and Prevention (CDC) guidelines regarding prevention, counseling, testing, and treatment.

The rules are no longer necessary because the requirements are covered sufficiently in other statutes, other rules, federal law, and departmental policy. The requirements for the rules are covered sufficiently in Health and Safety Code, Chapters 81, 85, 181, and 611; Civil Practice and Remedies Code, §74.104; the Health Insurance Portability and Accountability Act, Standards for Privacy of Individually Identifiable Health Information, 45 Code of Federal Regulations Parts 160 and 164; the Americans with Disabilities Act, 42 United States Code §12101 *et seq.*; CDC *Revised Recommendations for HIV Testing of Adults, Adolescents, and Pregnant Women in Health Care Settings*; 25 TAC §§97.131 - 97.134, 97.136 - 97.146 and §§414.1 - 414.8; and the department's guidelines for HIV Testing in State Hospitals, Revised January 22, 2010.

In January 2010, the State Hospital Section issued a policy stipulating that the state hospitals would follow the CDC *Revised Recommendations for HIV Testing of Adults, Adolescents, and Pregnant Women in Health Care-Settings* last revised in 2006. That policy is located at http://www.dshs.state.tx.us/mhsa/news/documents/070910_HIV-mtg_SH-HIV-Policy.pdf. The benefits of following the CDC guidelines are that the CDC revises the guidelines frequently, the CDC develops the guidelines

from substantial best practices research, and the guidelines represent a clear national standard. Additionally, The Joint Commission advises all accredited hospitals to adhere to the CDC guidelines (Sentinel Events Issue 28).

Government Code, §2001.039, requires that each state agency review and consider for readoption each rule adopted by that agency pursuant to the Government Code, Chapter 2001 (Administrative Procedure Act). Sections 405.281 - 405.297 have been reviewed and the department has determined that reasons for adopting the sections no longer exist because rules are no longer needed.

SECTION-BY-SECTION SUMMARY

The repeal of §§405.281 - 405.297 will eliminate unnecessary rules and bring the department into compliance with state and federal law and CDC guidelines.

FISCAL NOTE

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

SMALL AND MICRO-BUSINESS IMPACT ANALYSIS

Mr. Maples has also determined that there will be no effect on small businesses or micro-businesses required to comply with the sections as proposed for repeal. This was determined by interpretation of the rules that small businesses and micro-businesses will not be required to alter their business practices in order to comply with the repealed sections.

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT

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

PUBLIC BENEFIT

In addition, Mr. Maples has determined that for each year of the first five years the repeals are in effect the public will benefit as a result of the repeal of these rules because unnecessary rules will be eliminated while maintaining continued protection of the public health, welfare, and safety in keeping with currently accepted medical practices.

REGULATORY ANALYSIS

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

TAKINGS IMPACT ASSESSMENT

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

PUBLIC COMMENT

Comments on the proposal may be submitted to Nnenna Ezekoye, Mental Health and Substance Abuse Division, Department of State Health Services, Mail Code 2053, P.O. Box 149347, Austin, Texas 78714-9347, telephone (512) 206-5268, or by email to Nnenna.Ezekoye@dshs.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

PUBLIC HEARING

A public hearing to receive comments on the proposal will be scheduled after publication in the *Texas Register*. The meeting date and location will be posted on the Behavioral Health Medical Director website (<http://www.dshs.state.tx.us/mhsa/medicaldirector/>) and the Mental Health and Substance Abuse Division Website (<http://www.dshs.state.tx.us/mentalhealth.shtm>). Please contact Nnenna Ezekoye at (512) 206-5268 or Nnenna.Ezekoye@dshs.state.tx.us if you have questions.

LEGAL CERTIFICATION

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

STATUTORY AUTHORITY

The repeals are authorized by Health and Safety Code, §81.004, which provides the Executive Commissioner of the Health and Human Services Commission with authority to adopt rules and guidelines relating to communicable diseases and Health and Safety Code; §85.003, which authorizes the department to adopt policies and guidelines for HIV education, prevention, risk reduction materials, policies, and information in this state; and by Government Code, §531.0055, and Health and Safety Code, §1001.075, which authorize the Executive Commissioner of the Health and Human Services Commission to adopt rules and policies necessary for the operation and provision of health and human services by the department and for the administration of Health and Safety Code, Chapter 1001. The review of the sections implements Government Code, §2001.039.

The repeals affect the Health and Safety Code, Chapters 81, 85, and 1001; and Government Code, Chapter 531.

§405.281. *Purpose.*

§405.282. *Application.*

§405.283. *Definitions.*

§405.284. *Policy Overview.*

§405.285. *Education.*

§405.286. *Screening for HIV Antibody.*

§405.287. *Counseling.*

§405.288. *Confidentiality of Test Results.*

§405.289. *Documentation of Test Results.*

§405.290. *Required Reporting of Test Results.*

§405.291. *Management of Exposure to Blood/Body Substances.*

- §405.292. *Limitation of Client Activity.*
- §405.293. *Personnel Issues.*
- §405.294. *Responsibility and Resources.*
- §405.295. *Exhibits.*
- §405.296. *References.*
- §405.297. *Distribution.*

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 December 21, 2010.

TRD-201007277

Lisa Hernandez
General Counsel

Department of State Health Services

Earliest possible date of adoption: February 6, 2011

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



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 1. DEPARTMENT OF AGING AND DISABILITY SERVICES

CHAPTER 17. PILOT PROGRAM FOR MONITORING CERTAIN UNLICENSED LONG-TERM CARE FACILITIES

40 TAC §§17.101, 17.103, 17.105

(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 Department of Aging and Disability Services or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin, Texas.)

The Health and Human Services Commission (HHSC) proposes, on behalf of the Department of Aging and Disability Services (DADS), the repeal of Chapter 17, §§17.101, 17.103, and 17.105, concerning Pilot Program for Monitoring Certain Unlicensed Long-Term Care Facilities.

BACKGROUND AND PURPOSE

The purpose of the repeal is to remove rules regarding the Pilot Program for Monitoring Certain Unlicensed Long-Term Care Facilities, which expired on September 1, 2007, from the DADS rule base. Senate Bill (SB) 6, 79th Legislature, Regular Session, 2005, directed the Executive Commissioner of HHSC to develop and implement a pilot program to identify and take certain actions related to long-term care facilities operating without licenses or in violation of their licenses. The pilot program has expired and the report required by SB 6 was submitted by HHSC to appropriate officials. Rules governing the program comprise Chapter 17.

SECTION-BY-SECTION SUMMARY

The repeal of §17.101 removes rules regarding the purpose of the pilot program and defining "long-term care facility."

The repeal of §17.103 removes rules regarding DADS responsibility to administer and coordinate the pilot program.

The repeal of §17.105 removes rules regarding responsibilities of local officials who choose to participate in the pilot program.

FISCAL NOTE

Gordon Taylor, DADS Chief Financial Officer, has determined that, for the first five years after the repeal, there are no foreseeable implications relating to costs or revenues of state or local governments.

SMALL BUSINESS AND MICRO-BUSINESS IMPACT ANALYSIS

DADS has determined that the proposed repeal will have no adverse economic effect on small businesses or micro-businesses, because the rules relate to a pilot project that has expired.

PUBLIC BENEFIT AND COSTS

Veronda Durden, DADS Assistant Commissioner for Regulatory Services, has determined that, for each year of the first five years after the repeal, the public benefit expected as a result of repealing the chapter is that unnecessary rules will be removed from DADS' rule base, thereby eliminating any confusion regarding the status of the pilot program.

Ms. Durden anticipates that there will not be an economic cost to persons who are affected by the repeal. The repeal will not affect a local economy.

TAKINGS IMPACT ASSESSMENT

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

PUBLIC COMMENT

Questions about the content of this proposal may be directed to Nancy Porter at (512) 438-4820 in DADS' Legal Services. Written comments on the proposal may be submitted to Texas Register Liaison, Legal Services-9R034, Department of Aging and Disability Services W-615, P.O. Box 149030, Austin, Texas 78714-9030 or street address 701 West 51st Street, Austin, Texas 78751; faxed to (512) 438-5759; or e-mailed to rule-comments@dads.state.tx.us. To be considered, comments must be submitted no later than 30 days after the date of this issue of the *Texas Register*. The last day to submit comments falls on a Sunday; therefore, comments must be: (1) post-marked or shipped before the last day of the comment period; (2) hand-delivered to DADS before 5:00 p.m. on DADS' last working day of the comment period; or (3) faxed or e-mailed by midnight on the last day of the comment period. When faxing or e-mailing comments, please indicate "Comments on Proposed Rule 9R034" in the subject line.

STATUTORY AUTHORITY

The repeal is proposed under Texas Government Code, §531.0055, which provides that the HHSC executive commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, including DADS; and Texas Human Resources Code, §161.021, which

provides that the Aging and Disability Services Council shall study and make recommendations to the HHSC executive commissioner and the DADS commissioner regarding rules governing the delivery of services to persons who are served or regulated by DADS.

The repeal implements Texas Government Code, §531.0055, and Texas Human Resources Code, §161.021.

§17.101. *Purpose.*

§17.103. *Department of Aging and Disability Services Responsibilities.*

§17.105. *Local Officials and Task Force Responsibilities.*

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 December 27, 2010.

TRD-201007356

Kenneth L. Owens

General Counsel

Department of Aging and Disability Services

Earliest possible date of adoption: February 6, 2011

For further information, please call: (512) 438-3734



CHAPTER 19. NURSING FACILITY REQUIREMENTS FOR LICENSURE AND MEDICAID CERTIFICATION

SUBCHAPTER T. ADMINISTRATION

40 TAC §19.1921

The Health and Human Services Commission (HHSC) proposes, on behalf of the Department of Aging and Disability Services (DADS), an amendment to §19.1921, concerning general requirements for a nursing facility, in Chapter 19, Nursing Facility Requirements for Licensure and Medicaid Certification.

BACKGROUND AND PURPOSE

The purpose of the proposed amendment is to implement House Bill (HB) 1081, 81st Legislature, Regular Session, 2009, which amended the Texas Health and Safety Code, §242.042. HB 1081 requires DADS to post to its website detailed information regarding resident rights and responsibilities in a nursing facility. To comply, the proposed amendment requires a nursing facility to upload to the DADS website a statement of all facility requirements involving resident rights and responsibilities that are not in the general statement of resident rights and responsibilities given to a resident upon admission to the facility. A nursing facility is also required to update the statement if changes are made after the initial posting. Proposed amendments to other provisions of §19.1921, explained more fully in the section-by-section summary, relate to denial of admission to a resident from a facility undergoing emergency closure, the posting of resident rights and responsibilities unique to a facility, and management of resident personal property. In addition, a statutory citation is amended to reference a more appropriate provision in state law.

SECTION-BY-SECTION SUMMARY

The proposed amendment to §19.1921(a)(1) and (2) deletes the requirement that a facility must provide a written explanation

to the DADS regional director or program manager if the facility denies admission to a resident from a facility being closed in an emergency. The provision authorizing an administrative penalty to be imposed for failure to provide this explanation is also deleted. DADS has determined that the resident admission process provides sufficient protections to residents seeking admission to a facility under these circumstances, making an explanation for the denial unnecessary.

The proposed amendment to §19.1921(e)(8) adds that any additional requirements involving resident rights and responsibilities that are not in the general statement of resident rights must also be posted. This amendment clarifies that all nursing facility requirements involving resident rights and responsibilities must be posted in the facility, including requirements that are unique to the facility.

The proposed amendment to §19.1921(e)(11) changes the citation to the section of the Texas Government Code that describes the requirements for a sign stating that it is unlawful to carry a handgun on the premises of a nursing facility.

The proposed amendment to §19.1921(j) clarifies that a facility's operating policies and procedures must provide for the management of all personal property of a resident to prevent loss or damage. The amendment clarifies that a facility is responsible for managing all resident personal property, not just clothing.

Proposed new §19.1921(p) requires a nursing facility to upload to the DADS website a statement of all facility requirements involving resident rights and responsibilities that are not in the general statement of resident rights described in §19.401. The new subsection also requires the facility to upload a revised statement if the facility changes its requirements.

FISCAL NOTE

Gordon Taylor, DADS Chief Financial Officer, has determined that, for the first five years the proposed amendment is in effect, enforcing or administering the amendment does not have foreseeable implications relating to costs or revenues of state or local governments.

SMALL BUSINESS AND MICRO-BUSINESS IMPACT ANALYSIS

DADS has determined that the proposed amendment will not have an adverse economic effect on small businesses or micro-businesses, because state law already requires a nursing facility to provide resident rights and responsibilities information to a resident upon admission. The cost for a nursing facility to upload its additional information regarding resident rights and responsibilities to the DADS website should be negligible.

PUBLIC BENEFIT AND COSTS

Veronda Durden, DADS Assistant Commissioner for Regulatory Services, has determined that, for each year of the first five years the amendment is in effect, the public benefit expected as a result of enforcing the amendment is greater access to information for nursing facility residents, advocacy groups, and other stakeholders about the resident rights and responsibilities in nursing facilities across the state.

Ms. Durden anticipates that there will be an economic cost to persons who are required to comply with the amendment. The probable economic cost to persons required to comply with the amendment for each year of the first five years the amendment is in effect will be insignificant. State law already requires a nursing facility to provide residents with rights and responsibilities infor-

mation upon admission; therefore, the additional requirement to upload changes to the information to the DADS website should not pose a significant cost to a nursing facility.

TAKINGS IMPACT ASSESSMENT

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

PUBLIC COMMENT

Questions about the content of this proposal may be directed to Justin Eaton at (512) 438-2133 in DADS Regulatory Services Division. Written comments on the proposal may be submitted to Texas Register Liaison, Legal Services-9R025, Department of Aging and Disability Services W-615, P.O. Box 149030, Austin, Texas 78714-9030, or street address 701 West 51st Street, Austin, Texas 78751; faxed to (512) 438-5759; or e-mailed to rulescomments@dads.state.tx.us. To be considered, comments must be submitted no later than 30 days after the date of this issue of the *Texas Register*. The last day to submit comments falls on a Sunday; therefore, comments must be: (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered to DADS before 5:00 p.m. on DADS last working day of the comment period; or (3) faxed or e-mailed by midnight on the last day of the comment period. When faxing or e-mailing comments, please indicate "Comments on Proposed Rule 9R025" in the subject line.

STATUTORY AUTHORITY

The amendment is proposed under Texas Government Code, §531.0055, which provides that the HHSC executive commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, including DADS; and Texas Human Resources Code, §161.021, which provides that the Aging and Disability Services Council shall study and make recommendations to the HHSC executive commissioner and the DADS commissioner regarding rules governing the delivery of services to persons who are served or regulated by DADS; and Texas Health and Safety Code, Chapter 242, which authorizes DADS to license and regulate nursing facilities.

The amendment implements Texas Government Code, §531.0055, and Texas Human Resources Code, §161.021.

§19.1921. General Requirements for a Nursing Facility.

(a) The facility must admit and retain only residents whose needs can be met through service from the facility staff, or in cooperation with community resources or other providers under contract.

~~{(1) In any circumstance in which a facility refuses to admit a resident being transferred due to the emergency closure of another facility, the facility must provide the DADS regional director or program manager for the area in which the facility is located with a written statement of the reasons for the refusal within 10 working days after the refusal.}~~

~~{(2) Failure to submit the written statement timely or including false or misleading information in the statement will result in an administrative penalty.}~~

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

(e) Each licensed facility must conspicuously and prominently post the information listed in paragraphs (1) - (12) of this subsection in an area of the facility that is readily available to residents, employees, and visitors. The posting must be in a manner that each item of information is directly visible at a single time. In the case of a licensed section that is part of a larger building or complex, the posting must be in the licensed section or public way leading to it. Any exceptions must be approved by DADS. The following items must be posted:

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

(8) ~~the [a] statement of resident rights provided in §19.401 of this chapter (relating to Introduction) and any additional facility requirements involving resident rights and responsibilities [using a form DADS provides];~~

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

(11) at each entrance to the facility, a sign that states that a person may not enter the premises with a concealed handgun and that complies with Government Code §411.204 [Penal Code §30.06]; and

(12) (No change.)

(f) - (i) (No change.)

(j) Within 72 hours after admission, the facility must prepare a written inventory of the personal property a resident brings to the facility, such as furnishings, jewelry, televisions, radios, sewing machines, and medical equipment. The facility does not have to inventory the resident's clothing; however, the operating policies and procedures must provide for the management of resident clothing and other personal property to prevent loss or damage. The facility administrator or his or her designee must sign and retain the written inventory and must give a copy to the resident or the resident's responsible party or both. The facility must revise the written inventory to show if property is lost, destroyed, damaged, replaced, or supplemented. Upon discharge of the resident, the facility must document the disposition of personal effects by a dated receipt bearing the signature of the resident or the resident's responsible party or both. See §19.416 of this chapter (relating to Personal Property).

(k) - (o) (No change.)

(p) A facility must upload to the DADS website, at <http://fives.dads.state.tx.us/choose.asp>, a statement of all facility requirements involving resident rights and responsibilities that are not described in §19.401(b) of this chapter. The facility must promptly upload a revised statement if the facility changes its requirements.

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

Filed with the Office of the Secretary of State on December 27, 2010.

TRD-201007355
Kenneth L. Owens
General Counsel

Department of Aging and Disability Services
Earliest possible date of adoption: February 6, 2011
For further information, please call: (512) 438-3734



WITHDRAWN RULES

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

TITLE 19. EDUCATION

PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

CHAPTER 21. STUDENT SERVICES

SUBCHAPTER E. TEXAS B-ON-TIME LOAN PROGRAM

19 TAC §21.129

The Texas Higher Education Coordinating Board withdraws the proposed amendment to §21.129 which appeared in the June 25, 2010, issue of the *Texas Register* (35 TexReg 5434).

Filed with the Office of the Secretary of State on December 22, 2010.

TRD-201007299

Bill Franz

General Counsel

Texas Higher Education Coordinating Board

Effective date: December 22, 2010

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



ADOPTED RULES

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

TITLE 4. AGRICULTURE

PART 1. TEXAS DEPARTMENT OF AGRICULTURE

CHAPTER 25. SPECIAL NUTRITION PROGRAMS

SUBCHAPTER A. CHILD AND ADULT CARE FOOD PROGRAM (CACFP)

The Texas Department of Agriculture (department) adopts the repeal of Chapter 25, Subchapter A, relating to the Child and Adult Care Food Program (CACFP), without changes to the proposal published in the November 12, 2010, issue of the *Texas Register* (35 TexReg 9975). Subchapter A is comprised of Division 1, §§25.1 - 25.4, relating to the overview and purpose of the program; Division 2, §§25.11 - 25.37, relating to the eligibility of contractors and facilities; Division 3, §§25.61 - 25.68, relating to the contractor application process; Division 4, §§25.81 - 25.92, relating to program agreements; Division 5, §§25.111 - 25.122, relating to contractor standards and responsibilities; Division 6, §§25.141 - 25.154, relating to budgets; Division 7, §§25.161 - 25.165, relating to financial management; Division 8, §§25.171 - 25.183, relating to reporting and record retention; Division 9, §§25.191 - 25.198, relating to meal requirements; Division 10, §§25.211 - 25.233, relating to day care homes; Division 11, §§25.261 - 25.269, relating to start-up and expansion payments; Division 12, §§25.281 - 25.290, relating to advance payments; Division 13, §§25.311 - 25.317, relating to commodities and cash-in-lieu assistance; Division 14, §§25.331 - 25.363, relating to reimbursement; Division 15, §§25.381 - 25.383, relating to overpayments; Division 16, §§25.391 - 25.406, relating to program reviews, monitoring, and management evaluations; Division 17, §§25.421 - 25.425, relating to audits; Division 18, §§25.441 - 25.472, relating to sanctions, penalties, and fiscal action; and Division 19, §§25.491 - 25.497, relating to denials and termination. The repeals are adopted so that the department may adopt uniform rules relating to the department's oversight of the Child and Adult Care Food Program. The repealed sections are replaced by revised rules addressing the same substantive areas. The adopted new rules are published in the adopted rule section of this issue of the *Texas Register*.

No comments were received on the proposal.

DIVISION 1. OVERVIEW AND PURPOSE

4 TAC §§25.1 - 25.4

The repeal of Chapter 25, Subchapter A, Division 1, §§25.1 - 25.4, is adopted under the Texas Agriculture Code (the Code), §12.0025, which authorizes the department to administer federal and state nutrition programs including the Child and Adult Care

Food Program; and the Code, §12.016, which authorizes the department to adopt rules as necessary for the administration of its powers and duties under this 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 December 22, 2010.

TRD-201007303

Dolores Alvarado Hibbs

General Counsel

Texas Department of Agriculture

Effective date: January 11, 2011

Proposal publication date: November 12, 2010

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



DIVISION 2. ELIGIBILITY OF CONTRACTORS AND FACILITIES

4 TAC §§25.11 - 25.37

The repeal of Chapter 25, Subchapter A, Division 2, §§25.11 - 25.37, is adopted under the Texas Agriculture Code (the Code), §12.0025, which authorizes the department to administer federal and state nutrition programs including the Child and Adult Care Food Program; and the Code, §12.016, which authorizes the department to adopt rules as necessary for the administration of its powers and duties under this 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 December 22, 2010.

TRD-201007304

Dolores Alvarado Hibbs

General Counsel

Texas Department of Agriculture

Effective date: January 11, 2011

Proposal publication date: November 12, 2010

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



DIVISION 3. CONTRACTOR APPLICATION PROCESS

4 TAC §§25.61 - 25.68

The repeal of Chapter 25, Subchapter A, Division 3, §§25.61 - 25.68, is adopted under the Texas Agriculture Code (the Code), §12.0025, which authorizes the department to administer federal and state nutrition programs including the Child and Adult Care Food Program; and the Code, §12.016, which authorizes the department to adopt rules as necessary for the administration of its powers and duties under this 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 December 22, 2010.

TRD-201007305

Dolores Alvarado Hibbs

General Counsel

Texas Department of Agriculture

Effective date: January 11, 2011

Proposal publication date: November 12, 2010

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



DIVISION 4. AGREEMENTS

4 TAC §§25.81 - 25.92

The repeal of Chapter 25, Subchapter A, Division 4, §§25.81 - 25.92, is adopted under the Texas Agriculture Code (the Code), §12.0025, which authorizes the department to administer federal and state nutrition programs including the Child and Adult Care Food Program; and the Code, §12.016, which authorizes the department to adopt rules as necessary for the administration of its powers and duties under this 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 December 22, 2010.

TRD-201007306

Dolores Alvarado Hibbs

General Counsel

Texas Department of Agriculture

Effective date: January 11, 2011

Proposal publication date: November 12, 2010

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



DIVISION 5. CONTRACTOR STANDARDS AND RESPONSIBILITIES

4 TAC §§25.111 - 25.122

The repeal of Chapter 25, Subchapter A, Division 5, §§25.111 - 25.122, is adopted under the Texas Agriculture Code (the Code), §12.0025, which authorizes the department to administer federal and state nutrition programs including the Child and Adult Care Food Program; and the Code, §12.016, which authorizes the

department to adopt rules as necessary for the administration of its powers and duties under this 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 December 22, 2010.

TRD-201007307

Dolores Alvarado Hibbs

General Counsel

Texas Department of Agriculture

Effective date: January 11, 2011

Proposal publication date: November 12, 2010

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



DIVISION 6. BUDGETS

4 TAC §§25.141 - 25.154

The repeal of Chapter 25, Subchapter A, Division 6, §§25.141 - 25.154, is adopted under the Texas Agriculture Code (the Code), §12.0025, which authorizes the department to administer federal and state nutrition programs including the Child and Adult Care Food Program; and the Code, §12.016, which authorizes the department to adopt rules as necessary for the administration of its powers and duties under this 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 December 22, 2010.

TRD-201007308

Dolores Alvarado Hibbs

General Counsel

Texas Department of Agriculture

Effective date: January 11, 2011

Proposal publication date: November 12, 2010

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



DIVISION 7. FINANCIAL MANAGEMENT

4 TAC §§25.161 - 25.165

The repeal of Chapter 25, Subchapter A, Division 7, §§25.161 - 25.165, is adopted under the Texas Agriculture Code (the Code), §12.0025, which authorizes the department to administer federal and state nutrition programs including the Child and Adult Care Food Program; and the Code, §12.016, which authorizes the department to adopt rules as necessary for the administration of its powers and duties under this 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 December 22, 2010.

TRD-201007309
Dolores Alvarado Hibbs
General Counsel
Texas Department of Agriculture
Effective date: January 11, 2011
Proposal publication date: November 12, 2010
For further information, please call: (512) 463-4075

◆ ◆ ◆
**DIVISION 8. REPORTING AND RECORD
RETENTION**

4 TAC §§25.171 - 25.183

The repeal of Chapter 25, Subchapter A, Division 8, §§25.171 - 25.183, is adopted under the Texas Agriculture Code (the Code), §12.0025, which authorizes the department to administer federal and state nutrition programs including the Child and Adult Care Food Program; and the Code, §12.016, which authorizes the department to adopt rules as necessary for the administration of its powers and duties under this 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 December 22, 2010.

TRD-201007310
Dolores Alvarado Hibbs
General Counsel
Texas Department of Agriculture
Effective date: January 11, 2011
Proposal publication date: November 12, 2010
For further information, please call: (512) 463-4075

◆ ◆ ◆
DIVISION 9. MEAL REQUIREMENTS

4 TAC §§25.191 - 25.198

The repeal of Chapter 25, Subchapter A, Division 9, §§25.191 - 25.198, is adopted under the Texas Agriculture Code (the Code), §12.0025, which authorizes the department to administer federal and state nutrition programs including the Child and Adult Care Food Program; and the Code, §12.016, which authorizes the department to adopt rules as necessary for the administration of its powers and duties under this 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 December 22, 2010.

TRD-201007311
Dolores Alvarado Hibbs
General Counsel
Texas Department of Agriculture
Effective date: January 11, 2011
Proposal publication date: November 12, 2010
For further information, please call: (512) 463-4075

◆ ◆ ◆
DIVISION 10. DAY CARE HOMES

4 TAC §§25.211 - 25.233

The repeal of Chapter 25, Subchapter A, Division 10, §§25.211 - 25.233, is adopted under the Texas Agriculture Code (the Code), §12.0025, which authorizes the department to administer federal and state nutrition programs including the Child and Adult Care Food Program; and the Code, §12.016, which authorizes the department to adopt rules as necessary for the administration of its powers and duties under this 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 December 22, 2010.

TRD-201007312
Dolores Alvarado Hibbs
General Counsel
Texas Department of Agriculture
Effective date: January 11, 2011
Proposal publication date: November 12, 2010
For further information, please call: (512) 463-4075

◆ ◆ ◆
**DIVISION 11. START-UP AND EXPANSION
PAYMENTS**

4 TAC §§25.261 - 25.269

The repeal of Chapter 25, Subchapter A, Division 11, §§25.261 - 25.269, is adopted under the Texas Agriculture Code (the Code), §12.0025, which authorizes the department to administer federal and state nutrition programs including the Child and Adult Care Food Program; and the Code, §12.016, which authorizes the department to adopt rules as necessary for the administration of its powers and duties under this 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 December 22, 2010.

TRD-201007313
Dolores Alvarado Hibbs
General Counsel
Texas Department of Agriculture
Effective date: January 11, 2011
Proposal publication date: November 12, 2010
For further information, please call: (512) 463-4075

◆ ◆ ◆
DIVISION 12. ADVANCE PAYMENTS

4 TAC §§25.281 - 25.290

The repeal of Chapter 25, Subchapter A, Division 12, §§25.281 - 25.290, is adopted under the Texas Agriculture Code (the Code),

§12.0025, which authorizes the department to administer federal and state nutrition programs including the Child and Adult Care Food Program; and the Code, §12.016, which authorizes the department to adopt rules as necessary for the administration of its powers and duties under this 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 December 22, 2010.

TRD-201007314

Dolores Alvarado Hibbs

General Counsel

Texas Department of Agriculture

Effective date: January 11, 2011

Proposal publication date: November 12, 2010

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



DIVISION 13. COMMODITIES AND CASH-IN-LIEU ASSISTANCE

4 TAC §§25.311 - 25.317

The repeal of Chapter 25, Subchapter A, Division 13, §§25.311 - 25.317, is adopted under the Texas Agriculture Code (the Code), §12.0025, which authorizes the department to administer federal and state nutrition programs including the Child and Adult Care Food Program; and the Code, §12.016, which authorizes the department to adopt rules as necessary for the administration of its powers and duties under this 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 December 22, 2010.

TRD-201007315

Dolores Alvarado Hibbs

General Counsel

Texas Department of Agriculture

Effective date: January 11, 2011

Proposal publication date: November 12, 2010

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



DIVISION 14. REIMBURSEMENT

4 TAC §§25.331 - 25.363

The repeal of Chapter 25, Subchapter A, Division 14, §§25.331 - 25.363, is adopted under the Texas Agriculture Code (the Code), §12.0025, which authorizes the department to administer federal and state nutrition programs including the Child and Adult Care Food Program; and the Code, §12.016, which authorizes the department to adopt rules as necessary for the administration of its powers and duties under this 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 December 22, 2010.

TRD-201007316

Dolores Alvarado Hibbs

General Counsel

Texas Department of Agriculture

Effective date: January 11, 2011

Proposal publication date: November 12, 2010

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



DIVISION 15. OVERPAYMENTS

4 TAC §§25.381 - 25.383

The repeal of Chapter 25, Subchapter A, Division 15, §§25.381 - 25.383, is adopted under the Texas Agriculture Code (the Code), §12.0025, which authorizes the department to administer federal and state nutrition programs including the Child and Adult Care Food Program; and the Code, §12.016, which authorizes the department to adopt rules as necessary for the administration of its powers and duties under this 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 December 22, 2010.

TRD-201007317

Dolores Alvarado Hibbs

General Counsel

Texas Department of Agriculture

Effective date: January 11, 2011

Proposal publication date: November 12, 2010

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



DIVISION 16. PROGRAM REVIEWS, MONITORING, AND MANAGEMENT EVALUATIONS

4 TAC §§25.391 - 25.406

The repeal of Chapter 25, Subchapter A, Division 16, §§25.391 - 25.406, is adopted under the Texas Agriculture Code (the Code), §12.0025, which authorizes the department to administer federal and state nutrition programs including the Child and Adult Care Food Program; and the Code, §12.016, which authorizes the department to adopt rules as necessary for the administration of its powers and duties under this 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 December 22, 2010.

TRD-201007318

Dolores Alvarado Hibbs
General Counsel

Texas Department of Agriculture

Effective date: January 11, 2011

Proposal publication date: November 12, 2010

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



DIVISION 17. AUDITS

4 TAC §§25.421 - 25.425

The repeal of Chapter 25, Subchapter A, Division 17, §§25.421 - 25.425, is adopted under the Texas Agriculture Code (the Code), §12.0025, which authorizes the department to administer federal and state nutrition programs including the Child and Adult Care Food Program; and the Code, §12.016, which authorizes the department to adopt rules as necessary for the administration of its powers and duties under this 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 December 22, 2010.

TRD-201007319

Dolores Alvarado Hibbs
General Counsel

Texas Department of Agriculture

Effective date: January 11, 2011

Proposal publication date: November 12, 2010

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



DIVISION 18. SANCTIONS, PENALTIES, AND FISCAL ACTION

4 TAC §§25.441 - 25.472

The repeal of Chapter 25, Subchapter A, Division 18, §§25.441 - 25.472, is adopted under the Texas Agriculture Code (the Code), §12.0025, which authorizes the department to administer federal and state nutrition programs including the Child and Adult Care Food Program; and the Code, §12.016, which authorizes the department to adopt rules as necessary for the administration of its powers and duties under this 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 December 22, 2010.

TRD-201007320

Dolores Alvarado Hibbs

General Counsel

Texas Department of Agriculture

Effective date: January 11, 2011

Proposal publication date: November 12, 2010

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



DIVISION 19. DENIALS AND TERMINATION

4 TAC §§25.491 - 25.497

The repeal of Chapter 25, Subchapter A, Division 19, §§25.491 - 25.497, is adopted under the Texas Agriculture Code (the Code), §12.0025, which authorizes the department to administer federal and state nutrition programs including the Child and Adult Care Food Program; and the Code, §12.016, which authorizes the department to adopt rules as necessary for the administration of its powers and duties under this 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 December 22, 2010.

TRD-201007321

Dolores Alvarado Hibbs
General Counsel

Texas Department of Agriculture

Effective date: January 11, 2011

Proposal publication date: November 12, 2010

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



SUBCHAPTER A. CHILD AND ADULT CARE FOOD PROGRAM (CACFP)

The Texas Department of Agriculture (TDA) adopts new Chapter 25, Subchapter A, concerning the Child and Adult Care Food Program (CACFP) without changes to the proposed text as published in the November 12, 2010, issue of the *Texas Register* (35 TexReg 9985). The new subchapter is adopted to reflect the transfer of CACFP from the Texas Health and Human Services Commission to TDA and to provide a more efficient administration of the CACFP. Further, the new subchapter adopts a concise and streamlined rule format; expands rule language to accurately reflect all types of sponsorships; omits information about concluded pilot programs; ensures consistency with the current Code of Federal Regulations (CFR); clarifies maintenance, retention and availability of CACFP records; and introduces several new rules aimed at increasing the integrity of CACFP. TDA, in a separate submission, is adopting the repeal of the existing CACFP rules currently contained in Chapter 25, Subchapter A, Divisions 1 - 19.

Subchapter A is comprised of the following:

Division 1, §§25.1 - 25.4 address CACFP generally. Adopted §25.1 contains a statement of purpose. Adopted §25.2 contains definitions related to CACFP administration. Adopted §25.3 contains a statement of authorization for the administration of CACFP. Adopted §25.4 contains terms of use for CACFP federal assistance.

Division 2, §§25.11 - 25.17 address eligibility requirements. Adopted §25.11 contains general eligibility requirements. Adopted §25.12 contains contractor and facility licensure requirements. Adopted §25.13 contains exceptions to licensure requirements. Adopted §25.14 contains contractor training requirements. Adopted §25.15 contains requirements for proof of tax-exempt status. Adopted §25.16 contains eligibility requirements for for-profit organizations or sponsored for-profit facilities. Adopted §25.17 contains performance bond requirements.

Division 3, §§25.21 - 25.23 address the contractor application process. Adopted §25.21 contains application requirements and procedures. Adopted §25.22 contains requirements for governing body awareness and performance based standards. Adopted §25.23 contains additional requirements for contractors.

Division 4, §§25.31 - 25.33 address agreements related to CACFP. Adopted §25.31 contains contracting requirements for contractors and facilities. Adopted §25.32 contains contracting requirements for contractors that use a food service management company, school food authority or vendor. Adopted §25.33 contains information regarding Food and Nutrition Division agreements.

Division 5, §§25.41 - 25.48 address contractor standards and responsibilities. Adopted §25.41 contains procurement guidelines. Adopted §25.42 contains guidelines for use and disposal of equipment. Adopted §25.43 contains requirements in regard to determining a participant's eligibility for free and reduced-price meals. Adopted §25.44 contains requirements in regard to verification of eligibility of participants. Adopted §25.45 contains non-discrimination compliance requirements. Adopted §25.46 contains training and technical assistance requirements. Adopted §25.47 contains rules regarding management plan changes. Adopted §25.48 contains information regarding when a facility may change sponsors.

Division 6, §§25.51 - 25.53 address budget requirements. Adopted §25.51 contains requirements regarding submission of an administrative budget. Adopted §25.52 contains requirements for budget amendments. Adopted §25.53 contains provisions related to determination of budget limits.

Division 7, §25.61 and §25.62 address financial management. Adopted §25.61 contains financial management system requirements. Adopted §25.62 contains record management and retention requirements.

Division 8, §§25.71 - 25.75 address reporting and record retention. Adopted §25.71 contains requirements for record maintenance. Adopted §25.72 contains records availability requirements. Adopted §25.73 contains requirements for contractor's availability. Adopted §25.74 contains notification requirements when a contractor changes its primary business location. Adopted §25.75 contains requirements in regard to use of forms.

Division 9, §25.81 and §25.82 address meal requirements. Adopted §25.81 contains requirements for claimed meals. Adopted §25.82 contains meal service guidelines.

Division 10, §§25.91 - 25.96 address day care home requirements. Adopted §25.91 contains application requirements for the participation of sponsored day care homes. Adopted §25.92 contains eligibility of day care homes. Adopted §25.93 contains how a day care home may change sponsors. Adopted §25.94

contains information about a day care home's ineligibility if convicted, including deferred adjudication, of fraud. Adopted §25.95 contains limitations to the sponsorship of day care homes. Adopted §25.96 contains additional guidelines for day care home sponsors.

Division 11, §25.101 addresses start-up and expansion funds. Adopted §25.101 contains information regarding the eligibility, application, issuance, use and monitoring of start-up and expansion funds.

Division 12, §§25.111 - 25.115 address advance payments. Adopted §25.111 contains advance payment regulations. Adopted §25.112 contains information regarding issuance of advances. Adopted §25.113 prohibits retroactive advance payments. Adopted §25.114 contains limitations on advance funding. Adopted §25.115 contains information on recoupment of advance payments.

Division 13, §§25.121 - 25.127 address information regarding commodities and cash-in-lieu assistance. Adopted §25.121 contains information on how TDA provides commodity assistance. Adopted §25.122 contains information in regard to determining if commodity assistance or cash-in-lieu is provided to contractors. Adopted §25.123 contains information about commodity distribution. Adopted §25.124 contains information about allowable costs in regard to distribution expenses. Adopted §25.125 contains information in regard to administrative expenses. Adopted §25.126 contains information regarding when a sponsor may pass distribution costs to day care homes. Adopted §25.127 contains information regarding the right to refuse commodities.

Division 14, §§25.131 - 25.143 address reimbursement. Adopted §25.131 contains TDA's authority to reimburse contractors for CACFP costs. Adopted §25.132 contains requirements that apply to contractors reimbursement of facilities. Adopted §25.133 contains information in regard to reimbursement rates. Adopted §25.134 contains information in regard to reimbursement options. Adopted §25.135 contains information in regard to reimbursement computation. Adopted §25.136 contains information about Title III benefits. Adopted §25.137 contains reimbursement information for Title III meals. Adopted §25.138 contains reimbursement information for meals and snacks. Adopted §25.139 contains requirements for filing claims. Adopted §25.140 contains information about late claims. Adopted §25.141 contains information about reimbursement for second meals. Adopted §25.142 contains information about family style meals. Adopted §25.143 contains information in regard to ineligible children in day care homes.

Division 15, §25.151 and §25.152 address overpayments. Adopted §25.151 contains information in regard to the management of overpayments. Adopted §25.152 prohibits day care home sponsors from using CACFP funds to recruit day care homes already participating in CACFP.

Division 16, §25.161 and §25.162 address CACFP reviews and monitoring. Adopted §25.161 contains information on how TDA conducts reviews and monitoring and requirements for sponsors to monitor their sponsored facilities. Adopted §25.162 requires contractors that purchase meals to monitor their vendor.

Division 17, §§25.171 - 25.174 address audits. Adopted §25.171 contains information about audits of contractors and sponsored facilities. Adopted §25.172 addresses acceptability of audits. Adopted §25.173 contains information in regard to notification to contractors. Adopted §25.174 contains information regarding allowability of audit expenses.

Division 18, §§25.181 - 25.184 address adverse actions, denials, and terminations. Adopted §25.181 contains information on investigations. Adopted §25.182 contains information in regard to adverse actions. Adopted §25.183 contains information regarding denial of applications and termination of agreements. Adopted §25.184 contains criteria for sponsoring organizations.

Division 19, §25.191, regarding appeals. Adopted §25.191 contains information in regard to conducting appeals.

No comments were received on the proposal.

DIVISION 1. OVERVIEW AND PURPOSE

4 TAC §§25.1 - 25.4

New §§25.1 - 25.4 are adopted under the Texas Agriculture Code, §12.0025, authorizing TDA to administer CACFP; and §12.016, authorizing TDA to adopt rules as necessary for the administration of its powers and duties under this 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 December 22, 2010.

TRD-201007322

Dolores Alvarado Hibbs

General Counsel

Texas Department of Agriculture

Effective date: January 11, 2011

Proposal publication date: November 12, 2010

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



DIVISION 2. ELIGIBILITY OF CONTRACTORS AND FACILITIES

4 TAC §§25.11 - 25.17

New §§25.11 - 25.17 are adopted under the Texas Agriculture Code, §12.0025, authorizing TDA to administer CACFP; and §12.016, authorizing TDA to adopt rules as necessary for the administration of its powers and duties under this 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 December 22, 2010.

TRD-201007323

Dolores Alvarado Hibbs

General Counsel

Texas Department of Agriculture

Effective date: January 11, 2011

Proposal publication date: November 12, 2010

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



DIVISION 3. CONTRACTOR APPLICATION PROCESS

4 TAC §§25.21 - 25.23

New §§25.21 - 25.23 are adopted under the Texas Agriculture Code, §12.0025, authorizing TDA to administer CACFP; and §12.016, authorizing TDA to adopt rules as necessary for the administration of its powers and duties under this 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 December 22, 2010.

TRD-201007324

Dolores Alvarado Hibbs

General Counsel

Texas Department of Agriculture

Effective date: January 11, 2011

Proposal publication date: November 12, 2010

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



DIVISION 4. AGREEMENTS

4 TAC §§25.31 - 25.33

New §§25.31 - 25.33 are adopted under the Texas Agriculture Code, §12.0025, authorizing TDA to administer CACFP; and §12.016, authorizing TDA to adopt rules as necessary for the administration of its powers and duties under this 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 December 22, 2010.

TRD-201007325

Dolores Alvarado Hibbs

General Counsel

Texas Department of Agriculture

Effective date: January 11, 2011

Proposal publication date: November 12, 2010

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



DIVISION 5. CONTRACTOR STANDARDS AND RESPONSIBILITIES

4 TAC §§25.41 - 25.48

New §§25.41 - 25.48 are adopted under the Texas Agriculture Code, §12.0025, authorizing TDA to administer CACFP; and §12.016, authorizing TDA to adopt rules as necessary for the administration of its powers and duties under this 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 December 22, 2010.

TRD-201007326

Dolores Alvarado Hibbs
General Counsel
Texas Department of Agriculture
Effective date: January 11, 2011
Proposal publication date: November 12, 2010
For further information, please call: (512) 463-4075



DIVISION 6. BUDGETS

4 TAC §§25.51 - 25.53

New §§25.51 - 25.53 are adopted under the Texas Agriculture Code, §12.0025, authorizing TDA to administer CACFP; and §12.016, authorizing TDA to adopt rules as necessary for the administration of its powers and duties under this 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 December 22, 2010.

TRD-201007327
Dolores Alvarado Hibbs
General Counsel
Texas Department of Agriculture
Effective date: January 11, 2011
Proposal publication date: November 12, 2010
For further information, please call: (512) 463-4075



DIVISION 7. FINANCIAL MANAGEMENT

4 TAC §§25.61, §25.62

New §25.61 and §25.62 are adopted under the Texas Agriculture Code, §12.0025, authorizing TDA to administer CACFP; and §12.016, authorizing TDA to adopt rules as necessary for the administration of its powers and duties under this 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 December 22, 2010.

TRD-201007328
Dolores Alvarado Hibbs
General Counsel
Texas Department of Agriculture
Effective date: January 11, 2011
Proposal publication date: November 12, 2010
For further information, please call: (512) 463-4075



DIVISION 8. REPORTING AND RECORD RETENTION

4 TAC §§25.71 - 25.75

New §§25.71 - 25.75 are adopted under the Texas Agriculture Code, §12.0025, authorizing TDA to administer CACFP; and §12.016, authorizing TDA to adopt rules as necessary for the administration of its powers and duties under this 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 December 22, 2010.

TRD-201007329
Dolores Alvarado Hibbs
General Counsel
Texas Department of Agriculture
Effective date: January 11, 2011
Proposal publication date: November 12, 2010
For further information, please call: (512) 463-4075



DIVISION 9. MEAL REQUIREMENTS

4 TAC §§25.81, §25.82

New §25.81 and §25.82 are adopted under the Texas Agriculture Code, §12.0025, authorizing TDA to administer CACFP; and §12.016, authorizing TDA to adopt rules as necessary for the administration of its powers and duties under this 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 December 22, 2010.

TRD-201007330
Dolores Alvarado Hibbs
General Counsel
Texas Department of Agriculture
Effective date: January 11, 2011
Proposal publication date: November 12, 2010
For further information, please call: (512) 463-4075



DIVISION 10. DAY CARE HOMES

4 TAC §§25.91 - 25.96

New §§25.91 - 25.96 are adopted under the Texas Agriculture Code, §12.0025, authorizing TDA to administer CACFP; and §12.016, authorizing TDA to adopt rules as necessary for the administration of its powers and duties under this 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 December 22, 2010.

TRD-201007331

Dolores Alvarado Hibbs
General Counsel
Texas Department of Agriculture
Effective date: January 11, 2011
Proposal publication date: November 12, 2010
For further information, please call: (512) 463-4075



DIVISION 11. START-UP AND EXPANSION FUNDS

4 TAC §§25.101

New §25.101 is adopted under the Texas Agriculture Code, §12.0025, authorizing TDA to administer CACFP; and §12.016, authorizing TDA to adopt rules as necessary for the administration of its powers and duties under this 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 December 22, 2010.

TRD-201007332
Dolores Alvarado Hibbs
General Counsel
Texas Department of Agriculture
Effective date: January 11, 2011
Proposal publication date: November 12, 2010
For further information, please call: (512) 463-4075



DIVISION 12. ADVANCES

4 TAC §§25.111 - 25.115

New §§25.111 - 25.115 are adopted under the Texas Agriculture Code, §12.0025, authorizing TDA to administer CACFP; and §12.016, authorizing TDA to adopt rules as necessary for the administration of its powers and duties under this 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 December 22, 2010.

TRD-201007333
Dolores Alvarado Hibbs
General Counsel
Texas Department of Agriculture
Effective date: January 11, 2011
Proposal publication date: November 12, 2010
For further information, please call: (512) 463-4075



DIVISION 13. COMMODITIES AND CASH-IN-LIEU ASSISTANCE

4 TAC §§25.121 - 25.127

New §§25.121 - 25.127 are adopted under the Texas Agriculture Code, §12.0025, authorizing TDA to administer CACFP; and §12.016, authorizing TDA to adopt rules as necessary for the administration of its powers and duties under this 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 December 22, 2010.

TRD-201007334
Dolores Alvarado Hibbs
General Counsel
Texas Department of Agriculture
Effective date: January 11, 2011
Proposal publication date: November 12, 2010
For further information, please call: (512) 463-4075



DIVISION 14. REIMBURSEMENT

4 TAC §§25.131 - 25.143

New §§25.131 - 25.143 are adopted under the Texas Agriculture Code, §12.0025, authorizing TDA to administer CACFP; and §12.016, authorizing TDA to adopt rules as necessary for the administration of its powers and duties under this 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 December 22, 2010.

TRD-201007335
Dolores Alvarado Hibbs
General Counsel
Texas Department of Agriculture
Effective date: January 11, 2011
Proposal publication date: November 12, 2010
For further information, please call: (512) 463-4075



DIVISION 15. OVERPAYMENTS

4 TAC §§25.151, §25.152

New §25.151 and §25.152 are adopted under the Texas Agriculture Code, §12.0025, authorizing TDA to administer CACFP; and §12.016, authorizing TDA to adopt rules as necessary for the administration of its powers and duties under this 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 December 22, 2010.

TRD-201007336

Dolores Alvarado Hibbs
General Counsel
Texas Department of Agriculture
Effective date: January 11, 2011
Proposal publication date: November 12, 2010
For further information, please call: (512) 463-4075



DIVISION 16. REVIEWS AND MONITORING

4 TAC §§25.161, §25.162

New §§25.161 and §25.162 are adopted under the Texas Agriculture Code, §12.0025, authorizing TDA to administer CACFP; and §12.016, authorizing TDA to adopt rules as necessary for the administration of its powers and duties under this 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 December 22, 2010.

TRD-201007337
Dolores Alvarado Hibbs
General Counsel
Texas Department of Agriculture
Effective date: January 11, 2011
Proposal publication date: November 12, 2010
For further information, please call: (512) 463-4075



DIVISION 17. AUDITS

4 TAC §§25.171 - 25.174

New §§25.171 - 25.174 are adopted under the Texas Agriculture Code, §12.0025, authorizing TDA to administer CACFP; and §12.016, authorizing TDA to adopt rules as necessary for the administration of its powers and duties under this 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 December 22, 2010.

TRD-201007338
Dolores Alvarado Hibbs
General Counsel
Texas Department of Agriculture
Effective date: January 11, 2011
Proposal publication date: November 12, 2010
For further information, please call: (512) 463-4075



DIVISION 18. ADVERSE ACTIONS, DENIALS AND TERMINATIONS

4 TAC §§25.181 - 25.184

New §§25.181 - 25.184 are adopted under the Texas Agriculture Code, §12.0025, authorizing TDA to administer CACFP; and §12.016, authorizing TDA to adopt rules as necessary for the administration of its powers and duties under this 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 December 22, 2010.

TRD-201007339
Dolores Alvarado Hibbs
General Counsel
Texas Department of Agriculture
Effective date: January 11, 2011
Proposal publication date: November 12, 2010
For further information, please call: (512) 463-4075



DIVISION 19. APPEALS

4 TAC §25.191

New §25.191 is adopted under the Texas Agriculture Code, §12.0025, authorizing TDA to administer CACFP; and §12.016, authorizing TDA to adopt rules as necessary for the administration of its powers and duties under this 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 December 22, 2010.

TRD-201007340
Dolores Alvarado Hibbs
General Counsel
Texas Department of Agriculture
Effective date: January 11, 2011
Proposal publication date: November 12, 2010
For further information, please call: (512) 463-4075



TITLE 13. CULTURAL RESOURCES

PART 9. TEXAS HOLOCAUST AND GENOCIDE COMMISSION

CHAPTER 191. COMMISSION PROCEDURES

13 TAC §§191.1, 191.3, 191.5, 191.7, 191.9

The Texas Holocaust and Genocide Commission (Commission) adopts new Chapter 191, §§191.1, 191.3, 191.5, 191.7, and 191.9, concerning Commission Procedures, without changes to the proposed text as published in the June 25, 2010, issue of the *Texas Register* (35 TexReg 5405).

The new sections are adopted to establish rules and standards of conduct for the Commission's officers and employees.

No comments were received regarding the proposed new sections.

The new sections are adopted under Texas Government Code §449.052(c), relating to general powers and duties of commission, which authorizes the Commission to adopt rules for its own procedures.

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 December 22, 2010.

TRD-201007343

Mark Wolfe

Executive Director

Texas Holocaust and Genocide Commission

Effective date: January 11, 2011

Proposal publication date: June 25, 2010

For further information, please call: (512) 463-5768



TITLE 22. EXAMINING BOARDS

PART 32. STATE BOARD OF EXAMINERS FOR SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY

CHAPTER 741. SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS

The State Board of Examiners for Speech-Language Pathology and Audiology (board) adopts amendments to §§741.1, 741.11 - 741.15, 741.31 - 741.33, 741.41 - 741.45, 741.61 - 741.65, 741.81 - 741.85, 741.91, 741.101 - 741.103, 741.111, 741.112, 741.121, 741.122, 741.141, 741.161, 741.162, 741.164, 741.165, 741.181, 741.182 and 741.191 - 741.201, the repeal of §741.163, and new §741.202 and §§741.211 - 741.215, concerning the regulation and licensure of speech-language pathologists and audiologists. Sections 741.1, 741.33, 741.65, 741.83, 741.85, 741.91, 741.112, 741.164, 741.191, 741.192, 741.211 and 741.213 are adopted with changes to the proposed text as published in the October 1, 2010, issue of the *Texas Register* (35 TexReg 8862). Sections 741.11 - 741.15, 741.31, 741.32, 741.41 - 741.45, 741.61 - 741.64, 741.81, 741.82, 741.84, 741.101 - 741.103, 741.111, 741.112, 741.121, 741.122, 741.141, 741.161, 741.162, 741.165, 741.181, 741.182, 741.193 - 741.202, 741.212, 741.214, and 741.215; and the repeal of §741.163 are adopted without changes and, therefore, the sections will not be republished.

BACKGROUND AND PURPOSE

Government Code, §2001.039, requires that each state agency review and consider for re-adoption each rule adopted by that agency pursuant to the Government Code, Chapter 2001 (Administrative Procedure Act). Sections 741.1, 741.11 - 741.15, 741.31 - 741.33, 741.41 - 741.45, 741.61 - 741.65, 741.81 - 741.85, 741.91, 741.101 - 741.103, 741.111, 741.112, 741.121, 741.122, 741.141, 741.161 - 741.165, 741.181, 741.182 and 741.191 - 741.201 have been reviewed and the board has determined that the reasons for adopting the sections continue to exist because rules relating to the licensure and regulation of speech-language pathologists and audiologists are needed in order to protect and promote public health, safety, and welfare.

The adoption represents the result of a comprehensive rule review undertaken by the board and the board's staff in accordance with ensuring clarity; current legal, policy, and operational considerations; accuracy; and improved draftsmanship.

The rules establish procedures to evaluate, upon request, the criminal history of potential applicants to determine if they are ineligible to hold a license. These evaluations will occur before the potential applicants enter or complete a preparatory educational program or licensure examination leading to licensure thereby allowing applicants to avoid unnecessary hardship or costs if their criminal history is a ground for license ineligibility. Additionally, the rules establish fees and procedures for the issuance of a criminal history evaluation letter.

The adopted rules are necessary to comply with amendments made to Occupations Code, Chapter 53 by House Bill (HB) 963, 81st Legislature, Regular Session (2009). HB 963 authorizes the collection of a fee for providing potential applicants a criminal history evaluation letter. All state agencies that issue licenses or certificates to engage in a particular occupation must adopt rules necessary to administer the new provisions by September 1, 2010.

SECTION BY SECTION SUMMARY

The amendment to §741.1 reflects current operating procedures and to clarify the definition of telehealth.

Sections 741.11, 741.32, 741.43, 741.81 - 741.84, 741.101, 741.103, 741.111, 741.162, 741.164, 741.165, 741.191 - 741.195, and 741.197 - 741.201 specifically improve draftsmanship.

The amendment to §741.12 deletes unnecessary language and improves draftsmanship.

The amendments to §§741.13, 741.14, 741.15, 741.31, 741.33, 741.41, 741.45, 741.61 - 741.65, 741.85, 741.91, 741.112, 741.121, 741.141, 741.161, 741.182, and 741.196 reflect current operating procedures, while improving draftsmanship.

The amendment to §741.42 deletes unnecessary and obsolete language.

The amendment to §741.44 improves draftsmanship and clarifies professional titles used by assistants and interns.

The amendment to §741.102 improves draftsmanship and clarifies what shall be on the written contract.

The amendment to §741.122 clarifies that licensees renewing a license must complete the jurisprudence examination for only one renewal period.

The repeal of existing §741.163 reflects current operating procedures.

The amendments to §741.181 and new §741.202 contain uniform language outlining provisions for fees and procedures for the issuance of criminal history evaluation letters in the speech-language pathology and audiology programs. The criminal history evaluation letter fee is \$50 for each of the programs and the procedures are uniform among the program rules. The procedures require a person making a request for the issuance of a criminal history evaluation letter to complete and submit a request form and the applicable fee. The rules require the department to make the requested determination regarding the person's eligibility for a license and issue a criminal history evaluation letter not later than the 90th day after the date the department received the request.

The amendments to §741.1 and new §§741.211 - 741.215 are to outline the definitions, service delivery mode, guidelines and limitations of telehealth services delivered by licensed speech-language pathologists and/or audiologists.

COMMENTS

The board has reviewed and prepared responses to the comments received regarding the proposed rules during the comment period. The commenters were ten licensees and two associations, including the Texas Speech-Language-Hearing Association and the American Speech-Language-Hearing Association. The commenters were not against the rules in their entirety; however, the commenters suggested some recommendations for change as discussed in the summary of comments.

Comment: Regarding §741.1, one commenter recommended clarifying the definition of an Assistant License in Speech-Language Pathology and an Assistant License in Audiology.

Response: The board agrees and has made the suggested modification by deleting §741.1(4) and (5), and replacing the definitions with new §741.1(11), Licensed Assistant in Speech-Language Pathology, and §741.1(12), Licensed Assistant in Audiology.

Comment: The board received comments from seven commenters regarding §741.33, four in support of the rule change.

Response: The board acknowledges the commenters' support of the rule. No changes were made as a result of the comments.

Comment: The board received comments from eight commenters regarding §741.33, one commenter recommended that this rule be deleted, the commenter thinks that parents should not be required to report to the state agency.

Response: The board disagrees. This rule is not a new rule, but a clarification of rules in the 25 Texas Administrative Code (TAC) Chapter 37, and 40 TAC §108.9, for reporting data to the state. No changes were made as a result of the comments.

Comment: Regarding §741.33, two commenters recommended that audiologists be required to report data to the Department of State Health Services Texas Early Hearing Detection and Intervention (TEHDI) Program.

Response: The board disagrees. The proposed rule as written does require audiologists to report the data. No changes were made as a result of the comments.

Comment: Regarding §741.33(b), one commenter recommended clarification of the information required for reporting.

Response: The board agrees and has made modification to §741.33(b), identifying reporting requirements through a designated electronic tracking system.

Comment: Regarding §741.44(f) and (g), one commenter agreed that the changes are helpful; however, asked if the initials "CF," or the term "Clinical Fellow" could be added after "SLP Intern."

Response: The board will keep this modification in mind for the future rulemaking. No change was made as a result of the comment.

Comment: Regarding §741.64(g)(4), one commenter recommended that the current rule allow for greater flexibility in supervising licensed assistants that are employed on a part-time basis.

Response: The board disagrees. There is already a mechanism in place--the Alternate Supervision Plan in §741.64(g)(5). No change was made as a result of the comment.

Comment: Regarding §741.65(b), one commenter recommended a change to maintain consistency with the rest of the rules with the term "in person supervision" rather than "observation" and to correct a grammatical error by replacing the word "less" with "fewer" than four hours of supervision.

Response: The board agrees and has made the suggested modifications to §741.65(b).

Comment: Regarding §741.83, one commenter recommended a change to maintain consistency with the rest of the document.

Response: The board agrees and has made the suggested modification to §741.83, with new language "for a license from this board."

Comment: Regarding §741.84(c), two commenters stated that the accreditation requirement should not be removed.

Response: The board disagrees. Baccalaureate programs are not accredited by the American Speech-Language-Hearing Association. No change was made as a result of the comments.

Comment: Regarding §741.85(c), one commenter questioned the intent of the change.

Response: The board agrees and has made modification to §741.85(c), replacing "may" with "shall."

Comment: Regarding §741.91(2), one commenter recommended that since there are no exceptions to the rule that "with the following exceptions" be deleted.

Response: The board agrees and has made the suggested modification to §741.91(2).

Comment: Regarding §741.161(u), one commenter recommended the removal of the reference to December 31, 2009.

Response: The board disagrees. At this time the board would like to keep the reference for historical purpose. No change was made as a result of the comment.

Comment: Regarding §741.162(c), one commenter recommended the removal of the reference to April 30, 2009.

Response: The board disagrees. At this time the board would like to keep the reference for historical purpose. No change was made as a result of the comment.

Comment: Regarding §741.164(a), one commenter recommended correction of a grammatical error.

Response: The board agrees and has made the suggested modification to §741.164(a), replacing "A licensee" with "Licensees."

Comment: Regarding §741.191(e), one commenter questioned the rule regarding dismissal of non-jurisdictional complaints.

Response: The board disagrees regarding the dismissal of non-jurisdictional complaints. No changes were made as a result of the comment.

Comment: Regarding §741.191(i), one commenter recommended an editorial change for clarity.

Response: The board agrees and has made the suggested modification to §741.191(i), with the addition of the word "that."

Comment: Regarding §741.192(c), one commenter identified a grammatical error.

Response: The board agrees and has replaced the word "information" with "informal"; and replaced the words "request on" to "requests a."

Comment: Regarding §741.202, one commenter expressed support for the rule.

Response: The board acknowledges the commenter's support of the rules. No changes were made as a result of the comment.

Comment: The board received three comments regarding §741.211(4). Two commenters suggested that the word "Clinician" should be changed to "Provider." One commenter suggested that the word "Clinician" should be changed to "Clinician/Provider."

Response: The board modified the section by removing paragraph (4), "Clinician Site," renumbering subsequent definitions and adding new definition (7) "Provider Site."

Comment: Regarding §741.211(5), one commenter recommended including language regarding supervision of licensed assistants.

Response: The board disagrees. There is already a mechanism in place--the Alternate Supervision Plan (§741.64(g)(5)). No change was made as a result of the comment.

Comment: The board received comments from three commenters regarding §741.211(6). Two commenters suggested that the word "fully" be deleted.

Response: The board disagrees. The board wants only fully licensed speech-language pathologists to be providers of telehealth. No change was made as a result of these comments.

Comment: Regarding §741.211(8), one commenter recommended to include "provider to provider" as another method of use of telehealth and should be included in the definition.

Response: The board disagrees. The board will keep this modification in mind for the future rulemaking. No changes were made as a result of the comment.

Comment: Regarding §741.211(9), one commenter recommended to include "provider to provider" as another method of use of telehealth and should be included in the definition. Regarding §741.211(10), one commenter recommended that this definition be deleted.

Response: The board disagrees. No changes were made as a result of the comments.

Comment: Regarding §741.212, one commenter recommended that this section be deleted.

Response: The board disagrees. No change was made as a result of the comment.

Comment: Regarding §741.213, two commenters stated that electronic transmission should not be limited to only fully licensed speech-language pathologists.

Response: The board disagrees. The board wants only fully licensed speech-language pathologists to be allowed to use this form of transmission.

Comment: Regarding §741.213(c), three commenters recommended a change to reflect electronic transmissions are "equally" appropriate for telehealth services as if services were provided in person.

Response: The board agrees and has made the suggested modification to §741.213(c).

Comment: Regarding §741.213(d), three commenters recommended a change to correct a grammatical error.

Response: The board agrees and has removed "with" from the subsection.

Comment: Regarding §741.213(d), (e) and (f), two commenters recommended that these subsections are redundant and should be removed.

Response: The board disagrees. No changes were made as a result of the comments.

Comment: Regarding §741.213(g), three commenters stated the initial contact in the same physical location is often not necessary and too restrictive.

Response: The board disagrees. No changes were made as a result of the comments.

Comment: Regarding §741.213(h), one commenter suggested that this subsection could not be measured objectively, is addressed in §741.213(n), and should be deleted.

Response: The board disagrees. No changes were made as a result of the comment.

Comment: Regarding §741.213(k), one commenter stated that the text "sensitive to cultural and linguistic diversity" does not just apply to telehealth and should be deleted.

Response: The board disagrees. The board feels that these variables need to be repeated for clarifying purposes. No changes were made as a result of the comments.

Comment: Regarding §741.213(l), three commenters stated the rule would be tough to enforce by the board and should be deleted.

Response: The board disagrees and that these outcomes could be requested as a way to audit services provided. No changes were made as a result of the comments.

Minor grammatical changes were included in §741.91(1) to add the correct title of the rule being referenced; and §741.112(e)(6) was revised to change the word "supervisory" to "supervisor."

SUBCHAPTER A. DEFINITIONS

22 TAC §741.1

STATUTORY AUTHORITY

The amendment is authorized by Texas Occupations Code, §401.202, which provides the State Board of Examiners for Speech-Language Pathology and Audiology with the authority to adopt rules necessary for the performance of the board's duties; and Texas Occupations Code, Chapter 53, which authorizes the adoption of rules regarding fees for criminal history evaluation letters.

§741.1. Definitions.

Unless the context clearly indicates otherwise, the words and terms below shall have the following meanings. Refer to Texas Occupations Code, §401.001, for definitions of additional words and terms.

- (1) ABA--The American Board of Audiology.
- (2) Act--Texas Occupations Code, Chapter 401, relating to speech-language pathologists and audiologists.

(3) ASHA--The American Speech-Language-Hearing Association.

(4) Ear specialist--A licensed physician who specializes in diseases of the ear and is medically trained to identify the symptoms of deafness in the context of the total health of the client, and is qualified by special training to diagnose and treat hearing loss. Such physicians are also known as otolaryngologists, otologists, neurotologists, otorhinolaryngologists, and ear, nose, and throat specialists.

(5) Extended absence--More than two consecutive working days for any single continuing education experience.

(6) Extended recheck--Starting at 40 dB and going down by 10 dB until no response is obtained or until 20 dB is reached and then up by 5 dB until a response is obtained. The frequencies to be evaluated are 1,000, 2,000, and 4,000 hertz (Hz).

(7) Fitting and dispensing hearing instruments--The measurement of human hearing using professionally accepted practices to select, adapt, or sell a hearing instrument.

(8) Health care professional--An individual required to be licensed under Texas Occupations Code, Chapter 401, or any person licensed, certified, or registered by the state in a health-related profession.

(9) Hearing instrument--A device designed for, offered for the purpose of, or represented as aiding persons with or compensating for, impaired hearing.

(10) Hearing screening--A test administered with pass/fail results for the purpose of rapidly identifying those persons with possible hearing impairment which has the potential of interfering with communication.

(11) Licensed Assistant in Speech-Language Pathology--An individual who provides speech language pathology support services under supervision of a licensed speech-language pathologist.

(12) Licensed Assistant in Audiology--An individual who provides audiological support to clinical programs under supervision of a licensed audiologist.

(13) Sale or purchase--Includes the sale, lease or rental of a hearing instrument or augmentative communication device to a member of the consuming public who is a user or prospective user of a hearing instrument or augmentative communication device.

(14) Telehealth--The use of telecommunications and information technologies for the exchange of information from one site to another for the provision of speech-language pathology or audiology services to an individual from a provider through hardware or internet connection.

(15) Telepractice--The practice of telehealth.

(16) Under the direction of--The licensed speech-language pathologist or audiologist directly oversees the services provided and accepts professional responsibility for the actions of the personnel he or she agrees to direct.

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 December 27, 2010.

TRD-201007359

Kerry Ormson

Presiding Officer

State Board of Examiners for Speech-Language Pathology and Audiology

Effective date: January 16, 2011

Proposal publication date: October 1, 2010

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

SUBCHAPTER B. THE BOARD

22 TAC §§741.11 - 741.15

STATUTORY AUTHORITY

The amendments are authorized by Texas Occupations Code, §401.202, which provides the State Board of Examiners for Speech-Language Pathology and Audiology with the authority to adopt rules necessary for the performance of the board's duties; and Texas Occupations Code, Chapter 53, which authorizes the adoption of rules regarding fees for criminal history evaluation letters.

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 December 27, 2010.

TRD-201007360

Kerry Ormson

Presiding Officer

State Board of Examiners for Speech-Language Pathology and Audiology

Effective date: January 16, 2011

Proposal publication date: October 1, 2010

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

SUBCHAPTER C. SCREENING PROCEDURES

22 TAC §§741.31 - 741.33

STATUTORY AUTHORITY

The amendments are authorized by Texas Occupations Code, §401.202, which provides the State Board of Examiners for Speech-Language Pathology and Audiology with the authority to adopt rules necessary for the performance of the board's duties; and Texas Occupations Code, Chapter 53, which authorizes the adoption of rules regarding fees for criminal history evaluation letters.

§741.33. *Newborn Hearing Screening.*

(a) Individuals licensed under the Act may participate in universal newborn hearing screening as defined by the Texas Health and Safety Code, Chapter 47.

(b) Individuals licensed under this Act are subject to 25 Texas Administrative Code Chapter 37, regarding reporting hearing screening or audiologic outcomes to the Department of State Health Services (DSHS) through the designated electronic tracking system and 40 Texas Administrative Code §108.9, regarding referral of children under the age of three years to Early Childhood Intervention (ECI) within two days of identification.

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 December 27, 2010.

TRD-201007361

Kerry Ormson

Presiding Officer

State Board of Examiners for Speech-Language Pathology and Audiology

Effective date: January 16, 2011

Proposal publication date: October 1, 2010

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



SUBCHAPTER D. CODE OF ETHICS; DUTIES AND RESPONSIBILITIES OF LICENSE HOLDERS

22 TAC §§741.41 - 741.45

STATUTORY AUTHORITY

The amendments are authorized by Texas Occupations Code, §401.202, which provides the State Board of Examiners for Speech-Language Pathology and Audiology with the authority to adopt rules necessary for the performance of the board's duties; and Texas Occupations Code, Chapter 53, which authorizes the adoption of rules regarding fees for criminal history evaluation letters.

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 December 27, 2010.

TRD-201007362

Kerry Ormson

Presiding Officer

State Board of Examiners for Speech-Language Pathology and Audiology

Effective date: January 16, 2011

Proposal publication date: October 1, 2010

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



SUBCHAPTER E. REQUIREMENTS FOR LICENSURE OF SPEECH-LANGUAGE PATHOLOGISTS

22 TAC §§741.61 - 741.65

STATUTORY AUTHORITY

The amendments are authorized by Texas Occupations Code, §401.202, which provides the State Board of Examiners for Speech-Language Pathology and Audiology with the authority to adopt rules necessary for the performance of the board's duties; and Texas Occupations Code, Chapter 53, which authorizes the

adoption of rules regarding fees for criminal history evaluation letters.

§741.65. Requirements for a Temporary Certificate of Registration in Speech-Language Pathology.

(a) An applicant for a temporary certificate of registration in speech-language pathology shall meet the requirements of the Act and §741.61(a) - (d) of this title (relating to Requirements for a Speech-Language Pathology License).

(b) If issued, this certificate entitles an applicant approved for examination as required by §741.121 of this title (relating to Examination Administration) to practice speech-language pathology under supervision of an approved speech-language pathologist for a period of time ending eight weeks after the next scheduled examination. During each eight week time period, no fewer than four hours of direct in person supervision and four hours of indirect supervising activities shall be completed.

(c) A temporary certificate of registration shall not be renewed.

(d) The supervisor and applicant shall complete the Temporary Supervisory Form and submit it to the board office. The applicant shall not practice until the application is approved by the board.

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 December 27, 2010.

TRD-201007363

Kerry Ormson

Presiding Officer

State Board of Examiners for Speech-Language Pathology and Audiology

Effective date: January 16, 2011

Proposal publication date: October 1, 2010

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



SUBCHAPTER F. REQUIREMENTS FOR LICENSURE OF AUDIOLOGISTS

22 TAC §§741.81 - 741.85

STATUTORY AUTHORITY

The amendments are authorized by Texas Occupations Code, §401.202, which provides the State Board of Examiners for Speech-Language Pathology and Audiology with the authority to adopt rules necessary for the performance of the board's duties; and Texas Occupations Code, Chapter 53, which authorizes the adoption of rules regarding fees for criminal history evaluation letters.

§741.83. Waiver of Clinical and Examination Requirements for Audiologists.

An applicant for a license from this board who currently holds either the ASHA Certificate of Clinical Competence (CCC) or the American Board of Audiology (ABA) certification may submit official documentation from ASHA or ABA as evidence that the applicant meets the clinical experience and examination requirements as referenced in §741.81 of this title (relating to Requirements for an Audiology License).

§741.85. *Requirements for a Temporary Certificate of Registration in Audiology.*

(a) An applicant for a temporary certificate of registration in audiology must meet the requirements of the Act and §741.81(a) - (d) of this title (relating to Requirements for an Audiology License).

(b) If issued, this certificate entitles an applicant approved for examination as required by §741.121 of this title (relating to Examination Administration) to practice audiology under an approved supervisor for a period of time ending eight weeks after the next scheduled examination.

(c) A temporary certificate of registration shall not be renewed.

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 December 27, 2010.

TRD-201007364
Kerry Ormson
Presiding Officer
State Board of Examiners for Speech-Language Pathology and Audiology
Effective date: January 16, 2011
Proposal publication date: October 1, 2010
For further information, please call: (512) 458-7111 x6972



SUBCHAPTER G. REQUIREMENTS FOR DUAL LICENSURE AS A SPEECH-LANGUAGE PATHOLOGIST AND AN AUDIOLOGIST

22 TAC §741.91

STATUTORY AUTHORITY

The amendment is authorized by Texas Occupations Code, §401.202, which provides the State Board of Examiners for Speech-Language Pathology and Audiology with the authority to adopt rules necessary for the performance of the board's duties; and Texas Occupations Code, Chapter 53, which authorizes the adoption of rules regarding fees for criminal history evaluation letters.

§741.91. *Requirements for Dual Licenses in Speech-Language Pathology and Audiology.*

An applicant for dual licenses in speech-language pathology and in audiology as referenced in the Act shall meet the requirements set out in:

(1) Section 741.63 of this title (relating to Waiver of Clinical and Examination Requirements for Speech-Language Pathologists).

(2) Section 741.61 of this title (relating to Requirements for a Speech-Language Pathology License) and §741.81 of this title (relating to Requirements for an Audiology License).

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 December 27, 2010.

TRD-201007365
Kerry Ormson
Presiding Officer
State Board of Examiners for Speech-Language Pathology and Audiology
Effective date: January 16, 2011
Proposal publication date: October 1, 2010
For further information, please call: (512) 458-7111 x6972



SUBCHAPTER H. FITTING AND DISPENSING OF HEARING INSTRUMENTS

22 TAC §§741.101 - 741.103

STATUTORY AUTHORITY

The amendments are authorized by Texas Occupations Code, §401.202, which provides the State Board of Examiners for Speech-Language Pathology and Audiology with the authority to adopt rules necessary for the performance of the board's duties; and Texas Occupations Code, Chapter 53, which authorizes the adoption of rules regarding fees for criminal history evaluation letters.

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 December 27, 2010.

TRD-201007366
Kerry Ormson
Presiding Officer
State Board of Examiners for Speech-Language Pathology and Audiology
Effective date: January 16, 2011
Proposal publication date: October 1, 2010
For further information, please call: (512) 458-7111 x6972



SUBCHAPTER I. APPLICATION PROCEDURES

22 TAC §741.111, §741.112

STATUTORY AUTHORITY

The amendments are authorized by Texas Occupations Code, §401.202, which provides the State Board of Examiners for Speech-Language Pathology and Audiology with the authority to adopt rules necessary for the performance of the board's duties; and Texas Occupations Code, Chapter 53, which authorizes the adoption of rules regarding fees for criminal history evaluation letters.

§741.112. *Required Application Materials.*

(a) An applicant applying for a speech-language pathology or audiology license under §741.61 of this title (relating to Requirements for a Speech-Language Pathology License) or §741.81 of this title (relating to Requirements for an Audiology License) shall submit the following:

(1) an original board application form including disclosure of the applicant's social security number completed, signed and dated within the past 60 days;

(2) the application and initial license fee;

(3) an original or certified copy of the transcript(s) showing the conferred degree of all relevant course work which also verifies that the applicant possesses a minimum of a master's degree with a major in one of the areas of communicative sciences or disorders; however, an applicant who graduated from a college or university with a program not accredited by the American Speech-Language-Hearing Association Council on Academic Accreditation, shall submit an original signed letter from the American Speech-Language-Hearing Association stating the Clinical Certification Board accepted the course work and clinical experience;

(4) if not previously submitted when applying for an intern's license, a Course Work and Clinical Experience Form completed by the program director or designee of the college or university attended which verifies the applicant has met the requirements established in §741.61(b) - (c) or §741.81(b) - (c) of this title;

(5) a Report of Completed Internship Form completed by the applicant's supervisor and signed by both the applicant and the supervisor; however, if the internship was completed out-of-state, the supervisor shall also submit a copy of his or her diploma or transcript showing the master's degree in one of the areas of communicative sciences and disorders had been conferred and a copy of a valid license to practice in that state. If that state did not require licensure, the supervisor shall submit an original letter from the American Speech-Language-Hearing Association stating the certificate of clinical competence was held when the applicant completed the internship in addition to proof of a master's degree in communicative sciences and disorders; and

(6) a Praxis Exam Score Report showing the applicant passed the examination described in §741.121 of this title (relating to Examination Administration) within the time period established in §741.61(e) or §741.81(e) of this title.

(b) An applicant applying for an intern in speech-language pathology license under §741.62 of this title (relating to Requirements for an Intern in Speech-Language Pathology License) or an intern in audiology license under §741.82 of this title (relating to Requirements for an Intern in Audiology License) shall submit the following:

(1) an original board application form including disclosure of the applicant's social security number completed, signed and dated within the past 60 days;

(2) the application and initial license fee;

(3) an original or certified copy of the transcript(s) showing the conferred degree of all relevant course work which also verifies that the applicant possesses a minimum of a master's degree with a major in one of the areas of communicative sciences or disorders; however, an applicant who graduated from a college or university with a program not accredited by the American Speech-Language-Hearing Association Council on Academic Accreditation, shall submit an original signed letter from the American Speech-Language-Hearing Association stating the Clinical Certification Board accepted the course work and clinical experience;

(4) if the graduate degree has not been officially conferred, an original or certified copy of transcript(s) and verification from the university attended verifying the applicant successfully completed all requirements for the graduate degree, and is only awaiting the date of next graduation for the degree to be conferred;

(5) a Course Work and Clinical Experience Form completed by the university program director or designee of the college or university attended which verifies the applicant has met the requirements established in §741.61(b) - (c) or §741.81(b) - (c) of this title; and

(6) an Intern Plan and Agreement of Supervision Form completed by the proposed supervisor and signed by both the applicant and the proposed supervisor.

(c) An applicant who holds the American Speech-Language-Hearing Association certificate of clinical competence applying for licensure under §741.63 of this title (relating to Waiver of Clinical and Examination Requirements for Speech-Language Pathologists) or §741.83 of this title (relating to Waiver of Clinical and Examination Requirements for Audiologists) shall submit the following:

(1) an original board application form including disclosure of the applicant's social security number completed, signed and dated within the past 60 days;

(2) the application and initial license fee;

(3) an original or certified copy of a signed letter from the American Speech-Language-Hearing Association (ASHA) or the American Board of Audiology (ABA) which verifies the applicant currently holds the certificate of clinical competence or board certification in the area in which the applicant has applied for license; and

(4) an original or certified copy of the transcript(s) showing the conferred degree of all relevant course work which also verifies that the applicant possesses a minimum of a master's degree with a major in one of the areas of communicative sciences or disorders; however, an applicant whose transcript is in a language other than English shall submit an original evaluation form from an approved credentialing agency.

(d) An applicant applying for an assistant in speech-language pathology license under §741.64 of this title (relating to Requirements for an Assistant in Speech-Language Pathology License) or an assistant in audiology license under §741.84 of this title (relating to Requirements for an Assistant in Audiology License) shall submit the following:

(1) an original board application form including disclosure of the applicant's social security number completed, signed and dated within the past 60 days;

(2) the application and initial license fee;

(3) a Supervisory Responsibility Statement Form completed by the licensed supervisor who agrees to accept responsibility for the services provided by the assistant and signed by both the applicant and the proposed supervisor;

(4) an original or certified copy of the transcript(s) showing the conferred degree of relevant course work which also verifies that the applicant possesses a baccalaureate degree with an emphasis in speech-language pathology and/or audiology;

(5) if not previously submitted, a Clinical Observation and Clinical Experience Form completed by the university program director or designee of the college or university training program verifying the applicant completed the requirements set out in §741.64(a)(3) or §741.84(b)(3) of this title; and

(6) for an applicant who did not obtain the hours referenced in paragraph (5) of this subsection, a Clinical Deficiency Plan Form to obtain the hours lacking.

(e) An applicant applying for a speech-language pathology temporary certificate of registration under §741.65 of this title (relat-

ing to Requirements for a Temporary Certificate of Registration in Speech-Language Pathology) or an audiology temporary certificate of registration under §741.85 of this title (relating to Requirements for a Temporary Certificate of Registration in Audiology) shall submit the following:

(1) an original board application form including disclosure of the applicant's social security number completed, signed and dated within the past 60 days;

(2) the temporary certificate of registration fee;

(3) an original or certified copy of the transcript(s) showing the conferred degree of all relevant course work which also verifies that the applicant possesses a minimum of a master's degree with a major in one of the areas of communicative sciences or disorders; however, an applicant who graduated from a college or university with a program not accredited by the American Speech-Language-Hearing Association Council on Academic Accreditation, shall submit an original signed letter from the American Speech-Language-Hearing Association stating the Clinical Certification Board accepted the course work and clinical experience;

(4) a Course Work and Clinical Experience Form completed by the university program director or designee of the college or university attended which verifies the applicant has met the requirements established in §741.61(b) - (c) or §741.81(b) - (c) of this title;

(5) a Report of Completed Internship Form completed by the applicant's supervisor and signed by both the applicant and the supervisor; however, if the internship was completed out-of-state, the supervisor shall also submit a copy of his or her diploma or transcript showing the master's degree in one of the areas of communicative sciences and disorders had been conferred and a copy of a valid license to practice in that state. If that state did not require licensure, the supervisor shall submit an original letter from the American Speech-Language-Hearing Association stating the certificate of clinical competence was held when the applicant completed the internship in addition to proof of a master's degree in communicative sciences and disorders;

(6) a Temporary Supervisory Form completed by the applicant's proposed supervisor and signed by both the applicant and the supervisor; and

(7) an applicant who completed the internship in another state and graduated from a college or university with a program not accredited by the American Speech-Language-Hearing Association, shall submit an original, signed letter from the American Speech-Language-Hearing Association stating the Clinical Certification Board accepted the course work, clinical practicum and the clinical fellowship year.

(f) An applicant for dual licenses in speech-language pathology and audiology under §741.91 of this title (relating to Requirements for Dual Licenses in Speech-Language Pathology and Audiology) shall submit separate documentation and fees as follows:

(1) an original board application form including disclosure of the applicant's social security number completed, signed and dated within the past 60 days requesting both licenses;

(2) two separate application and initial license fees; and

(3) documentation listed in subsection (a)(3) - (6) or (c)(3) - (4) of this section.

(g) An applicant who currently holds one license and wishes to obtain dual licenses shall submit the following:

(1) an original board application form including disclosure of the applicant's social security number completed, signed and dated within the past 60 days requesting the other license;

(2) the application and initial license fee; and

(3) documentation listed in subsection (a)(3) - (6) or (c)(3) - (4) of this section.

(h) After December 31, 2009, all applicants for licensure shall submit proof of successful completion of the jurisprudence examination at the time of application. The jurisprudence examination must be completed no more than six months prior to the date of licensure application.

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 December 27, 2010.

TRD-201007367

Kerry Ormson

Presiding Officer

State Board of Examiners for Speech-Language Pathology and Audiology

Effective date: January 16, 2011

Proposal publication date: October 1, 2010

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



SUBCHAPTER J. LICENSURE EXAMINATIONS

22 TAC §741.121, §741.122

STATUTORY AUTHORITY

The amendments are authorized by Texas Occupations Code, §401.202, which provides the State Board of Examiners for Speech-Language Pathology and Audiology with the authority to adopt rules necessary for the performance of the board's duties; and Texas Occupations Code, Chapter 53, which authorizes the adoption of rules regarding fees for criminal history evaluation letters.

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 December 27, 2010.

TRD-201007368

Kerry Ormson

Presiding Officer

State Board of Examiners for Speech-Language Pathology and Audiology

Effective date: January 16, 2011

Proposal publication date: October 1, 2010

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



SUBCHAPTER K. ISSUANCE OF LICENSE

22 TAC §741.141

STATUTORY AUTHORITY

The amendment is authorized by Texas Occupations Code, §401.202, which provides the State Board of Examiners for Speech-Language Pathology and Audiology with the authority to adopt rules necessary for the performance of the board's duties; and Texas Occupations Code, Chapter 53, which authorizes the adoption of rules regarding fees for criminal history evaluation letters.

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 December 27, 2010.

TRD-201007369

Kerry Ormson

Presiding Officer

State Board of Examiners for Speech-Language Pathology and Audiology

Effective date: January 16, 2011

Proposal publication date: October 1, 2010

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



SUBCHAPTER L. LICENSE RENEWAL AND CONTINUING EDUCATION

22 TAC §§741.161, 741.162, 741.164, 741.165

STATUTORY AUTHORITY

The amendments are authorized by Texas Occupations Code, §401.202, which provides the State Board of Examiners for Speech-Language Pathology and Audiology with the authority to adopt rules necessary for the performance of the board's duties; and Texas Occupations Code, Chapter 53, which authorizes the adoption of rules regarding fees for criminal history evaluation letters.

§741.164. *Late Renewal of a License.*

(a) Licensees who fails to renew their license before the end of the 60-day grace period shall be assessed a late renewal penalty as required by the Act, unless the license had been placed on inactive status.

(b) The Act prohibits an individual from practicing after expiration of the 60-day grace period. Penalties for doing so are defined in the Act.

(c) The following shall be submitted to renew a license after expiration of the grace period:

(1) the board late renewal of a license form which requires a written, signed statement from the licensee and his or her employer(s) documenting the licensee's practice activities since expiration of the 60-day grace period under the Act and this chapter;

(2) the late renewal penalty fee as set out in §741.181 of this title (relating to Schedule of Fees);

(3) Continuing Education documentation as required by §741.162(i) of this title (relating to Requirements for Continuing Professional Education); and

(4) verification of continuing education hours earned as required by §741.162(k) of this title.

(d) The following number of continuing education hours shall be required:

(1) if renewing an initial license before the end of the first year of the penalty status, the number of continuing education hours that shall be earned are listed under §741.162(d) of this title;

(2) if renewing before the end of the first year of penalty status, ten continuing education hours or 15 hours for holders of dual speech-language pathology and audiology licenses;

(3) if renewing at the end of the first year of penalty status but before the end of the second year, 20 continuing education hours or 30 hours for holders of dual speech-language pathology and audiology licenses; or

(4) if renewing at the end of the second and final year of penalty status, 30 continuing education hours or 45 hours for holders of dual speech-language pathology and audiology licenses.

(e) Continuing education hours accrued under §741.162(i) of this title may be used if the hours are available for use when the request for renewal is received by the board.

(f) The random audit for compliance with the continuing education requirements referenced in §741.161(m) of this title (relating to Renewal Procedures) does not apply to late renewal of a license.

(g) If additional documentation is required, the request to renew the license shall remain open no longer than 90 days following the date the board office received the initial request to renew the license. If the documentation requested is not received before the 90 days referenced, the request for late renewal of a license shall be denied and the fee forfeited.

(h) Failure to timely furnish information or providing false information during the late renewal process are grounds for disciplinary action.

(i) If the board office approves the request for late renewal of a license, active status shall begin on the date of approval. The licensee shall earn continuing education hours as required by §741.162 of this title in order to renew the license upon expiration.

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 December 27, 2010.

TRD-201007370

Kerry Ormson

Presiding Officer

State Board of Examiners for Speech-Language Pathology and Audiology

Effective date: January 16, 2011

Proposal publication date: October 1, 2010

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



22 TAC §741.163

STATUTORY AUTHORITY

The repeal is authorized by Texas Occupations Code, §401.202, which provides the State Board of Examiners for Speech-Lan-

guage Pathology and Audiology with the authority to adopt rules necessary for the performance of the board's duties; and Texas Occupations Code, Chapter 53, which authorizes the adoption of rules regarding fees for criminal history evaluation letters.

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 December 27, 2010.

TRD-201007371

Kerry Ormson

Presiding Officer

State Board of Examiners for Speech-Language Pathology and Audiology

Effective date: January 16, 2011

Proposal publication date: October 1, 2010

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



SUBCHAPTER M. FEES AND PROCESSING PROCEDURES

22 TAC §741.181, §741.182

STATUTORY AUTHORITY

The amendments are authorized by Texas Occupations Code, §401.202, which provides the State Board of Examiners for Speech-Language Pathology and Audiology with the authority to adopt rules necessary for the performance of the board's duties; and Texas Occupations Code, Chapter 53, which authorizes the adoption of rules regarding fees for criminal history evaluation letters.

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 December 27, 2010.

TRD-201007372

Kerry Ormson

Presiding Officer

State Board of Examiners for Speech-Language Pathology and Audiology

Effective date: January 16, 2011

Proposal publication date: October 1, 2010

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



SUBCHAPTER N. COMPLAINTS, VIOLATIONS, PENALTIES, AND DISCIPLINARY ACTIONS

22 TAC §§741.191 - 741.202

STATUTORY AUTHORITY

The amendments and new rule are authorized by Texas Occupations Code, §401.202, which provides the State Board of Examiners for Speech-Language Pathology and Audiology with

the authority to adopt rules necessary for the performance of the board's duties; and Texas Occupations Code, Chapter 53, which authorizes the adoption of rules regarding fees for criminal history evaluation letters.

§741.191. *Complaint Procedures.*

(a) A person wishing to report an alleged violation of the Act or the rules by a licensee or other person shall notify the executive director. The initial notification may be in writing, by telephone, or by personal visit to the board office.

(b) Upon receipt of a complaint, the executive director shall send an acknowledgment letter to the complainant along with an official form which the complainant must complete and return to the board before further action may be taken. The executive director may accept an anonymous complaint if there is sufficient information for the investigation.

(c) A complaints committee shall be appointed to work with the executive director to:

(1) review and determine whether each complaint fits within the category of a serious complaint affecting the health and safety of clients or other persons;

(2) ensure that complaints are not dismissed without appropriate consideration;

(3) ensure that a person who files a complaint has an opportunity to explain the allegations made in the complaint; and

(4) resolve the issues of the complaint which arise under the Act or this chapter.

(d) Prior to or during an investigation, the executive director or his or her designee shall request a response from the licensee or person against whom an alleged violation has been filed to gather information required by the complaints committee of the board. The licensee or person against whom an alleged violation has been filed must respond within 15 working days of the executive director's request.

(e) If it is determined that the matters alleged in the complaint are non-jurisdictional, or if the matters alleged in the complaint would not constitute a violation of the Act or this chapter, the executive director may dismiss the complaint and give written notice of dismissal to the licensee or person against whom the complaint has been filed, the complainant, and the complaints committee.

(f) If it is determined that the matters in the complaint are jurisdictional, the complaint shall be investigated. The executive director or the committee may initiate the investigation.

(g) If the committee determines that there are insufficient grounds to support the complaint, the committee shall dismiss the complaint and give written notice of the dismissal to the licensee or person against whom the complaint has been filed and the complainant.

(h) If the board has the authority to resolve a written complaint, at least quarterly and until final disposition of the complaint, the board shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

(i) After review of a complaint or allegation that is not resolved by the committee, the committee may:

(1) dismiss the complaint;

(2) revoke, or suspend, or deny the license; or

(3) take other appropriate action as authorized by law be taken.

§741.192. *Disciplinary Action; Notices.*

(a) The board may deny, revoke, temporarily suspend, or suspend a license, or may probate disciplinary action, or may issue a reprimand to a person who:

- (1) violates a provision of the Act;
- (2) violates a rule adopted by the board;

(3) offers to pay or agrees to accept any remuneration, directly or indirectly, to or from any person or entity for securing or soliciting a client or patronage; or

(4) is issued a public letter of reprimand, is assessed a civil penalty by a court, or has an administrative penalty imposed by the attorney general's office under the Code of Criminal Procedure, Chapter 56.

(b) Prior to institution of formal proceedings to discipline a licensee, the board shall give written notice to the licensee by certified mail, return receipt requested, of the facts or conduct alleged to warrant the disciplinary action. The notice shall inform the licensee or applicant of the opportunity to retain legal representation. The licensee or applicant shall be given the opportunity, as described in the notice, to show compliance with all requirements of the Act and this chapter.

(c) If denial, revocation, or suspension of a license is proposed, the committee shall give written notice by regular and certified mail, return receipt requested, to the licensee notifying the licensee of the committee's proposed action and the licensee's options for resolving the complaint. A resolution to a complaint include, but are not limited to, a licensee showing compliance with the law/rules; a licensee's surrender of his or her license, a licensee's compliance with the committee's proposed action; and a licensee's request for an informal conference and/or formal hearing. If the licensee requests a formal hearing it must be requested within 15 working days of the receipt of the notice.

(d) Receipt of a notice under subsection (b) or (c) of this section is presumed to occur on the tenth working day after the notice is mailed to the last address known to the board unless another date is reported by the United States Postal Service.

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 December 27, 2010.

TRD-201007373

Kerry Ormson

Presiding Officer

State Board of Examiners for Speech-Language Pathology and Audiology

Effective date: January 16, 2011

Proposal publication date: October 1, 2010

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



SUBCHAPTER O. TELEHEALTH

22 TAC §§741.211 - 741.215

STATUTORY AUTHORITY

The new rules are authorized by Texas Occupations Code, §401.202, which provides the State Board of Examiners for Speech-Language Pathology and Audiology with the authority to adopt rules necessary for the performance of the board's duties; and Texas Occupations Code, Chapter 53, which authorizes the

adoption of rules regarding fees for criminal history evaluation letters.

§741.211. Definitions.

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

(1) Board--The Texas State Board of Examiners for Speech-Language Pathology and Audiology.

(2) Client--A consumer of telehealth services.

(3) Client/Patient Site--Location of the patient or client at the time the service is being furnished via telecommunications.

(4) Consultant--Any professional who collaborates with a provider of telehealth services to provide services to clients.

(5) Facilitator--Individual at the client site who facilitates the telehealth service delivery at the direction of the audiologist or speech language pathologist.

(6) Provider--A speech-language pathologist or audiologist fully licensed by the board who provides telehealth services.

(7) Provider Site--Site at which the speech-language pathologist or audiologist delivering the service is located at the time the service is provided via telecommunications.

(8) Telehealth--The use of telecommunications and information technologies for the exchange of information from one site to another for the provision of speech-language pathology or audiology services to a client from a provider.

(9) Telehealth Service--The application of telecommunication technology to deliver speech-language pathology and/or audiology services at a distance for assessment, intervention, and/or consultation.

(10) Telepractice--The practice of telehealth.

§741.213. Guidelines for the Use of Telehealth.

(a) A provider shall comply with the board's Code of Ethics and Scope of Practice requirements when providing telehealth services.

(b) The scope, nature, and quality of services provided via telehealth are the same as that provided during in-person sessions by the provider.

(c) The quality of electronic transmissions shall be equally appropriate for the provision of telehealth services as if those services were provided in person.

(d) A provider shall only utilize technology which they are competent to use as part of their telehealth services.

(e) Equipment used for telehealth services at the clinician site shall be maintained in appropriate operational status to provide appropriate quality of services.

(f) Equipment used at the client/patient site at which the client or consultant is present shall be in appropriate working condition and deemed appropriate by the provider.

(g) The initial contact between the provider and client shall be at the same physical location to assess the client's candidacy for telehealth, including behavioral, physical, and cognitive abilities to participate in services provided via telecommunications.

(h) A provider shall be aware of the client or consultant level of comfort with the technology being used as part of the telehealth services and adjust their practice to maximize the client or consultant level of comfort.

(i) When a provider collaborates with a consultant from another state in which the telepractice services are delivered, the consultant in the state in which the client receives services shall be the primary care provider for the client.

(j) As pertaining to liability and malpractice issues, a provider shall be held to the same standards of practice as if the telehealth services were provided in person.

(k) A provider shall be sensitive to cultural and linguistic variables that affect the identification, assessment, treatment, and management of the clients.

(l) Upon request, a provider shall submit to the board data which evaluates effectiveness of services provided via telehealth including, but not limited to, outcome measures.

(m) Telehealth providers shall comply with all laws, rules, and regulations governing the maintenance of client records, including client confidentiality requirements, regardless of the state where the records of any client within this state are maintained.

(n) Notification of telehealth services should be provided to the client, the guardian, the caregiver, and the multi-disciplinary team, if appropriate. The notification shall include, but not be limited to: the right to refuse telehealth services, options for service delivery, and instructions on filing and resolving complaints.

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 December 27, 2010.

TRD-201007374

Kerry Ormson

Presiding Officer

State Board of Examiners for Speech-Language Pathology and Audiology

Effective date: January 16, 2011

Proposal publication date: October 1, 2010

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



TITLE 34. PUBLIC FINANCE

PART 3. TEACHER RETIREMENT SYSTEM OF TEXAS

CHAPTER 53. CERTIFICATION BY COMPANIES OFFERING QUALIFIED INVESTMENT PRODUCTS

34 TAC §§53.2, 53.15, 53.16, 53.19

The Board of Trustees (board) of the Teacher Retirement System of Texas (TRS) adopts amendments to 34 TAC §§53.2, 53.15, 53.16, and 53.19, concerning certification by companies offering qualified investment products. The amendments are adopted without change to the text as proposed in the November 5, 2010, issue of the *Texas Register* (35 TexReg 9857).

The adopted amendments to §§53.2, 53.15, and 53.16 arise from recent amendments to §9(a) of Article 6228a-5, Revised Civil Statutes. The amendments to §53.19 arise from re-organi-

zation of TRS. Chapter 53 of TRS' rules addresses certification by companies that offer qualified investment products to employees of educational institutions who participate in their employers' 403(b) retirement savings plans. Generally, a company must certify to TRS that it complies with the requirements of Article 6228a-5 and Chapter 53 before offering investment products to employees through salary reduction agreements. State law defines an "eligible" qualified investment product as one offered by a company that is certified to the TRS Board of Trustees under the provisions of Article 6228a-5 or eligible to certify under applicable provisions. Under recent amendments to §9 of Article 6228a-5, an educational institution may not enter into or continue a salary reduction agreement with an employee if the qualified investment product that is the subject of the salary reduction agreement is not an *eligible* qualified investment, including the investment product of a company whose certification has been denied, suspended, or revoked without first providing the employee notice in writing that, first, indicates the reason the product is no longer an eligible qualified investment or why certification has been denied, suspended, or revoked, and, second, clearly states that by signing the notice the employee is agreeing to enter into or continue the salary reduction agreement. The provision addressing written notice was added by recent amendments to Article 6228a-5 by House Bill 3480, §4, 81st Legislature, Regular Session (2009).

The statutory amendment providing for written notice appears to permit an educational institution to enter into a salary reduction agreement with an employee concerning a qualified investment product offered by a company that is not certified. TRS does not have rulemaking authority with respect to §9 of Article 6228a-5. Therefore, TRS does not adopt amendments to interpret or administer the effect of the statutory amendment to §9 of Article 6228a-5 concerning written notice to employees. However, TRS notes that other provisions of Article 6228a-5 requiring company certification and product registration were not amended to relieve companies of these requirements merely by substituting written notice to an employee. For example, under §10(a) of Article 6228a-5, a person commits an offense if the person sells or offers for sale an investment product that is not an *eligible* qualified investment product or that *is not registered* with TRS. Company certification is a prerequisite to product registration. Additionally, §11 of the statute requires uniform written notice when an annuity contract is offered; the notice must state that the company offering the annuity must comply with §5 (certification requirement) and the annuity must be a qualified investment product *registered* under §8A.

In light of these statutory provisions that were not amended, §9(a)(8) may not have been intended to excuse a company from certification and product registration merely by having the employer give written notice to employees that a product offering is not from a certified company. Instead, the amending language may have been intended to provide a limited exception for an employer to enter into or continue a salary reduction agreement *for an ongoing product purchase* when the company offering the product no longer has certified status. The statutory amendment does not expressly address issues such as the following: first, whether a company that was never certified, including a company that never applied for certification, may offer a product or receive contributions for a product that will be the subject of a salary reduction agreement if the employer provides written notice to the employee; second, whether a company whose certification expired but that did not re-apply for certification may offer a product or receive contributions for a product that will be the

subject of a salary reduction agreement if the employer provides written notice to the employee; and, third, whether a certified company may offer a product that is not registered (including a product that was never registered) if the employer provides written notice to the employee.

TRS will continue to accept company certifications and product registrations when applicable requirements are met. Several statutory provisions establishing the requirement for companies to certify and to register their products remain unchanged. However, TRS amended its rules as described below to acknowledge the amendment to §9(a)(8).

Section 53.2 concerns the applicability of the requirements of Chapter 53 of TRS' rules. This section requires a company to certify its qualifications prior to offering, issuing, or entering into a contract for a qualified investment product that is likely to be the subject of a salary reduction agreement. TRS amends §53.2 to refer to the recent changes to §9(a) of Article 6228a-5 addressing written notice to an employee. The amended rule maintains the certification requirement for a company, unless excepted under the changes in law.

Section 53.15 addresses the product registration requirement. This section requires registration of a qualified investment product that is offered to an employee and that is, or is intended to be, the subject of a salary reduction agreement. Certification of a company is a prerequisite to product registration. TRS amends §53.15 to refer to the recent changes to §9(a) of Article 6228a-5 addressing written notice to an employee. The amended rule maintains the registration requirement for a company, unless excepted under the changes in law.

Section 53.16 addresses the procedure for product registration, including procedures for suspension or termination of product registration. This section provides that upon suspension or termination of product registration, a company shall not receive additional contributions for the qualified investment product. TRS amends §53.16 to refer to the recent changes to §9(a) of Article 6228a-5 addressing written notice to an employee. The amended rule maintains the prohibition on receiving additional contributions after a suspension or termination of product registration, unless excepted under the changes in law.

Section 53.19 addresses proceedings to suspend or revoke certification or registration. This section currently refers to the position of "chief operating officer." However, due to the recent re-organization of TRS staff, TRS no longer uses that position title. TRS amends §53.19 to replace references to the discontinued position title with those to the designee of the executive director. TRS also adopts a minor wording change in subsection (f) of §53.19 to clarify that a company may appeal a "final written administrative" decision of the executive director's designee to the executive director, subject to applicable sections in Chapter 43 of TRS' rules regarding administrative appeals and adjudicative hearings.

No comments on the proposed amendments were received.

Statutory Authority. The amendments are adopted under the following statutes: §825.102 of the Government Code, which authorizes the TRS Board of Trustees to adopt rules for the administration of the funds of the system and the transaction of business of the board; and §6(c) of Article 6228a-5 of the Revised Civil Statutes, which authorizes TRS to adopt rules to administer the specified provisions of Article 6228a-5.

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 December 22, 2010.

TRD-201007341
Ronnie G. Jung
Executive Director
Teacher Retirement System of Texas
Effective date: January 11, 2011
Proposal publication date: November 5, 2010
For further information, please call: (512) 542-6438

◆ ◆ ◆
TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 3. TEXAS YOUTH COMMISSION

CHAPTER 91. PROGRAM SERVICES
SUBCHAPTER D. HEALTH CARE SERVICES

The Texas Youth Commission (TYC) simultaneously adopts the repeal of §91.97, concerning Acquired Immune Deficiency Syndrome/HIV, and new §91.97, concerning Acquired Immune Deficiency Syndrome/HIV, without changes to the proposed text as published in the October 29, 2010, issue of the *Texas Register* (35 TexReg 9670).

The justification for the repeal and new rule is to provide better organization of sections relating to testing, confidentiality, reporting, housing, treatment, education, training, and access to services. Additionally, in accordance with recommendations by the Centers for Disease Control and Prevention, the new rule establishes that HIV/AIDS testing is part of routine laboratory testing upon admission to TYC.

No comments were received regarding adoption of the repeal or new rule.

37 TAC §91.97

The repeal is adopted under Human Resources Code §61.034, which provides TYC with the authority to make rules appropriate to the proper accomplishment of its functions.

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

Filed with the Office of the Secretary of State on December 23, 2010.

TRD-201007352
Cheryl K. Townsend
Executive Director
Texas Youth Commission
Effective date: January 15, 2011
Proposal publication date: October 29, 2010
For further information, please call: (512) 424-6475

◆ ◆ ◆
37 TAC §91.97

The new rule is adopted under: (1) Human Resources Code §61.034, which provides Texas Youth Commission (TYC) with the authority to make rules appropriate to the proper accomplishment of its functions; and (2) Human Resources Code §61.076, which authorizes TYC to provide any necessary medical or psychiatric treatment to youth committed to its care.

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 December 23, 2010.

TRD-201007354

Cheryl K. Townsend

Executive Director

Texas Youth Commission

Effective date: January 15, 2011

Proposal publication date: October 29, 2010

For further information, please call: (512) 424-6475



CHAPTER 95. BEHAVIOR MANAGEMENT AND YOUTH DISCIPLINE

SUBCHAPTER A. BEHAVIOR MANAGEMENT

37 TAC §95.17

The Texas Youth Commission (TYC) adopts an amendment to §95.17, concerning the Redirect Program, with changes to the proposed text as published in the August 20, 2010, issue of the *Texas Register* (35 TexReg 7189). Changes to the proposed text consist of a minor revision in subsection (h)(3). Because TYC's master school schedule currently provides more than the minimum 330 minutes of education services identified in the rule, the revised text states that youth in the Redirect Program will be provided with the amount of education services established by the approved master schedule for the regular school program.

The justification for the amended rule is the provision of appropriate psychological services to TYC youth.

The amended rule establishes that weekly mental health status exams are required only while a youth is restricted to the unit housing the Redirect Program. The exams will not be required once the youth begins re-integrating with the general campus population. The amended rule also establishes that youth will receive weekly psychological counseling while assigned to the Redirect Program if deemed appropriate by a psychologist.

No comments were received regarding adoption of the amended rule.

The amended rule is adopted under: (1) Human Resources Code §61.034, which provides TYC with the authority to adopt rules appropriate to the proper accomplishment of its functions; (2) Human Resources Code §61.075, which provides TYC with the authority to order a child's confinement under conditions it believes best designed for the child's welfare and the interests of the public; and (3) Human Resources Code §61.076, which provides TYC with the authority to provide any medical or psychiatric treatment that is necessary for youth committed to its care.

§95.17. Redirect Program.

(a) Purpose. The Redirect program functions as a means for delivering intensive interventions in a structured environment for youth who have engaged in certain serious rule violations. This rule sets forth eligibility criteria, program completion requirements, and services to be provided to youth in the program.

(b) Applicability. This rule applies only to high restriction facilities operated by the Texas Youth Commission.

(c) Explanation of Terms Used.

(1) Admission, Review, and Dismissal (ARD) Committee--a committee that makes decisions on educational matters relating to special education-eligible youth.

(2) Behavior Intervention Plan--a written plan developed as a result of a functional behavioral assessment to address specific behavioral concerns that are impeding a youth's learning or the learning of others. The plan is part of a youth's individualized education program and includes positive behavioral interventions and supports and other strategies to address the behavior.

(3) Functional Behavioral Assessment--a process for observing and collecting data on specific behaviors that are impeding a youth's progress and determining the function the behavior plays for a youth (e.g., seeking attention, peer acceptance, avoidance, etc.).

(4) Individualized Education Program (IEP)--the program of special education and related services developed by a youth's ARD committee.

(5) Manifestation Determination Review--a review conducted by a youth's ARD committee when a decision has been made to change a special education-eligible youth's school placement due to a violation of the code of conduct. The committee determines whether a youth's conduct is a manifestation of the youth's disability and whether the youth's IEP was fully implemented.

(6) Multi-Disciplinary Team--a team which assesses youth progress through the steps of the Redirect program. At a minimum, the team must include representatives from the following departments: psychology, case management, education, and dorm supervision.

(d) Program Eligibility. A youth who engages in one or more of the following rule violations as defined in §95.3 of this title meets criteria for placement in the Redirect program:

- (1) assault or fighting resulting in bodily injury;
- (2) assault - unauthorized physical contact with staff (no injury);
- (3) escape or attempted escape;
- (4) vandalism (major rule violation only);
- (5) sexual misconduct (excluding kissing);
- (6) possessing or threatening others with a weapon or item which could be used as a weapon;
- (7) chunking bodily fluids; or
- (8) tampering with safety equipment.

(e) Request to Pursue Placement in Redirect Program. The facility administrator or designee may approve a request to pursue placement of a youth in the Redirect program only when it is determined that:

- (1) the youth poses a continuing risk for the admitting behavior(s);

(2) less restrictive methods of documented intervention have been attempted when appropriate; and

(3) the mental status of the youth has been assessed by a psychologist and there are no therapeutic contraindications for admission to the Redirect program.

(f) Additional Considerations for Youth Receiving Special Education Services.

(1) If the youth is receiving special education services, a manifestation determination review must be held to determine if the youth's conduct was a direct result of the failure to implement the youth's IEP, and if the conduct was caused by or had a direct and substantial relationship to the youth's disability. Except as noted in paragraph (2) of this subsection, the results of the manifestation determination review will have the following impact on admission to the Redirect program:

(A) if the determination is that there was a failure to implement the youth's IEP, the youth may not be placed in the Redirect program; and

(B) if the determination is that the conduct was caused by or had a direct and substantial relationship to the youth's disability, the youth may not be placed in the Redirect program unless the youth's parent/guardian consents to such placement as part of the youth's behavior intervention plan.

(2) Regardless of the results of a manifestation determination review, a youth may be admitted to the Redirect program if the rule violation includes possession of a weapon or the infliction of serious bodily injury upon another person.

(A) For purposes of paragraph (2) of this subsection only, weapon means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, not including a pocket knife with a blade of less than 2 1/2 inches in length.

(B) For purposes of paragraph (2) of this subsection only, serious bodily injury means bodily injury which involves:

(i) a substantial risk of death;

(ii) extreme physical pain;

(iii) protracted and obvious disfigurement; or

(iv) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(g) Admission Process. A Level II due process hearing must be held in accordance with §95.55 of this title. Unless there are considerations concerning special education services which would make the youth ineligible for placement in the Redirect program, as described in subsection (f) of this section, the youth may be admitted to the Redirect program if there is a finding of true with no extenuating circumstances that the youth committed a rule violation listed in subsection (d) of this section.

(h) Program Requirements.

(1) The Redirect program is administered in a special unit designated for such purpose. If the Redirect program is administered in a designated location within the security unit, the doors will remain unlocked except during sleeping hours or emergencies.

(2) A youth's placement in the Redirect program shall not exceed 42 calendar days.

(3) On scheduled academic days, youth will be provided with the amount of education services established by the approved master schedule for the regular school program.

(4) If a youth is currently receiving special education services, staff must ensure that the youth continues to receive educational services that will enable the youth to meet the goals of the youth's IEP.

(5) An individual plan must be developed for each youth. The plan must be written in a language clearly understood by the youth. The plan must:

(A) address the specific target behavior or cluster of behaviors that led to admission to the Redirect program, taking into consideration the psychologist's recommendations to address the motivation for the behavior;

(B) involve strategies for intervention and prevention of the target behavior through skills development;

(C) include a component which addresses transition to the general campus population; and

(D) provide clearly written objectives for release from the Redirect program.

(6) Staff must explain the individual plan to the youth. Youth will be provided an opportunity to sign the plan in acknowledgment.

(7) The individual plan and youth's progress with regard to target behaviors and skills development is reviewed and evaluated at least once every seven days by the multi-disciplinary team.

(8) Youth shall be gradually reintegrated into campus programming as soon as he/she demonstrates comprehension of the goals established in the treatment plan.

(9) Youth who are placed in the Redirect program are afforded living conditions and privileges approximating those available to the general campus population.

(10) Youth will receive a minimum of 30 minutes of counseling per day with the assigned case manager or designee. The case manager or designee will immediately refer youth to a mental health professional if concerns exist as to the youth's mental health status.

(11) Youth will receive weekly mental health status exams by a psychologist while youth movement and program activities are restricted to the Redirect unit. Youth will also receive weekly psychological counseling if deemed necessary by a psychologist.

(12) Youth will be provided with at least one hour of large muscle exercise seven days per week.

(i) Temporary Removal from the Redirect Program. Youth may be referred to the security program while currently assigned to the Redirect program if the youth meets criteria as set forth in §97.40 of this title. Any time spent in the security program is counted toward the 42-day maximum in the Redirect program.

(j) Criteria for Release from Redirect Program. A youth shall be released from the Redirect program and returned to his/her assigned dorm upon the earliest of the following events:

(1) a determination by the multi-disciplinary team that the youth has met goals set forth in his/her individual plan; or

(2) a determination by the superintendent or designee that the program has failed to be implemented as designed for reasons other than non-compliance of the youth; or

(3) a decision by the superintendent or designee to return the youth to his/her assigned dorm or transfer to an alternative placement based on:

(A) population concerns in the Redirect program; or

(B) a recommendation by a mental health professional due to the youth's mental health condition; or

(C) other administrative concerns;

(4) a decision by the receiving superintendent or designee not to continue the Redirect program after an administrative transfer of the youth to another high restriction facility while assigned to the Redirect program; or

(5) the youth has completed 42 calendar days in the program.

(k) Right to Appeal. The youth shall be notified in writing of his/her right to appeal placement in the Redirect program in accordance with §93.53 of this title. The pendency of an appeal shall not preclude implementation of the decision.

(l) Family Notification. In accordance with §87.5 of this title, a youth's parents or guardian shall be notified within 24 hours after the due process hearing of the youth's admission to the Redirect program.

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

Filed with the Office of the Secretary of State on December 23, 2010.

TRD-201007353

Cheryl K. Townsend

Executive Director

Texas Youth Commission

Effective date: January 15, 2011

Proposal publication date: August 20, 2010

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



TITLE 43. TRANSPORTATION

PART 11. FORT BEND COUNTY TAX ASSESSOR-COLLECTOR

CHAPTER 301. REGULATION OF MOTOR VEHICLE TITLE SERVICES

43 TAC §301.1

The Fort Bend County Tax Assessor-Collector's Office adopts new §301.1, concerning the regulation of motor vehicle title services. The proposal was published in the July 9, 2010, issue of the *Texas Register* (35 TexReg 6053). The rule is adopted without changes and will not be republished.

Prior to the adoption of Texas Transportation Code Chapter 520, Subchapter E, motor vehicle title services were unregulated, posted no bonds, and were not required to maintain records. Such third-party title services have been linked to vehicle insurance fraud and car theft. Texas Transportation Code Chapter 520, Subchapter E regulates motor vehicle title services in counties with a population of more than 500,000 and requires that motor vehicle title services in such counties be registered and licensed, and required to maintain records that are available for inspection.

The Fort Bend County Tax Assessor-Collector has received motor vehicle titles service records from nearly 200 entities since 2005. Nearly all of these entities are small businesses, many of which are micro-businesses. The economic costs for persons who are required to comply with this rule will be the license fee which is due upon application and is not refundable. Small businesses that comply with the rule may experience increased business opportunities because non-compliant competitors will be sanctioned.

In preparing the rule, the Fort Bend County Tax Assessor-Collector considered processes which require less information from applicants, informal tracking of records and random document confirmation but concluded that public welfare and safety would benefit from clear, consistent standards. The Fort Bend County Tax Assessor-Collector also considered assessing lower and higher license fees but concluded that 43 TAC §95.1 set prevailing fee amounts for motor vehicle title services and proposes the same fees to promote consistency among contiguous counties.

No comments were received on the proposed rule.

The rule is adopted pursuant to Texas Transportation Code Chapter 520, Subchapter E, which provides the county tax assessor-collector the authority to adopt rules regarding motor vehicle titles services.

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

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

Filed with the Office of the Secretary of State on December 27, 2010.

TRD-201007358

Patsy Schultz, RTA

Tax Assessor-Collector

Fort Bend County Tax Assessor-Collector

Effective date: January 16, 2011

Proposal publication date: July 9, 2010

For further information, please call: (281) 341-3709



REVIEW OF AGENCY RULES

This section contains notices of state agency rules review as directed by the Texas Government Code, §2001.039. Included here are (1) notices of *plan to review*; (2)

notices of *intention to review*, which invite public comment to specified rules; and (3) notices of *readoption*, which summarize public comment to specified rules. The complete text of an agency's *plan to review* is available after it is filed with the Secretary of State on the Secretary of State's web site (<http://www.sos.state.tx.us/texreg>). The complete text of an agency's rule being reviewed and considered for *readoption* is available in the *Texas Administrative Code* on the web site (<http://www.sos.state.tx.us/tac>).

For questions about the content and subject matter of rules, please contact the state agency that is reviewing the rules. Questions about the web site and printed copies of these notices may be directed to the *Texas Register* office.

Adopted Rule Reviews

Teacher Retirement System of Texas

Title 34, Part 3

The Teacher Retirement System of Texas (TRS) has completed its review under Texas Government Code §2001.039 of the following chapters of TRS' rules in Title 34, Part 3 of the Texas Administrative Code (TAC) Chapters 21, 23, 25, 27, 29, 31, 33, 35, 39, 41, 43, 47, 49, and 51. The Board of Trustees (board) of TRS has determined that the reasons for adopting those chapters continue to exist and readopts them.

The board readopts the following chapters without changes: Chapter 21 (Purpose and Scope); Chapter 27 (Termination of Membership and Refunds); Chapter 33 (Legal Capacity); and Chapter 49 (Collection of Delinquent Obligations).

The board readopts the following chapters with changes, i.e., with amended, repealed, or new rules: Chapter 23 (Administrative Procedures); Chapter 25 (Membership Credit); Chapter 29 (Benefits); Chapter 31 (Employment After Retirement); Chapter 35 (Payments by TRS); Chapter 39 (Proof of Age); Chapter 41 (Health Care and Insurance Programs); Chapter 43 (Contested Cases); Chapter 47 (Qualified Domestic Relations Orders); and Chapter 51 (General Administration).

The notice of the proposed rule review of the chapters was published in the May 14, 2010, issue of the *Texas Register* (35 TexReg 3862). No comments were received in response to the notice of the proposed rule review. During the review, TRS assessed whether the reasons for adopting the chapters listed above as well as the subchapters, where present, and the sections, or rules, in them continued to exist. TRS also considered whether the chapters, subchapters, and sections should be readopted without changes, readopted with changes, or repealed.

As a result of the review, TRS readopts the following chapters of 34 TAC Part 3 and all the sections in them without changes:

CHAPTER 21. PURPOSE AND SCOPE.

§21.1. Statement of Policy.

CHAPTER 27. TERMINATION OF MEMBERSHIP AND REFUNDS.

§27.2. Eligibility for Withdrawal of Member Contributions.

§27.3. False Affidavit and Ineligible Refunds.

§27.4. Refunds.

§27.5. Termination of Right to Benefits.

§27.6. Reinstatement of an Account.

§27.8. Reinstatement of Membership and Service Credit by ORP Participants.

§27.10. Forfeitures May Not Increase Benefits.

CHAPTER 33. LEGAL CAPACITY.

§33.1. Selection of Plan for Payment of Death Claim for a Minor Child.

§33.2. Transactions on Behalf of a Minor Child or Incapacitated Person.

§33.3. Selection of Plan for Payment of Death Claim for an Incapacitated Person.

§33.4. Selection of Retirement Plan for an Incapacitated Person.

§33.5. Approval of Designated Beneficiary.

§33.6. Power of Attorney.

§33.7. Acceptable Signatures.

CHAPTER 49. COLLECTION OF DELINQUENT OBLIGATIONS.

§49.1. Collection Procedures.

§49.2. Demand Letters.

§49.3. Referrals of Delinquent Obligations to Attorney General for Collection.

§49.4. Extension of Deadlines.

§49.5. Records.

§49.6. Supplemental and Alternative Collection Procedures.

§49.7. Exceptions.

As a result of the review, TRS readopts *without changes* the sections listed below in the following chapters of 34 TAC Part 3:

CHAPTER 23. ADMINISTRATIVE PROCEDURES.

§23.1. Complaints.

§23.4. Public Participation in Adoption of Rules.

§23.7. Code of Ethics for Consultants, Agents, Financial Providers and Brokers.

§23.8. Expenditure Reporting by Consultants, Agents, Financial Providers and Brokers.

CHAPTER 25. MEMBERSHIP CREDIT.

Subchapter A. Service Eligible for Membership.

§25.3. Independent or Third-Party Contractors.

- §25.10. Student Employment.
- Subchapter B. Compensation.
- §25.22. Contributions to Cafeteria Plans and Deferred Compensation.
- §25.26. Annual Compensation Creditable for Benefit Calculation.
- §25.30. Conversion of Noncreditable Compensation to Salary.
- §25.33. Contribution Limitation Based on Compensation.
- §25.34. Membership Waiting Period.
- Subchapter C. Unreported Service or Compensation.
- §25.42. Payment of Benefits Contingent on Deposits.
- §25.43. Fee on Deposits for Unreported Service or Compensation.
- §25.46. Determination of Compensation Subject to Deposit and Credit.
- Subchapter E. Military Service.
- §25.64. Crediting Fee.
- Subchapter F. Veteran's (USERRA) Service Credit.
- §25.72. Limitations on Eligible Service.
- §25.76. Eligibility of Retiree.
- Subchapter G. Purchase of Credit for Out-of-State Service.
- §25.81. Out-of-State Service Eligible for Credit.
- §25.84. Crediting Fees.
- §25.86. Computing Average Compensation.
- §25.87. Effective Date of Out-of-State Service Credit and Time for Payment.
- Subchapter I. Verification of Service or Compensation.
- §25.122. Affidavit.
- Subchapter J. Creditable Time and School Year.
- §25.133. School Year.
- §25.134. Credit Limit.
- Subchapter K. Developmental Leave.
- §25.151. Developmental Leave, Eligibility, Cost.
- Subchapter M. Optional Retirement Program.
- §25.171. Election of ORP.
- Subchapter N. Installment Payments.
- §25.181. Minimum Monthly Payment.
- §25.185. Amounts Not Refundable.
- §25.186. Automatic Bank Draft.
- §25.189. Fees Set at the Time of First Payment.
- Subchapter O. Rollover Distributions and Transfers to TRS.
- §25.201. Acceptance of Rollovers and Transfers for Purchase of TRS Credit.
- Subchapter P. Calculation of Fees and Costs.
- §25.301. Calculation of Fees.
- §25.302. Calculation of Actuarial Cost.
- CHAPTER 29. BENEFITS.
- Subchapter A. Retirement.
- §29.4. Actual Compensation.
- §29.5. Computation of Retirement Benefits.
- §29.8. Retirement Payment Plans.
- §29.9. Survivor Benefits.
- §29.10. Retirement under Options 3 and 4.
- §29.12. Early Age Retirement Benefit Calculated on Law in Effect Before September 1, 2005.
- §29.13. Changing Beneficiary for Survivor Benefits.
- §29.14. Eligibility for Retirement at the End of May.
- §29.16. Unpaid Benefits.
- §29.22. Approval of Disability Retirements.
- §29.23. Disability Retirement with Less Than 10 Years of Creditable Service.
- Subchapter B. Death Before Retirement.
- §29.33. Absence from Service.
- Subchapter D. Plan Limitations.
- §29.50. Definitions.
- §29.51. Plan Limitations on Annual Benefits and Member Contributions.
- §29.52. Adjustment to Annual Benefit Limit.
- §29.55. Limitation on Contributions.
- §29.56. Minimum Distribution Requirements.
- Subchapter E. Deferred Retirement Option Plan.
- §29.61. Distribution.
- §29.62. Unemployment during Deferred Retirement Option Plan.
- Subchapter F. Partial Lump-Sum Payment.
- §29.71. Tables.
- §29.72. Eligibility to Select PLSO.
- Subchapter G. Proportionate Retirement.
- §29.80 Eligibility for Normal Age Retirement.
- CHAPTER 31. EMPLOYMENT AFTER RETIREMENT.
- Subchapter A. General Provisions.
- §31.1. Definitions.
- §31.2. Monthly Certified Statement.
- §31.3. Exceptions Apply only to Effective Retirements.
- Subchapter B. Employment After Service Retirement.
- §31.11. Employment Resulting in Forfeiture of Service Retirement Annuity.
- §31.12. Exceptions to Forfeiture of Service Retirement Annuity.
- §31.16. Acute Shortage Area Exception.
- §31.17. Principal or Assistant Principal Exception.
- Subchapter C. Employment After Disability Retirement.
- §31.35. Disability Retiree Report of Excess Compensation.
- §31.36. Forfeiture of Disability Retirement Annuity Payments Due to Excess Compensation.

§31.37. Applicability of Excess Compensation Provisions to Employment in Texas Public Educational Institutions.

CHAPTER 41. HEALTH CARE AND INSURANCE PROGRAMS.

Subchapter A. Retiree Health Care Benefits (TRS-Care).

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

§41.2. Additional Enrollment Opportunities.

§41.3. Retirees Advisory Committee.

§41.4. Employer Health Benefit Surcharge.

§41.5. Payment of Contributions.

§41.6. Required Contributions from Public Schools.

§41.7. Effective Date of Coverage.

§41.8. Eligible Bidders.

§41.9. Bid Procedure.

§41.11. Years of Service Credit Used to Determine Premiums.

§41.14. Expulsion from TRS-Care for Fraud.

Subchapter B. Long-Term Care, Disability And Life Insurance.

§41.15. Requirements to Bid on Insurance for School District Employees and Retirees Under Chapter 1576 of the Insurance Code.

§41.16. Coverage Offered Under the Texas Public School Employees and Retirees Group Long-Term Care Insurance Program.

§41.17. Definitions.

§41.18. Eligibility for the Texas Public School Employees and Retirees Group Long-Term Care Insurance Program.

§41.19. Initial Enrollment Periods for Texas Public School Employees and Retirees Group Long-Term Care Insurance Program.

§41.20. Effective Date of Coverage Under the Texas Public School Employees and Retirees Group Long-Term Care Insurance Program.

Subchapter C. Texas School Employees Group Health (TRS-Active-Care).

§41.31. Eligible Bidders.

§41.32. Bid Procedure.

§41.35. Coverage Plans.

§41.37. Effective Date of Coverage.

§41.40. Coverage Continuation While on Leave Without Pay.

§41.41. Premium Payments.

§41.52. Expulsion from TRS-ActiveCare.

Subchapter D. Comparability of Group Health Coverages.

§41.91. Certification of Insurance Coverage.

CHAPTER 43. CONTESTED CASES.

§43.2. Effect of Invalidity of Rule.

§43.7. Computation of Time.

§43.8. Extensions.

§43.11. Classification of Pleadings.

§43.13. Filing of Pleadings and Amendments.

§43.14. Briefs.

§43.15. Motions.

§43.17. Agreements To Be in Writing.

§43.18. Motion for Consolidation.

§43.19. Additional Parties.

§43.20. Appearance and Representation.

§43.21. Lead Counsel.

§43.23. Powers of the Administrative Law Judge.

§43.24. Prehearing Conference and Orders.

§43.25. Conduct of Hearing.

§43.26. General Admissibility.

§43.27. Exhibits.

§43.28. Pre-filed Direct Testimony in Disability Appeal Proceedings.

§43.29. Limit on Number of Witnesses.

§43.33. Failure to Appear.

§43.34. Conduct and Decorum at Hearing.

§43.35. Official Notice.

§43.36. Ex Parte Consultations.

§43.38. Dismissal without Hearing.

§43.39. Summary Disposition.

§43.40. The Record.

§43.41. Findings of Fact.

§43.42. Reopening of Hearing.

§43.43. Subpoenas and Commissions.

§43.46. Rehearings.

§43.47. Procedures Not Otherwise Provided.

§43.48. Cost of Preparing Administrative Record.

CHAPTER 47. QUALIFIED DOMESTIC RELATIONS ORDERS.

§47.1. Payments by TRS.

§47.2. Submission of Orders.

§47.3. Review of Orders.

§47.5. Orders Not Qualified.

§47.6. Determination That An Order Is Not Qualified Is Final.

§47.7. Submission of Amended Order.

§47.8. Orders Affecting Optional Retirement Program.

§47.9. Orders Affecting Benefits from More Than One Public Retirement System.

§47.10. Determination of Whether an Order is a Qualified Domestic Relations Order.

§47.13. Benefits Resulting from Resumption of Membership and Reinstatement of Service Credit.

§47.14. Reinstatement of Service Credit.

§47.15. Death of an Alternate Payee.

§47.16. Effective Date of TRS Review of Orders.

CHAPTER 51. GENERAL ADMINISTRATION.

§51.5. Waiver of Deadline to Remit Deposits and Documentation.

As a result of the review, TRS readopts *with amendments* the sections listed below in the following chapters of 34 TAC Part 3:

CHAPTER 23. ADMINISTRATIVE PROCEDURES.

§23.5. Nomination for Appointment to the Board of Trustees.

CHAPTER 25. MEMBERSHIP CREDIT.

Subchapter A. Service Eligible for Membership.

§25.1. Full-time Service.

§25.4. Substitutes.

§25.6. Part-time or Temporary Employment.

Subchapter B. Compensation.

§25.21. Compensation Subject to Deposit and Credit.

§25.24. Performance Pay.

§25.25. Required Deposits.

§25.28. Payroll Report Dates.

§25.31. Percentage Limits on Compensation Increases.

§25.35. Employer Payments for New Members.

Subchapter C. Unreported Service or Compensation.

§25.41. Deposits for Unreported Service or Compensation.

§25.45. Verification of Unreported Compensation or Service.

Subchapter E. Military Service.

§25.61. Service Credit for Eligible Military Duty.

§25.66. Application for Military Credit.

Subchapter F. Veteran's (USERRA) Service Credit.

§25.71. Service Credit for Eligible Active Military Duty under the Uniformed Services Employment and Re-Employment Rights Act.

§25.73. Ineligible Military Service.

§25.74. Cost.

§25.75. Application for Eligible Active Military Duty under the Uniformed Services Employment and Re-Employment Rights Act.

Subchapter G. Purchase of Credit for Out-of-State Service.

§25.82. Cost.

§25.85. Amount of Out-of-State Service Which Can Be Purchased.

Subchapter H. Joint Service with Employees Retirement System.

§25.113. Transfer of Credit between TRS and ERS.

Subchapter I. Verification of Service or Compensation.

§25.121. Employer Verification.

§25.123. Certification.

Subchapter J. Creditable Time and School Year.

§25.131. Required Service.

§25.132. Paid Leave Time.

Subchapter K. Developmental Leave.

§25.152. Application and Payment for Developmental Leave Credit.

Subchapter L. Other Special Service Credit.

§25.161. Work Experience Service Credit.

§25.162. State Personal or Sick Leave Credit.

§25.163. Service Credit Purchase.

§25.164. Credit for Service During School Year With Membership Waiting Period.

Subchapter M. Optional Retirement Program.

§25.172. ORP and TRS.

Subchapter N. Installment Payments.

§25.182. Yearly Increments of Credit.

§25.183. Nonpayment.

§25.184. Refund for Nonpayment.

§25.188. Payment by Beneficiary.

CHAPTER 29. BENEFITS.

Subchapter A. Retirement.

§29.1. Eligibility for Service Retirement.

§29.11. Actuarial Tables.

§29.15. Termination of Employment.

§29.21. Beneficiary Tables.

§29.24. Purchase of Credit.

§29.26. Discontinuance of Disability Benefits.

Subchapter B. Death Before Retirement.

§29.34. Events Affecting Payment.

Subchapter E. Deferred Retirement Option Plan.

§29.63. Deadline for Purchase of Special Service Credit.

Subchapter F. Partial Lump-Sum Payment.

§29.70. Distribution.

CHAPTER 31. EMPLOYMENT AFTER RETIREMENT.

Subchapter B. Employment After Service Retirement.

§31.13. Substitute Service.

§31.14. One-half Time Employment.

§31.15. Six-Month Exception.

§31.18. Bus Driver Exception.

§31.19. Faculty Member of Professional Nursing Program Exception.

Subchapter C. Employment After Disability Retirement.

§31.31. Employment Resulting in Forfeiture of Disability Retirement Annuity.

§31.32. Half-time Employment Up to 90 Days.

§31.33. Substitute Service Up to 90 Days.

§31.34. Employment Up to Three Months on a One-Time Only Trial Basis.

Subchapter D. Employer Pension Surcharge.

§31.41. Return to Work Employer Pension Surcharge.

CHAPTER 35. PAYMENTS BY TRS.

§35.1. Payment Error.

§35.2. Direct Rollovers from TRS.

CHAPTER 39. PROOF OF AGE.

§39.1. Establishment of Date of Birth.

CHAPTER 41. HEALTH CARE AND INSURANCE PROGRAMS.

Subchapter A. Retiree Health Care Benefits (TRS-Care).

§41.10. Eligibility to Enroll in the Health Benefits Program Under the Texas Public School Retired Employees Group Benefits Act.

Subchapter C. Texas School Employees Group Health (TRS-Active-Care).

§41.30. Participation in the Health Benefits Program under the Texas School Employees Uniform Group Health Coverage Act by School Districts, Other Educational Districts, Charter Schools, and Regional Education Service Centers.

§41.33. Definitions Applicable to the Texas School Employees Uniform Group Health Coverage Program.

§41.34. Eligibility for Coverage under the Texas School Employees Uniform Group Health Coverage Program.

§41.36. Enrollment Periods for TRS-ActiveCare.

§41.38. Termination Date of Coverage.

§41.39. Coverage for Individuals Changing Employers.

§41.45. Required Information from School Districts with More than 1,000 Employees.

§41.50. Appeals Relating to Claims.

§41.51. Appeals Relating to Eligibility.

CHAPTER 43. CONTESTED CASES.

§43.1. Administrative Review of Individual Requests.

§43.3. Definitions.

§43.4. Decisions Subject to Review by an Adjudicative Hearing.

§43.5. Request for Adjudicative Hearing.

§43.6. Filing of Documents.

§43.9. Docketing of Appeal for Adjudicative Hearing and Dismissal for Failure to Obtain Setting.

§43.10. Authority to Grant Relief.

§43.12. Form of Petitions and Other Pleadings.

§43.16. Notice of Hearing and Other Action.

§43.37. Recording of the Hearing; Certified Language Interpreter.

§43.44. Discovery.

§43.45. Proposals for Decision, Exceptions, and Appeals to the Board of Trustees.

CHAPTER 47. QUALIFIED DOMESTIC RELATIONS ORDERS.

§47.4. Payment Pursuant to Qualified Orders.

§47.17. Calculation for Alternate Payee Benefits Before a Member's Benefit Begins.

CHAPTER 51. GENERAL ADMINISTRATION.

§51.1. Advisory and Auxiliary Committees.

§51.2. Vendor Protests, Dispute Resolution, and Hearing.

§51.7. Assignment of TRS Vehicles.

§51.11. Historically Underutilized Businesses.

§51.12. Applicability of Certain Laws in Effect Before September 1, 2005.

As a result of the review, TRS *repeals* the sections and, as noted, the subchapter listed below in the following chapters of 34 TAC Part 3:

CHAPTER 25. MEMBERSHIP CREDIT.

Subchapter A. Service Eligible for Membership.

§25.2. Bus Drivers.

Subchapter N. Installment Payments.

§25.190. Employer Pick-up of Installment Payments.

CHAPTER 29. BENEFITS.

Subchapter C. Postretirement Increases. (Subchapter repealed along with the single section in it.)

§29.40. Election of Recalculation of Benefit.

As a result of the review, TRS adopts the *new* sections listed below in the following chapters and subchapters, where present, of 34 TAC Part 3:

CHAPTER 25. MEMBERSHIP CREDIT.

Subchapter F. Veteran's (USERRA) Service Credit.

§25.77. USERRA Service Creditable but not Established.

CHAPTER 29. BENEFITS.

Subchapter A. Retirement.

§29.7. Completion of Retirement Application Process.

Subchapter G. Proportionate Retirement.

§29.81. Eligibility of Member.

§29.82. Calculation of Salary Average.

Amended, repealed, or new rules in the chapters reviewed are adopted in accordance with the Texas Administrative Procedure Act, Chapter 2001 of the Texas Government Code, and will be published elsewhere in the Adopted Rules section of this or another issue of the *Texas Register*, along with TRS' responses to any public comments on specific rules as proposed.

This concludes TRS' review of 34 TAC Chapters 21, 23, 25, 27, 29, 31, 33, 35, 39, 41, 43, 47, 49, and 51.

TRD-201007381

Ronnie G. Jung
Executive Director

Teacher Retirement System of Texas
Filed: December 28, 2010



TABLES &

GRAPHICS

Graphic images included in rules are published separately in this tables and graphics section. Graphic images are arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic images are indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word “Figure” followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph, and so on.

Figure: 25 TAC §97.63(2)(A)

Minimum Number of Doses Required of Each Vaccine

Child's age at child-care or school entry	DTaP	Polio	Hep B	Hib	PCV	MMR	Varicella	Hep A
0 through 2 months	None	None	None	None	None	None	None	None
3 months through 4 months	1 Dose	1 Dose	1 Dose	1 Dose	1 Dose	None	None	None
5 months through 6 months	2 Doses	2 Doses	2 Doses	2 Doses	2 Doses	None	None	None
7 months through 15 months	3 Doses	2 Doses	2 Doses	2 Doses**	3 Doses***	None	None	None
16 months through 18 months	3 Doses	2 Doses	2 Doses	3 Doses**	4 Doses***	1 Dose*	1 Dose*	None
19 months through 24 months	4 Doses	3 Doses	3 Doses	3 Doses**	4 Doses***	1 Dose*	1 Dose*	None
25 months through 42 months	4 Doses	3 Doses	3 Doses	3 Doses**	4 Doses***	1 Dose*	1 Dose*	1 Dose*
43 months but before Kg entry	4 Doses	3 Doses	3 Doses	3 Doses**	4 Doses***	1 Dose*	1 Dose*	2 Doses*

*For MMR, Varicella, and Hepatitis A vaccines, the first dose must be given on or after the first birthday.

**A complete Hib series is two doses plus a booster dose on or after 12 months of age (three doses total). If a child receives the first dose of Hib vaccine at 12-14 months of age, only one additional dose is required (two doses total). Any child who has received a single dose of Hib vaccine on or after 15 months of age is in compliance with these specified vaccine requirements.

***If the PCV series is started when a child is seven months of age or older, then all four doses are not required.

- For children seven through 11 months of age, two doses are required.
- For children 12-23 months of age: if three doses have been received prior to 12 months of age, then an additional dose is required (total of four doses) on or after 12 months of age. If one or two doses were received prior to 12 months of age, then a total of three doses are required with at least one dose on or after 12 months of age. If zero doses have been received, then two doses are required with both doses on or after 12 months of age.
- Children 24 months through 59 months meet the requirement if they have at least three doses with one dose on or after 12 months of age, or two doses with both doses on or after 12 months of age, or one dose on or after 24 months of age. Otherwise, one additional dose is required.

IN

ADDITION

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

Texas State Affordable Housing Corporation

Draft 2011 Annual Action Plan Now Available for Public Comment

The Texas State Affordable Housing Corporation presents for public comment its draft 2011 Annual Action Plan, which is a component of the 2011 State Low Income Housing Plan. A copy of the draft 2011 Annual Action Plan may be found on the Corporation's website at www.tsahc.org. The public comment period for the Corporation's Draft 2011 Annual Action Plan is December 29, 2010 through February 1, 2011.

Written comments may be sent to Janie Taylor, 2200 E. Martin Luther King Jr. Boulevard, Austin, Texas 78702 or by email to jtaylor@tsahc.org.

TRD-201007390

David Long

President

Texas State Affordable Housing Corporation

Filed: December 28, 2010



Comptroller of Public Accounts

Notice of Contract Awards

The Comptroller of Public Accounts (Comptroller) announces the following contract awards for providing professional unclaimed property audit services. The Notice of Request for Proposals (RFP #198e) was published in the August 6, 2010, issue of the *Texas Register* (35 TexReg 6845).

Contracts were awarded to:

Audit Services U.S., LLC., 212 West 35th Street, Suite 600, New York, New York 10001. The term of the contract is November 9, 2010 through August 31, 2011, with option for two (2) additional one-year renewals.

Verus Financial, LLC, 500 Chase Parkway, Waterbury, Connecticut 06708. The term of the contract is November 9, 2010 through August 31, 2011, with option for two (2) additional one-year renewals.

ACS State & Local Solutions, Inc., 100 Hancock Street, Tenth Floor, Quincy, Massachusetts 02171. The term of the contract is December 16, 2010 through August 31, 2011, with option for two (2) additional one-year renewals.

The total amount of each contract is based on a percentage of the cash value of net unclaimed property received by Comptroller as a result of an audit.

TRD-201007275

William Clay Harris

Assistant General Counsel, Contracts

Comptroller of Public Accounts

Filed: December 20, 2010



Notice of Contract Awards

The Comptroller of Public Accounts (Comptroller), State Energy Conservation Office, announces this notice of contracts awarded in connection with the Request for Applications (RFA) #S-G-1 for scholarship grant contracts awarded under the Jobs and Education for Texans (JET) program.

Comptroller announces that contracts were awarded to the following:

Alamo Community College District, 201 W. Sheridan, San Antonio, TX 78204-1429. The total amount of the contract is not to exceed \$354,793.00. The term of this contract is November 19, 2009 through August 31, 2011;

Alvin Community College, 3110 Mustang Road, Alvin, TX 77511. The total amount of the contract is not to exceed \$79,553.00. The term of this contract is November 5, 2009 through August 31, 2011;

Amarillo College, P.O. Box 447, Amarillo, TX 79178. The total amount of the contract is not to exceed \$146,699.00. The term of the contract is November 5, 2009 through August 31, 2011;

Angelina College, 3500 S. First Street, Lufkin, TX 75904. The total amount of the contract is not to exceed \$65,350.00. The term of the contract is November 5, 2009 through August 31, 2011;

Austin Community College, 5930 Middle Fiskville Road, Austin, TX 78752. The total amount of the contract is not to exceed \$151,699.00. The term of the contract is November 5, 2009 through August 31, 2011;

Blinn College, 902 College Avenue, Brenham, TX 77833. The total amount of the contract is not to exceed \$56,069.00. The term of the contract is November 5, 2009 through August 31, 2011;

Brazosport College, 500 College Drive, Lake Jackson, TX 77566. The total amount of the contract is not to exceed \$53,870.00. The term of the contract is November 5, 2009 through August 31, 2011;

Central Texas College, P.O. Box 1800, Killeen, TX 76540-1800. The total amount of the contract is not to exceed \$72,066.00. The term of the contract is November 5, 2009 through August 31, 2011;

Cisco Junior College, 101 College Heights, Cisco, TX 76437. The total amount of the contract is not to exceed \$43,890.00. The term of the contract is November 5, 2009 through August 31, 2011;

Clarendon College, P.O. Box 968, Clarendon, TX 79226. The total amount of the contract is not to exceed \$29,257.00. The term of the contract is November 5, 2009 through August 31, 2011;

Coastal Bend College, 3800 Charco Road, Beeville, TX 78102. The total amount of the contract is not to exceed \$43,175.00. The term of the contract is November 12, 2009 through August 31, 2011;

College of the Mainland, 1200 Amburn Rd, Texas City, TX 77591. The total amount of the contract is not to exceed \$41,224.00. The term of the contract is November 11, 2009 through August 31, 2011;

Collin County Community College, 3452 Spur 399, McKinney, TX 75069. The total amount of the contract is not to exceed \$32,924.00. The term of the contract is November 4, 2009 through August 31, 2011;

Dallas County Community College District, 1601 South Lamar Street, Dallas, TX 75215-1816. The total amount of the contract is not to exceed \$302,244.00. The term of the contract is November 5, 2009 through August 31, 2011;

Del Mar College, 101 Baldwin Blvd. Corpus Christi, TX 78404-3897. The total amount of the contract is not to exceed \$129,179.00. The term of the contract is November 13, 2009 through August 31, 2011;

El Paso Community College District, P.O. Box 20500, El Paso, TX 79998. The total amount of the contract is not to exceed \$107,025.00. The term of the contract is November 5, 2009 through August 31, 2011;

Frank Phillips College, P.O. Box 5118, Borger, TX 79008-5118. The total amount of the contract is not to exceed \$11,755.00. The term of the contract is November 4, 2009 through August 31, 2011;

Galveston College, 4050 Avenue Q, Galveston, TX 77550. The total amount of the contract is not to exceed \$43,860.00. The term of the contract is November 5, 2009 through August 31, 2011;

Grayson College, 6101 Grayson Drive, Denison, TX 75020. The total amount of the contract is not to exceed \$75,382.00. The term of the contract is November 5, 2009 through August 31, 2011;

Hill College, P.O. Box 619, Hillsboro, TX 76645. The total amount of the contract is not to exceed \$42,755.00. The term of the contract is November 13, 2009 through August 31, 2011;

Houston Community College, 3100 Main, Suite 12B12 (MC1148), Houston, TX 77002. The total amount of the contract is not to exceed \$202,976.00. The term of the contract is January 26, 2010 through August 31, 2011;

Howard County Junior College, 1001 Birdwell Lane, Big Spring, TX 78040. The total amount of the contract is not to exceed \$36,618.00. The term of the contract is November 17, 2009 through August 31, 2011;

Kilgore College, 1100 Broadway, Kilgore, TX 75662. The total amount of the contract is not to exceed \$80,654.00. The term of the contract is November 5, 2009 through August 31, 2011;

Lamar Institute of Technology, 855 E. Lavaca, Beaumont, TX 77705. The total amount of the contract is not to exceed \$65,854.00. The term of the contract is November 5, 2009 through August 31, 2011;

Lamar State College - Orange, 401 Front Street, Orange, TX 77630-5899. The total amount of the contract is not to exceed \$63,217.00. The term of the contract is November 12, 2009 through August 31, 2011;

Lamar State College - Port Arthur, P.O. Box 310, Port Arthur, TX 77640. The total amount of the contract is not to exceed \$48,275.00. The term of the contract is November 17, 2009 through August 31, 2011;

Laredo Community College, 1 West End Washington Street, Laredo, TX 78040. The total amount of the contract is not to exceed \$76,408.00. The term of the contract is November 5, 2009 through August 31, 2011;

Lee College, P.O. Box 818, Baytown, TX 77522. The total amount of the contract is not to exceed \$172,124.00. The term of the contract is November 4, 2009 through August 31, 2011;

Lone Star College System, 5000 Research Forest, The Woodlands, TX 77381. The total amount of the contract is not to exceed \$256,847.00. The term of the contract is November 5, 2009 through August 31, 2011;

McLennan Community College, 1400 College Drive, Waco, TX 76708. The total amount of the contract is not to exceed \$66,639.00.

The term of the contract is November 5, 2009 through August 31, 2011;

Midland College, 3600 N. Garfield, Midland, TX 79705. The total amount of the contract is not to exceed \$54,811.00. The term of the contract is November 12, 2009 through August 31, 2011;

Navarro College, 3200 West 7th Street, Corsicana, TX 75110. The total amount of the contract is not to exceed \$54,023.00. The term of the contract is November 5, 2009 through August 31, 2011;

North Central Texas College, 1525 West California Street, Gainesville, TX 76240. The total amount of the contract is not to exceed \$50,671.00. The term of the contract is November 5, 2009 through August 31, 2011;

Odessa College, 201 W. University, Odessa, TX 79764. The total amount of the contract is not to exceed \$46,340.00. The term of the contract is November 5, 2009 through August 31, 2011;

Panola College, 1109 West Panola, Carthage, TX 75633. The total amount of the contract is not to exceed \$46,232.00. The term of the contract is November 6, 2009 through August 31, 2011;

Paris Junior College, 2400 Clarksville Street, Paris, TX 75460. The total amount of the contract is not to exceed \$60,080.00. The term of the contract is November 5, 2009 through August 31, 2011;

Ranger College, 1100 College Circle, Ranger, TX 76470. The total amount of the contract is not to exceed \$17,865.00. The term of the contract is November 5, 2009 through August 31, 2011;

San Jacinto Community College District, 4624 Fairmont Pkwy, Pasadena, TX 77504. The total amount of the contract is not to exceed \$246,046.00. The term of the contract is November 5, 2009 through August 31, 2011;

South Plains College, 1401 S. College Ave., Levelland, TX 79336. The total amount of the contract is not to exceed \$59,619.00. The term of the contract is November 5, 2009 through August 31, 2011;

South Texas College, 3201 West Pecan Boulevard, McAllen, TX 78501. The total amount of the contract is not to exceed \$156,507.00. The term of the contract is November 5, 2009 through August 31, 2011;

Southwest Texas Junior College, 2401 Garner Field Road, Uvalde, TX 78801-6297. The total amount of the contract is not to exceed \$39,070.00. The term of the contract is November 5, 2009 through August 31, 2011;

Tarrant County College District, 1500 Houston St., Fort Worth, TX 76102-6599. The total amount of the contract is not to exceed \$152,049.00. The term of the contract is November 4, 2009 through August 31, 2011;

Temple College, 2600 S. First Street, Temple, TX 76504. The total amount of the contract is not to exceed \$43,314.00. The term of the contract is November 12, 2009 through August 31, 2011;

Texarkana College, 2500 North Robison Road, Texarkana, TX 75599. The total amount of the contract is not to exceed \$62,322.00. The term of the contract is November 5, 2009 through August 31, 2011;

Texas Southmost College, 80 Fort Brown Street, Brownsville, TX 78520. The total amount of the contract is not to exceed \$83,137.00. The term of the contract is November 6, 2009 through August 31, 2011;

Trinity Valley Community College, 100 Cardinal Drive, Athens, TX 75751. The total amount of the contract is not to exceed \$153,338.00. The term of the contract is November 5, 2009 through August 31, 2011;

Texas State Technical College, 3801 Campus Drive, Waco, TX 76705. The total amount of the contract is not to exceed \$340,201.00. The term of the contract is November 5, 2009 through August 31, 2011;

Tyler Junior College, 1400 East 5th Street, Tyler, TX 75711. The total amount of the contract is not to exceed \$129,985.00. The term of the contract is November 5, 2009 through August 31, 2011;

Vernon College, 4400 College Drive, Vernon, TX 76384. The total amount of the contract is not to exceed \$58,987.00. The term of the contract is November 5, 2009 through August 31, 2011;

Victoria College, 2200 East Red River, Victoria, TX 77901. The total amount of the contract is not to exceed \$66,965.00. The term of the contract is November 5, 2009 through August 31, 2011;

Weatherford College, 225 College Park Dr., Weatherford, TX 76086. The total amount of the contract is not to exceed \$35,741.00. The term of the contract is November 5, 2009 through August 31, 2011;

Western Texas College, 520 College Avenue, Snyder, TX 79549. The total amount of the contract is not to exceed \$16,969.00. The term of the contract is November 5, 2009 through August 31, 2011; and

Wharton County Junior College, 811 E. Boling Hwy, Wharton, TX 77488. The total amount of the contract is not to exceed \$46,605.00. The term of the contract is November 5, 2009 through August 31, 2011.

The notice of request for applications (RFA #S-G-1) was published in the September 4, 2009, issue of the *Texas Register* (34 TexReg 6164).

TRD-201007348

William Clay Harris

Assistant General Counsel, Contracts

Comptroller of Public Accounts

Filed: December 22, 2010



Notice of Contract Awards

The Comptroller of Public Accounts (Comptroller) announces this notice of grants awarded in connection with the Request for Applications (RFA) #E-G-1 for equipment grant contracts awarded under the Jobs and Education for Texans (JET) program.

Comptroller announces that grant contracts were awarded to the following:

Austin Community College District, 5930 Middle Fiskville Rd., Austin, TX 78752. The total amount of the contract is not to exceed \$105,000.12. The term of this contract is January 8, 2010 through January 7, 2011;

Alamo Community College District, 201 W. Sheridan, San Antonio, TX 78204. The total amount of the contract is not to exceed \$236,690.00. The term of this contract is January 28, 2010 through January 27, 2011;

Angelina College, P.O. Box 1768, Lufkin, TX 75902. The total amount of the contract is not to exceed \$250,000.00. The term of the contract is January 12, 2010 through January 11, 2011;

El Paso Community College District, P.O. Box 20500, El Paso, TX 79998. The total amount of the contract is not to exceed \$52,445.00. The term of the contract is January 20, 2010 through January 19, 2011;

Grayson County Community College, 6101 Grayson Dr., Denison, TX 75020. The total amount of the contract is not to exceed \$188,460.00. The term of the contract is January 12, 2010 through April 30, 2011;

Lamar State College - Orange, 410 Front Street, Orange, TX 77630. The total amount of the contract is not to exceed \$150,000.00. The term of the contract is January 22, 2010 through January 21, 2011;

Lone Star College System, 5000 Research Forest Dr., The Woodlands, TX 77381. The total amount of the contract is not to exceed \$245,500.00. The term of the contract is January 12, 2010 through January 11, 2011;

Midland College, 3600 N. Garfield, Midland, TX 79705. The total amount of the contract is not to exceed \$144,500.00. The term of the contract is January 8, 2010 through April 15, 2011;

Panola College, 1109 West Panola, Carthage, TX 75633. The total amount of the contract is not to exceed \$249,813.00. The term of the contract is January 13, 2010 through January 12, 2011;

South Texas College, 3201 W. Pecan Blvd., McAllen, TX 78501. The total amount of the contract is not to exceed \$100,240.00. The term of the contract is January 12, 2010 through January 11, 2011;

Trinity Valley Community College, 100 Cardinal St., Athens, TX 75751. The total amount of the contract is not to exceed \$97,000.00. The term of the contract is January 7, 2010 through January 6, 2011;

Tyler Junior College, P.O. Box 9020, Tyler, TX 75711. The total amount of the contract is not to exceed \$208,500.00. The term of the contract is January 12, 2010 through January 11, 2011; and

Wharton County Community College, 911 Boling Highway, Wharton, TX 77488. The total amount of the contract is not to exceed \$229,318.00. The term of the contract is January 12, 2010 through January 11, 2011.

The notice of request for applications (RFA #E-G-1) was published in the October 2, 2009, issue of the *Texas Register* (34 TexReg 6875).

TRD-201007415

William Clay Harris

Assistant General Counsel, Contracts

Comptroller of Public Accounts

Filed: December 29, 2010



Notice of Contract Awards

The Comptroller of Public Accounts (Comptroller) State Energy Conservation Office announces this notice of grants awarded in connection with the Request for Applications (RFA) #TR-AG1-2010 for Transportation Energy Efficiency Alternative Fuels and Technology Stimulus Grant Program.

Comptroller announces that grant contracts were awarded to the following:

City of Austin, P.O. Box 1088, Austin, TX 78767-1088. The total amount of the contract is not to exceed \$607,209.00. The term of this contract is May 24, 2010 through December 31, 2011;

City of Corpus Christi - Gas Department, 4225 South Port Avenue, Corpus Christi, TX 78415-0000. The total amount of the contract is not to exceed \$400,000.00. The term of this contract is February 9, 2010 through December 31, 2011;

The City of Dumas, 124 West 6th Street, Dumas, TX 79029-0000. The total amount of the contract is not to exceed \$107,800.00. The term of this contract is February 9, 2010 through December 31, 2011;

The City of El Paso, 2 Civic Center Plaza, 9th Floor, El Paso, TX 79901-0000. The total amount of the contract is not to exceed

\$256,000.00. The term of this contract is March 25, 2010 through December 31, 2011;

The City of Houston, 900 Bagby, 2nd Floor, Houston, TX 77002. The total amount of the contract is not to exceed \$500,000.00. The term of this contract is March 25, 2010 through December 31, 2011;

The City of Laredo, 619 Reynolds Street, Laredo, TX 78040. The total amount of the contract is not to exceed \$924,000.00. The term of this contract is March 8, 2010 through December 31, 2011;

City of San Antonio, 111 Soledad, Suite 725, San Antonio, TX 78205-2230. The total amount of the contract is not to exceed \$90,000.00. The term of this contract is February 9, 2010 through December 31, 2011;

North Central Texas Council of Governments, 616 Six Flags Drive, Arlington, TX 76011-6317. The total amount of the contract is not to exceed \$2,500,000.00. The term of this contract is February 25, 2010 through December 31, 2011;

Port of Corpus Christi Authority, 222 Powers Street, Corpus Christi, TX 78401-0000. The total amount of the contract is not to exceed \$15,237.50. The term of this contract is February 9, 2010 through December 31, 2011;

The Railroad Commission of Texas, P.O. Box 13967, Austin, TX 78711-2967. The total amount of the contract is not to exceed \$3,092,080.00. The term of this contract is February 10, 2010 through December 31, 2011;

The Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, TX 78205-2230. The total amount of the contract is not to exceed \$90,000.00. The term of this contract is February 9, 2010 through December 31, 2011; and

The University of Texas at Austin, 1500 Manor Road, Austin, TX 78722. The total amount of the contract is not to exceed \$200,000.00. The term of this contract is March 9, 2010 through December 31, 2011.

The notice of request for applications (RFA #TR-AG1-2010) was published in the September 18, 2009, issue of the *Texas Register* (34 TexReg 6459).

TRD-201007417

William Clay Harris

Assistant General Counsel, Contracts

Comptroller of Public Accounts

Filed: December 29, 2010



Notice of Contract Awards

The Comptroller of Public Accounts (Comptroller) State Energy Conservation Office announces this notice of grants awarded in connection with the Request for Applications (RFA) #TR-AG2-2010 for Transportation Energy Efficiency Traffic Signal Synchronization Stimulus Grant Program.

Comptroller announces that grant contracts were awarded to the following:

The City of Beaumont, 801 Main Street, Beaumont, TX 77701-0000. The total amount of the contract is not to exceed \$2,061,978.39. The term of this contract is February 1, 2010 through December 31, 2011, with option to renew for one additional one-year term;

City of Bedford, 200 Forest Ridge Drive, Bedford, TX 76021. The total amount of the contract is not to exceed \$1,856,000.00. The term of this contract is March 8, 2010 through December 31, 2011, with option to renew for one additional one-year term;

City of Brownsville, 1001 E. Elizabeth Street, 3rd Floor, Brownsville, TX 78520-0911. The total amount of the contract is not to exceed \$100,000.00. The term of this contract is March 16, 2010 through December 31, 2011, with option to renew for one additional one-year term;

City of Bryan, P.O. Box 1000, Bryan, TX 77805. The total amount of the contract is not to exceed \$373,866.00. The term of this contract is March 9, 2010 through December 31, 2011, with option to renew for one additional one-year term;

City of Cedar Hill, 285 Uptown Blvd., Cedar Hill, TX 75104. The total amount of the contract is not to exceed \$308,688.00. The term of this contract is March 8, 2010 through December 31, 2011, with option to renew for one additional one-year term;

City of Cedar Park, 6009 N. Bell Blvd., Cedar Park, TX 78613-0000. The total amount of the contract is not to exceed \$86,400.00. The term of this contract is February 1, 2010 through December 31, 2011, with option to renew for one additional one-year term;

City of Allen, 305 Century Parkway, Allen, TX 75103-0000. The total amount of the contract is not to exceed \$392,500.00. The term of this contract is February 2, 2010 through December 31, 2011, with option to renew for one additional one-year term;

City of Frisco, 6101 Frisco Square Blvd., Frisco, TX 75034. The total amount of the contract is not to exceed \$134,400.00. The term of this contract is March 8, 2010 through December 31, 2011, with option to renew for one additional one-year term;

City of Fort Worth, 1000 Throckmorton, Fort Worth, TX 76102. The total amount of the contract is not to exceed \$750,000.00. The term of this contract is February 22, 2010 through December 31, 2011, with option to renew for one additional one-year term;

City of Grand Prairie, P.O. Box 534045, Grand Prairie, TX 75053. The total amount of the contract is not to exceed \$419,900.00. The term of this contract is March 3, 2010 through December 31, 2011, with option to renew for one additional one-year term;

City of Grapevine, P.O. Box 95104, Grapevine, TX 76501. The total amount of the contract is not to exceed \$308,000.00. The term of this contract is February 19, 2010 through December 31, 2011, with option to renew for one additional one-year term;

City of Killeen, 101 N. College Street, Killeen, TX 76540. The total amount of the contract is not to exceed \$270,080.00. The term of this contract is February 17, 2010 through December 31, 2011, with option to renew for one additional one-year term;

Missouri City, 1522 Texas Parkway, Missouri City, TX 77489. The total amount of the contract is not to exceed \$166,880.00. The term of this contract is February 10, 2010 through December 31, 2011, with option to renew for one additional one-year term;

Montgomery County, 501 N. Thompson, Suite 401, Conroe, TX 77301-0000. The total amount of the contract is not to exceed \$191,195.61. The term of this contract is February 10, 2010 through December 31, 2011, with option to renew for one additional one-year term;

City of North Richland Hills, P.O. Box 820609, North Richland Hills, TX 76182-0000. The total amount of the contract is not to exceed \$362,500.00. The term of this contract is February 17, 2010 through December 31, 2011, with option to renew for one additional one-year term; and

City of Waco, P.O. Box 2570, Waco, TX 76702-2570. The total amount of the contract is not to exceed \$28,000.00. The term of this contract is

March 10, 2010 through December 31, 2011, with option to renew for one additional one-year term.

The notice of request for applications (RFA #TR-AG2-2010) was published in the September 25, 2009, issue of the *Texas Register* (34 TexReg 6675).

TRD-201007418

William Clay Harris

Assistant General Counsel, Contracts

Comptroller of Public Accounts

Filed: December 29, 2010



Notice of Contract Awards

The Comptroller of Public Accounts (Comptroller) announces this notice of grants awarded in connection with the Request for Applications #E-JG2-2010 for equipment grant contracts awarded under the Jobs and Education for Texans program.

Comptroller announces that grant contracts were awarded to the following:

Blinn College, 902 College Avenue, Brehnam, Texas 77833. The total amount of the grant is not to exceed \$350,000. The term of this contract is April 20, 2010 through April 19, 2011;

Brazosport College, 500 College Drive, Lake Jackson, Texas 77566. The total amount of the grant is not to exceed \$215,760. The term of this contract is April 21, 2010 through April 20, 2011;

Coastal Bend College, 3800 Charco Road, Beeville, Texas 78102. The total amount of the grant is not to exceed \$149,700. The term of this contract is April 21, 2010 through April 20, 2011;

Collin College District, 3452 Spur 399, McKinney, Texas 75070. The total amount of the grant is not to exceed \$124,490. The term of this contract is April 27, 2010 through April 26, 2011;

Hill College, 112 Lamar, Hillsboro, Texas 76645. The total amount of the contract is not to exceed \$204,900. The term of this contract is April 27, 2010 through April 26, 2011;

Houston Community College District, 3100 Main Street, Houston, Texas 77002. The total amount of the grant is not to exceed \$338,300. The term of the contract is May 11, 2010 through May 10, 2011;

Lamar Institute of Technology, P.O. Box 10043, Beaumont, Texas 77710. The total amount of the grant is not to exceed \$62,500. The term of this contract is April 20, 2010 through October 31, 2011;

Lamar State College - Port Arthur, P.O. Box 310, Port Arthur, Texas 77641. The total amount of the grant is not to exceed \$56,985. The term of this contract is April 20, 2010 through April 19, 2011;

Lee College, P.O. Box 818, Baytown, Texas 77522. The total amount of the grant is not to exceed \$166,286. The term of this contract is April 21, 2010 through April 20, 2011;

Navarro Community College, 3200 West 7th Avenue, Corsicana, Texas 75110. The total amount of the grant is not to exceed \$243,808. The term of this contract is April 27, 2010 through April 26, 2011;

North Central Texas College, 1525 West California Street, Gainesville, Texas 76240. The total amount of the grant is not to exceed \$177,130. The term of this contract is April 21, 2010 through April 20, 2011;

Ranger College, 1100 College Circle, Ranger, Texas 76470. The total amount of the grant is not to exceed \$202,182. The term of this contract is April 21, 2010 through April 20, 2011;

San Jacinto College District, 2620 Fairmont Parkway, Suite 200, Pasadena, Texas 77504. The total amount of the grant is not to exceed \$294,005. The term of this contract is April 21, 2010 through April 20, 2011;

South Plains College, 1401 S. College Avenue, Levelland, Texas 79336. The total amount of the grant is not to exceed \$127,138. The term of this contract is April 20, 2010 through April 19, 2011;

Tarrant County College District, 1500 Houston Street, Fort Worth, Texas 76102. The total amount of the grant is not to exceed \$276,494. The term of this contract is April 27, 2010 through April 26, 2011;

Texas State Technical College - Waco, 3801 Campus Drive, Waco, Texas 76751. The total amount of the grant is not to exceed \$126,550. The term of this contract is April 20, 2010 through April 19, 2011; and

Weatherford College, 225 College Park Drive, Weatherford, Texas 76086. The total amount of the grant is not to exceed \$313,656. The term of the contract is April 20, 2010 through April 19, 2011.

The notice of request for applications (RFA #E-JG2-2010) was published in the January 8, 2010, issue of the *Texas Register* (35 TexReg 269).

TRD-201007419

William Clay Harris

Assistant General Counsel, Contracts

Comptroller of Public Accounts

Filed: December 29, 2010



Notice of Request for Applications

Pursuant to Chapters 403, 447 and 2305, Texas Government Code; and the State Energy Plan (SEP) and related legal authority and regulations, the Comptroller of Public Accounts (Comptroller), State Energy Conservation Office (SECO), announces this Request for Applications (RFA #ISD-G2-2011) and Notice of Funding Availability up to \$1,500,000 in grant funding and invites applications from eligible interested Independent School Districts (ISDs) for grant funds for the ISD Grants Program of the State Energy Conservation Office (SECO). Eligible entities must be an Independent School District (ISD) and applications must include twenty percent (20%) match of total project costs. The Comptroller reserves the right to award more than one grant under the terms of this RFA. If a grant award is made under the terms of the RFA, Grantee will be expected to begin performance of the grant agreement on or about March 4, 2011, or as soon thereafter as practical.

Contact: For general questions about these instructions or the application form, please submit your question in writing to William Clay Harris, Assistant General Counsel, Contracts, via facsimile to: (512) 463-3669. This notice is the RFA and will be published after 10:00 a.m. Central Time (CT) on Friday, January 7, 2011 and posted on the Electronic State Business Daily (ESBD) at: <http://esbd.cpa.state.tx.us> after 10:00 a.m. CT on Friday, January 7, 2011. The application and sample grant agreement will be posted shortly thereafter on the following website shortly thereafter: <http://www.seco.cpa.state.tx.us/funding/>.

Questions and Non-Mandatory Letters of Intent: All written inquiries, questions, and Non-mandatory Letters of Intent must be received at the above-referenced address, also called Issuing Office, not later than 2:00 p.m. (CT) on Wednesday, January 19, 2011. Prospective applicants are encouraged to fax non-mandatory Letters of Intent and Questions to (512) 463-3669 to ensure timely receipt. Non-mandatory Letters of Intent must be addressed to the attention of Mr. Harris and must be signed by an official of the entity. On or about Wednesday, January 28, 2011, the Comptroller expects to post responses to questions on

the ESBD. Late Non-mandatory Letters of Intent and Questions will not be considered under any circumstances. Applicants shall be solely responsible for verifying timely receipt of Non-Mandatory Letters of Intent and Questions in the Issuing Office.

Closing Date: Applications must be delivered to the Issuing Office to the attention of the Assistant General Counsel, Contracts, no later than 2:00 p.m. (CT), on Friday, February 4, 2011. Late Applications will not be considered under any circumstances. Applicants shall be solely responsible for verifying time receipt of applications in the Issuing Office.

Evaluation Criteria: Applications will be evaluated under the criteria outlined in the grant application and instructions for this RFA. The Comptroller reserves the right to accept or reject any or all applications submitted. The Comptroller is not obligated to execute a grant agreement on the basis of this notice or the distribution of any RFA. The Comptroller shall not pay for any costs incurred by any entity in responding to this Notice or to the RFA.

The anticipated schedule of events pertaining to this RFA is as follows: Issuance of RFA - January 7, 2011, after 10:00 a.m. CT; Non-Mandatory Letters of Intent and Questions Due - January 19, 2011, 2:00 p.m. CT; Official Responses to Questions posted - January 28, 2011; Applications Due - February 4, 2011 2:00 p.m. CT; Grant Agreement Execution - March 4, 2011, or as soon thereafter as practical; Commencement of Project - March 4, 2011, or as soon thereafter as practical.

TRD-201007404
William Clay Harris
Assistant General Counsel, Contracts
Comptroller of Public Accounts
Filed: December 29, 2010

◆ ◆ ◆

Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in §§303.003, 303.009, and 304.003, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 12/27/10 - 01/02/11 is 18% for Consumer¹/Agricultural/Commercial²/credit through \$250,000.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 12/27/10 - 01/02/11 is 18% for Commercial over \$250,000.

The judgment ceiling as prescribed by §304.003 for the period of 01/01/11 - 01/31/11 is 5.00% for Consumer/Agricultural/Commercial/credit through \$250,000.

The judgment ceiling as prescribed by §304.003 for the period of 01/01/11 - 01/31/11 is 5.00% for Commercial over \$250,000.

¹Credit for personal, family or household use.

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

TRD-201007272
Leslie L. Pettijohn
Commissioner
Office of Consumer Credit Commissioner
Filed: December 20, 2010

◆ ◆ ◆

Notice of Rate Ceilings

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

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 01/03/11 - 01/09/11 is 18% for Consumer¹/Agricultural/Commercial²/credit through \$250,000.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 01/03/11 - 01/09/11 is 18% for Commercial over \$250,000.

¹Credit for personal, family or household use.

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

TRD-201007388
Leslie L. Pettijohn
Commissioner
Office of Consumer Credit Commissioner
Filed: December 28, 2010

◆ ◆ ◆

Credit Union Department

Application for a Merger or Consolidation

Notice is given that the following application has been filed with the Credit Union Department (Department) and is under consideration:

An application was received from Corner Stone Credit Union (Lancaster) seeking approval to merge with Dallas Cotton Belt Employees Credit Union (Mesquite). Corner Stone Credit Union will be the surviving credit union.

Comments or a request for a meeting by any interested party relating to an application must be submitted in writing within 30 days from the date of this publication. Any written comments must provide all information that the interested party wishes the Department to consider in evaluating the application. All information received will be weighed during consideration of the merits of an application. Comments or a request for a meeting should be addressed to the Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

TRD-201007378
Harold E. Feeney
Commissioner
Credit Union Department
Filed: December 28, 2010

◆ ◆ ◆

Application for Foreign Credit Union to Operate a Branch Office

Notice is given that the following application has been filed with the Credit Union Department (Department) and is under consideration:

An application was received from Alliant Credit Union, Chicago, Illinois to operate three Foreign (out-of-state) Branch Offices at 900 Grand Plaza, Houston, Texas 77067; 500 Jefferson Avenue, Suite 250, Houston, Texas 77002; and George Bush Intercontinental Airport-IAH, 3500 N. Terminal Road IAH, Terminal C Between Gate C45/E1, Houston, Texas 77032.

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 Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

TRD-201007379
Harold E. Feeney
Commissioner
Credit Union Department
Filed: December 28, 2010



Texas Education Agency

Request for Applications Concerning Prekindergarten Early Start (PKES) Grant Program, Tier 1, Cycle 2, Year 1

Eligible Applicants. The Texas Education Agency (TEA) is requesting applications under Request for Application (RFA) #701-11-102 from school districts or open-enrollment charter schools. (Current Prekindergarten Early Start (PKES) Tiers 1 and 2, Cycle 1, Year 2, grantees are not eligible to apply for the PKES Tier 1, Cycle 2, Year 1, grant funds.) A shared services arrangement (SSA) of two or more eligible public school districts or open-enrollment charter schools is also eligible to apply. Education service centers may only serve as fiscal agents of SSAs to provide services for member school districts and open-enrollment charter schools eligible to apply for this grant. Each member district of an SSA must meet the eligibility criteria for the local educational agency.

Description. The purpose of the Prekindergarten Early Start (PKES) Grant Program is to provide funds to school districts and open-enrollment charter schools to prepare students to enter kindergarten on or above grade level by (1) identifying eligible prekindergarten students and communicating the availability of services to their families and caregivers; (2) providing quality prekindergarten services based on proven school readiness components that include high quality, research-based, and rigorous curriculum; continuous student progress monitoring; and professional development for teachers; (3) implementing a School Readiness Integration partnership to coordinate services among school districts, child care providers, and Head Start programs; (4) participating in the School Readiness Certification System; and (5) designing and developing a prekindergarten program that is sustainable after the grant ends.

Dates of Project. The Prekindergarten Early Start (PKES) Grant Program, Tier 1, Cycle 2, Year 1, will be implemented during the 2011 - 2012 school year. Applicants should plan for a starting date of no earlier than September 1, 2011, and an ending date of no later than August 31, 2012.

Project Amount. Approximately \$35 million is available for funding PKES grants during the September 1, 2011, through August 31, 2012, project period. All funding is contingent upon appropriations and legislation by the 82nd Texas Legislature in 2011. Grants will be awarded ranging in amounts from a maximum allotment of \$5 million to a minimum allotment of \$50,000. The funding allotment per school district or open-enrollment charter school is determined by multiplying the district's 2009 - 2010 prekindergarten student enrollment number by \$900. (The enrollment snapshot is taken each fall and is available in March of that school year on the Public Education Information Management System (PEIMS) Standard Reports website.) Data source for this information comes from the PEIMS.

Selection Criteria. Applications will be selected based on the independent reviewers' assessment of each applicant's ability to carry out all requirements contained in the RFA. Reviewers will evaluate applications based on the overall quality and validity of the proposed grant programs and the extent to which the applications address the need for

the proposed project; the quality of the project design, management plan, project services, and project evaluation; and the appropriateness of the budget. Applications must address each requirement as specified in the RFA to be considered for funding. TEA reserves the right to select from the highest-ranking applications those that address all requirements in the RFA.

TEA is not obligated to approve an application, provide funds, or endorse any application submitted in response to this RFA. This RFA does not commit TEA to pay any costs before an application is approved. The issuance of this RFA does not obligate TEA to award a grant or pay any costs incurred in preparing a response.

Requesting the Application. RFAs are no longer available in print. The announcement letter and complete RFA will be posted on the TEA Grant Opportunities website at <http://burleson.tea.state.tx.us/GrantOpportunities/forms> for viewing and downloading. In the "Select Search Options" box, select the name of the RFA from the drop-down list. Scroll down to the "Application and Support Information" section to view all documents that pertain to this RFA.

Further Information. For clarifying information about the PKES RFA, contact Renee Graham, Division of School Readiness and Partnerships, Office of State Initiatives, TEA, (512) 936-7588. In order to assure that no prospective applicant may obtain a competitive advantage because of acquisition of information unknown to other prospective applicants, any information that is different from or in addition to information provided in the RFA will be provided only in response to written inquiries. Copies of all such inquiries and the written answers thereto will be posted on the TEA website in the format of Frequently Asked Questions (FAQs) at <http://burleson.tea.state.tx.us/GrantOpportunities/forms>. In the "Select Search Options" box, select the name of the RFA from the drop-down list. Scroll down to the "Application and Support Information" section to view all documents that pertain to this RFA.

Deadline for Receipt of Applications. Applications must be received in the TEA Document Control Center by 5:00 p.m. (Central Time), Tuesday, February 22, 2011, to be eligible to be considered for funding.

TRD-201007408
Cristina De La Fuente-Valadez
Director, Policy Coordination
Texas Education Agency
Filed: December 29, 2010



Request for Applications Concerning Texas 21st Century Community Learning Centers Grant Program, Cycle 7, Year 1

Eligible Applicants. The Texas Education Agency (TEA) is requesting applications under Request for Applications (RFA) #701-10-119 from local educational agencies (LEAs), including public school districts, open-enrollment charter schools, and regional education service centers; community-based organizations (CBOs); and other public or private entities, nonprofit or for-profit organizations, or a consortium of two or more agencies, organizations, or entities. Examples of agencies and organizations eligible under the Texas 21st Century Community Learning Centers grant program include, but are not limited to, nonprofit agencies, city or county government agencies, faith-based organizations, institutions of higher education, and for-profit corporations. A shared services arrangement of two or more LEAs is also eligible to apply.

Description. The purpose of the Texas 21st Century Community Learning Centers Grant Program, also known as Texas Afterschool Centers on Education (ACE), Cycle 7, Year 1, is to provide opportunities be-

yond the regular school day for communities to establish or expand activities in community learning centers that (1) provide opportunities for academic enrichment, including providing tutorial services to help children, particularly students who attend low-performing schools, meet state and local student academic achievement standards in core academic subjects such as reading and mathematics; (2) offer students a broad array of additional services, programs, and activities such as youth development activities; drug and violence prevention programs; counseling programs; art, music, and recreation programs; and technology education programs, all of which are designed to reinforce and complement the regular academic program of participating students; and (3) offer families of students served by community learning centers opportunities for literacy and related educational development. Program activities must be offered only when schools are not in session (before or after school, during holidays, or during summer recess). The program must be carried out in active collaboration with the schools the students attend. Applications must document partnerships between an LEA, a CBO, and other public or private organizations, if appropriate.

Dates of Project. The Texas 21st Century Community Learning Centers Grant Program, Cycle 7, Year 1, will be implemented during the 2011 - 2012 school year. Applicants should plan for a starting date of no earlier than July 1, 2011, and an ending date of no later than June 30, 2012.

Project Amount. Funding will be provided for approximately 25-50 projects. Each project will receive a minimum of \$50,000 for the 2011 - 2012 project period; maximum funds will vary per applicant. This project is funded 100 percent from Title IV, Part B, of the Elementary and Secondary Education Act, as amended by the No Child Left Behind Act of 2001.

Selection Criteria. Applications will be selected based on the ability of each applicant to carry out all requirements contained in the RFA. Reviewers will evaluate applications based on the overall quality and validity of the proposed grant programs and the extent to which the applications address the need for the proposed project; the quality of the project design, management plan, project services, and project evaluation; and the appropriateness of the budget. Applications must address each requirement as specified in the RFA to be considered for funding. TEA reserves the right to select from the highest-ranking applications those that address all requirements in the RFA.

TEA is not obligated to approve an application, provide funds, or endorse any application submitted in response to this RFA. This RFA does not commit TEA to pay any costs before an application is approved. The issuance of this RFA does not obligate TEA to award a grant or pay any costs incurred in preparing a response.

Applicant's Conference. Prospective applicants will be provided an opportunity to receive general and clarifying information from TEA about the scope of this RFA on Wednesday, January 26, 2011, in the form of a pre-recorded webinar. The entire webinar will be digitally recorded and streamed over the Internet. To access the webinar, please visit the TEA website at <http://burleson.tea.state.tx.us/GrantOpportunities/forms>. In the "Select Search Options" box, select the name of the RFA from the drop-down list. Scroll down to the "Application and Support Information" to view the webinar. Pre-webinar questions should be sent to Candace.Ferguson@tea.state.tx.us prior to Tuesday, January 18, 2011.

Requesting the Application. RFAs are no longer available in print. The announcement letter and complete RFA will be posted on the TEA website at <http://burleson.tea.state.tx.us/GrantOpportunities/forms> for viewing and downloading. In the "Select Search Options" box, select the name of the RFA from the drop-down list. Scroll down to the "Ap-

plication and Support Information" section to view all documents that pertain to this RFA.

Further Information. For clarifying information about the RFA, contact Candace Ferguson, Division of School Readiness and Partnerships, TEA, (512) 463-5619. In order to assure that no prospective applicant may obtain a competitive advantage because of acquisition of information unknown to other prospective applicants, any information that is different from or in addition to information provided in the RFA will be provided only in response to written inquiries. Copies of all such inquiries and the written answers thereto will be posted on the TEA website in the format of Frequently Asked Questions (FAQs) at <http://burleson.tea.state.tx.us/GrantOpportunities/forms>. In the "Select Search Options" box, select the name of the RFA from the drop-down list. Scroll down to the "Application and Support Information" section to view all documents that pertain to this RFA.

Deadline for Receipt of Applications. Applications must be received in the TEA Document Control Center by 5:00 p.m. (Central Time), Tuesday, February 15, 2011, to be eligible to be considered for funding.

TRD-201007407

Cristina De La Fuente-Valadez

Director, Policy Coordination

Texas Education Agency

Filed: December 29, 2010

Texas Commission on Environmental Quality

Agreed Orders

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (the Code), §7.075. Section 7.075 requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. Section 7.075 requires that notice of the proposed orders and the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **February 7, 2011**. Section 7.075 also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building C, 1st Floor, Austin, Texas 78753, (512) 239-2545 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the enforcement coordinator designated for each AO at the commission's central office at P.O. Box 13087, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on February 7, 2011**. Written comments may also be sent by facsimile machine to the enforcement coordinator at (512) 239-2550. The commission enforcement coordinators are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, §7.075 provides that comments on the AOs shall be submitted to the commission in **writing**.

(1) COMPANY: Bernard Timbers Water Supply Corporation;
DOCKET NUMBER: 2010-1295-MWD-E; IDENTIFIER:

RN101611010; LOCATION: Wharton County; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 Texas Administrative Code (TAC) §305.125(1), Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0012097001, Effluent Limitations and Monitoring Requirements Number 1, and the Code, §26.121(a)(1), by failing to comply with the permitted effluent limitations for total suspended solids (TSS); 30 TAC §305.125(1) and §319.5(b) and TPDES Permit Number WQ0012097001, Monitoring and Reporting Requirements Number 1, by failing to collect and analyze samples for daily average and single grab for *Escherichia coli*; and 30 TAC §305.125(1) and (17) and §319.1 and TPDES Permit Number WQ0012097001, Monitoring and Reporting Requirements Number 1, by failing to submit monitoring results at the intervals specified in the permit; PENALTY: \$6,580; ENFORCEMENT COORDINATOR: JR Cao, (512) 239-2543; REGIONAL OFFICE: 5412 Polk Avenue, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(2) COMPANY: Sacramento Dorantes, Jr.; DOCKET NUMBER: 2010-1469-PST-E; IDENTIFIER: RN103046587; LOCATION: Orange County; TYPE OF FACILITY: underground storage tanks (USTs); RULE VIOLATED: 30 TAC §334.47(a)(2), by failing to permanently remove from service, no later than 60 days after the prescribed implementation date, a UST system; and 30 TAC §334.7(d)(3), by failing to provide an amended registration for any change or additional information regarding the UST system; PENALTY: \$3,675; ENFORCEMENT COORDINATOR: Michaëlle Sherlock, (210) 490-3096; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(3) COMPANY: City of Duncanville; DOCKET NUMBER: 2010-1527-WQ-E; IDENTIFIER: RN101411171; LOCATION: Duncanville, Dallas County; TYPE OF FACILITY: public water system; RULE VIOLATED: the Code, §26.121(a)(1), by failing to prevent the unauthorized discharge of a pollutant into or adjacent to water in the state; and the Code, §26.039(b), by failing to provide timely notification to the TCEQ of an accidental discharge which causes pollution; PENALTY: \$9,160; Supplemental Environmental Project (SEP) offset amount of \$9,160 applied to performing an erosion control project in Ten Mile Creek to reduce siltation in Tributary 11 of the Trinity River; ENFORCEMENT COORDINATOR: Lanae Foard, (512) 239-2554; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(4) COMPANY: Hamshire-Fannett Independent School District; DOCKET NUMBER: 2010-1572-MWD-E; IDENTIFIER: RN102334877; LOCATION: Jefferson County; TYPE OF FACILITY: wastewater treatment plant; RULE VIOLATED: 30 TAC §305.125(1), TPDES Permit Number WQ0012098001, Effluent Limitations and Monitoring Requirements Number 1, and the Code, §26.121(a)(1), by failing to comply with permitted effluent limits for five-day biochemical oxygen demand and TSS; PENALTY: \$6,660; SEP offset amount of \$5,328 applied to Jefferson County Government *Cheek Community First Time Sewer Service for Low Income Home Owners*; ENFORCEMENT COORDINATOR: Heather Brister, (254) 751-0335; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(5) COMPANY: Jimmy Don Pack and Meine Huisman dba Jimmy Don Pack Dairy; DOCKET NUMBER: 2010-1565-AGR-E; IDENTIFIER: RN102743119; LOCATION: Erath County; TYPE OF FACILITY: concentrated animal feeding operation; RULE VIOLATED: 30 TAC §305.125(1) and §321.36(b) and TPDES Permit Number WQ0003563000, Part X, Special Provisions A.1. and A.2., by failing to complete the modifications and retention control structure number one to meet the total capacity required by the permit within

the prescribed timeframe; PENALTY: \$2,440; ENFORCEMENT COORDINATOR: Samuel Short, (512) 239-5363; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(6) COMPANY: Kevin Johnson; DOCKET NUMBER: 2010-1530-MSW-E; IDENTIFIER: RN105793608; LOCATION: Crockett, Houston County; TYPE OF FACILITY: unauthorized disposal site; RULE VIOLATED: 30 TAC §330.15(c), by failing to prevent the unauthorized disposal of municipal solid waste (MSW); PENALTY: \$3,030; ENFORCEMENT COORDINATOR: Cara Windle, (512) 239-2581; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(7) COMPANY: Matthew Lucas dba Lake Travis Brush Recycling; DOCKET NUMBER: 2010-1617-MLM-E; IDENTIFIER: RN105964936; LOCATION: Austin, Travis County; TYPE OF FACILITY: composting and mulch; RULE VIOLATED: 30 TAC §328.5(b), by failing to provide notice of intent prior to the storage or processing of recyclable materials; and 30 TAC §281.25(a)(4) and 40 Code of Federal Regulations (CFR) §122.26, by failing to obtain authorization for storm water discharges; PENALTY: \$3,750; ENFORCEMENT COORDINATOR: Danielle Porras, (713) 767-3500; REGIONAL OFFICE: 2800 South IH 35, Suite 100, Austin, Texas 78704-5700, (512) 339-2929.

(8) COMPANY: Lone Star Petroleum, LP dba Phillips 66 Gulf Freeway; DOCKET NUMBER: 2010-1432-PST-E; IDENTIFIER: RN102843422; LOCATION: Houston, Harris County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and the Code, §2.3475(c)(1), by failing to monitor the USTs for releases; PENALTY: \$5,000; ENFORCEMENT COORDINATOR: Cara Windle, (512) 239-2581; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(9) COMPANY: Mc-OO, Inc. dba Mc-O Construction; DOCKET NUMBER: 2010-1442-MLM-E; IDENTIFIER: RN105980189; LOCATION: Port Arthur, Jefferson County; TYPE OF FACILITY: fabrication shop; RULE VIOLATED: 30 TAC §330.15(c), by failing to prevent the unauthorized disposal of MSW; 30 TAC §335.62 and 40 CFR §262.11, by failing to conduct hazardous waste determinations; and 30 TAC §324.1 and §324.4(1) and 40 CFR §279.22(d), by failing to prevent a release of used oil; PENALTY: \$6,250; ENFORCEMENT COORDINATOR: Danielle Porras, (713) 767-3500; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(10) COMPANY: Republic Plastics, Limited; DOCKET NUMBER: 2010-1644-AIR-E; IDENTIFIER: RN100851211; LOCATION: McQueeney, Guadalupe County; TYPE OF FACILITY: plastics manufacturing plant; RULE VIOLATED: 30 TAC §122.143(4) and §122.145(2)(A), Federal Operating Permit Number O-02680, General Terms and Conditions, and Texas Health and Safety Code, §382.085(b), by failing to submit a semi-annual deviation report; PENALTY: \$3,725; ENFORCEMENT COORDINATOR: James Nolan, (512) 239-6634; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

TRD-201007409

Kathleen C. Decker
Director, Litigation Division
Texas Commission on Environmental Quality
Filed: December 29, 2010

◆ ◆ ◆
Enforcement Orders

An agreed order was entered regarding Rod C. Oliver, Docket No. 2008-1893-PST-E on December 16, 2010 assessing \$5,250 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rudy Calderon, Staff Attorney at (512) 239-0205, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Albemarle Corporation, Docket No. 2009-0687-AIR-E on December 16, 2010 assessing \$12,690 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Anna Treadwell, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Kenneth Ing dba The Whitesboro Truck Stop, Docket No. 2009-0697-AIR-E on December 16, 2010 assessing \$800 in administrative penalties with \$160 deferred.

Information concerning any aspect of this order may be obtained by contacting James Nolan, Enforcement Coordinator at (512) 239-6634, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Daniel L. Mauldin dba Travis Equipment Company, Docket No. 2009-0714-MSW-E on December 16, 2010 assessing \$4,899 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Kari L. Gilbreth, Staff Attorney at (512) 239-1320, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Brookshire Municipal Water District, Docket No. 2009-0839-MWD-E on December 16, 2010 assessing \$58,395 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Phillip M. Goodwin, P.G., Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Total Petrochemicals USA, Inc., Docket No. 2009-1015-AIR-E on December 16, 2010 assessing \$13,275 in administrative penalties with \$2,655 deferred.

Information concerning any aspect of this order may be obtained by contacting Roshondra Lowe, Enforcement Coordinator at (713) 767-3553, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding A-Affordable Vacuum Services and Disposal Site, Inc., Docket No. 2009-1320-MSW-E on December 16, 2010 assessing \$1,540 in administrative penalties with \$308 deferred.

Information concerning any aspect of this order may be obtained by contacting Keith Frank, Enforcement Coordinator at (512) 239-1203, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding US Ecology Texas, Inc., Docket No. 2009-1717-IHW-E on December 16, 2010 assessing \$54,600 in administrative penalties with \$10,920 deferred.

Information concerning any aspect of this order may be obtained by contacting Thomas Greimel, Enforcement Coordinator at (512) 239-5690, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Timberwood Development Company, L.P., Docket No. 2009-1956-MLM-E on December 16, 2010 assessing \$1,650 in administrative penalties with \$330 deferred.

Information concerning any aspect of this order may be obtained by contacting Jorge Ibarra, P.E., Enforcement Coordinator at (817) 588-5890, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Goodlow, Docket No. 2009-2020-MWD-E on December 16, 2010 assessing \$10,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Steve Villatoro, Enforcement Coordinator at (512) 239-4930, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Kingsville, Docket No. 2009-2049-MSW-E on December 16, 2010 assessing \$80,625 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Elvia Maske, Enforcement Coordinator at (512) 239-0789, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Jason Whatley, Docket No. 2010-0068-SLG-E on December 16, 2010 assessing \$2,650 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Gary K. Shiu, Staff Attorney at (713) 422-8916, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Derald Evans dba The Sprinkler Doctor, Docket No. 2010-0070-LII-E on December 16, 2010 assessing \$250 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Steven M. Fishburn, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Danny Mitchell, Docket No. 2010-0149-MSW-E on December 16, 2010 assessing \$2,675 in administrative penalties with \$535 deferred.

Information concerning any aspect of this order may be obtained by contacting Michael Pace, Enforcement Coordinator at (817) 588-5933, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Del Webb Texas Limited Partnership, Docket No. 2010-0168-MLM-E on December 16, 2010 assessing \$30,225 in administrative penalties with \$6,045 deferred.

Information concerning any aspect of this order may be obtained by contacting Jeremy Escobar, Enforcement Coordinator at (361) 825-3422, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Houston Refining LP, Docket No. 2010-0211-AIR-E on December 16, 2010 assessing \$36,285 in administrative penalties with \$7,257 deferred.

Information concerning any aspect of this order may be obtained by contacting John Muennink, Enforcement Coordinator at (361) 825-3423, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default and shutdown order was entered regarding PCR Construction/Development, Inc. dba J & J Business Solutions, L.L.C. dba Gas & Go, Docket No. 2010-0288-PST-E on December 16, 2010 assessing \$9,066 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Gary K. Shiu, Staff Attorney at (713) 422-8916, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding George Kuipers, Docket No. 2010-0289-IHW-E on December 16, 2010 assessing \$6,300 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Gary K. Shiu, Staff Attorney at (713) 422-8916, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding AHOR ENTERPRISE INC. dba Quick Mart, Docket No. 2010-0322-PST-E on December 16, 2010 assessing \$10,973 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Gary K. Shiu, Staff Attorney at (713) 422-8916, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Vicente Lopez and Sulema Lopez, Docket No. 2010-0323-MSW-E on December 16, 2010 assessing \$2,500 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Gary K. Shiu, Staff Attorney at (713) 422-8916, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding James H. Wood, Docket No. 2010-0565-LII-E on December 16, 2010 assessing \$193 in administrative penalties with \$38 deferred.

Information concerning any aspect of this order may be obtained by contacting Kirk Schoppe, Enforcement Coordinator at (512) 239-0489, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding David Trevino, Docket No. 2010-0583-MSW-E on December 16, 2010 assessing \$10,500 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Gary K. Shiu, Staff Attorney at (713) 422-8916, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding INVISTA S.a.r.l., Docket No. 2010-0635-AIR-E on December 16, 2010 assessing \$1,260 in administrative penalties with \$252 deferred.

Information concerning any aspect of this order may be obtained by contacting Nadia Hameed, Enforcement Coordinator at (713) 767-3629, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Malcom Ageshen dba Good Luck, Docket No. 2010-0676-PST-E on December 16, 2010 assessing \$11,791 in administrative penalties with \$2,358 deferred.

Information concerning any aspect of this order may be obtained by contacting Andrea Park, Enforcement Coordinator at (512) 239-4575, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding SAGELINE, INC. dba GEORGETOWN FARM SUPPLY, Docket No. 2010-0693-MSW-E on December 16, 2010 assessing \$1,185 in administrative penalties with \$237 deferred.

Information concerning any aspect of this order may be obtained by contacting Danielle Porras, Enforcement Coordinator at (713) 767-3682, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Jarrod L. Meyer, Docket No. 2010-0705-LII-E on December 16, 2010 assessing \$362 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Sharesa Y. Alexander, Staff Attorney at (512) 239-3503, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding IZZA, Inc. dba Cullen Mobil, Docket No. 2010-0724-PST-E on December 16, 2010 assessing \$4,519 in administrative penalties with \$903 deferred.

Information concerning any aspect of this order may be obtained by contacting Theresa Hagood, Enforcement Coordinator at (512) 239-2540, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding SOUTHERN TRI-STAR MARKETS II, LTD dba Texaco Food Mart 2901, Docket No. 2010-0740-PST-E on December 16, 2010 assessing \$11,141 in administrative penalties with \$2,228 deferred.

Information concerning any aspect of this order may be obtained by contacting Tate Barrett, Enforcement Coordinator at (713) 422-8968, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Bridge City, Docket No. 2010-0766-MWD-E on December 16, 2010 assessing \$18,225 in administrative penalties with \$3,645 deferred.

Information concerning any aspect of this order may be obtained by contacting Thomas Jecha, P.G., Enforcement Coordinator at (512) 239-2576, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding 2S & J INVESTMENT GROUP LLC dba Food & Fuel 2, Docket No. 2010-0779-PST-E on December 16, 2010 assessing \$14,530 in administrative penalties with \$2,906 deferred.

Information concerning any aspect of this order may be obtained by contacting Tate Barrett, Enforcement Coordinator at (713) 422-8968, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Curtis Shupak dba Village Water, Docket No. 2010-0781-PWS-E on December 16, 2010 assessing \$1,658 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rudy Calderon, Staff Attorney at (512) 239-0205, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Kirbyville, Docket No. 2010-0783-MLM-E on December 16, 2010 assessing \$2,617 in administrative penalties with \$523 deferred.

Information concerning any aspect of this order may be obtained by contacting Rebecca Clausewitz, Enforcement Coordinator at (210)

403-4012, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Thuan T. Ngo, Docket No. 2010-0802-PST-E on December 16, 2010 assessing \$6,500 in administrative penalties with \$1,300 deferred.

Information concerning any aspect of this order may be obtained by contacting Jorge Ibarra, P.E., Enforcement Coordinator at (817) 588-5890, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Martin Realty & Land, Inc., Docket No. 2010-0812-MWD-E on December 16, 2010 assessing \$6,124 in administrative penalties with \$1,224 deferred.

Information concerning any aspect of this order may be obtained by contacting Jeremy Escobar, Enforcement Coordinator at (361) 825-3422, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding East Montgomery County Municipal Utility District No. 3, Docket No. 2010-0814-MWD-E on December 16, 2010 assessing \$1,370 in administrative penalties with \$274 deferred.

Information concerning any aspect of this order may be obtained by contacting Cheryl Thompson, Enforcement Coordinator at (817) 588-5886, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Sophia Food Market Inc dba Cameron Mini Mart, Docket No. 2010-0816-PST-E on December 16, 2010 assessing \$7,406 in administrative penalties with \$1,481 deferred.

Information concerning any aspect of this order may be obtained by contacting Philip Aldridge, Enforcement Coordinator at (512) 239-0855, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Nabil A. Khatib, Docket No. 2010-0820-PST-E on December 16, 2010 assessing \$2,625 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Sharesa Y. Alexander, Staff Attorney at (512) 239-3503, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Enterprise Products Operating LLC, Docket No. 2010-0821-AIR-E on December 16, 2010 assessing \$7,296 in administrative penalties with \$1,459 deferred.

Information concerning any aspect of this order may be obtained by contacting Nadia Hameed, Enforcement Coordinator at (713) 767-3629, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Plank Coatings, Inc., Docket No. 2010-0828-AIR-E on December 16, 2010 assessing \$950 in administrative penalties with \$190 deferred.

Information concerning any aspect of this order may be obtained by contacting Heather Podlipny, Enforcement Coordinator at (512) 239-2603, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Lynda F. Cochran, Docket No. 2010-0842-PST-E on December 16, 2010 assessing \$2,625 in administrative penalties with \$525 deferred.

Information concerning any aspect of this order may be obtained by contacting Trina Grieco, Enforcement Coordinator at (210) 403-4006, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CEMEX Construction Materials South, LLC, Docket No. 2010-0870-IWD-E on December 16, 2010 assessing \$1,786 in administrative penalties with \$357 deferred.

Information concerning any aspect of this order may be obtained by contacting Heather Brister, Enforcement Coordinator at (254) 761-3034, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Shamrock Realty, Ltd., Docket No. 2010-0876-WQ-E on December 16, 2010 assessing \$1,500 in administrative penalties with \$300 deferred.

Information concerning any aspect of this order may be obtained by contacting Cheryl Thompson, Enforcement Coordinator at (817) 588-5886, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding KIE ENTERPRISES, Inc. dba Mr. Friendly Mart, Docket No. 2010-0882-PST-E on December 16, 2010 assessing \$4,180 in administrative penalties with \$836 deferred.

Information concerning any aspect of this order may be obtained by contacting Judy Kluge, Enforcement Coordinator at (817) 588-5825, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Fiberglass Specialties, Inc., Docket No. 2010-0889-AIR-E on December 16, 2010 assessing \$9,700 in administrative penalties with \$1,940 deferred.

Information concerning any aspect of this order may be obtained by contacting James Nolan, Enforcement Coordinator at (512) 239-6634, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding SHAH & SHAH, INC. dba Jamal's Mobil, Docket No. 2010-0894-PST-E on December 16, 2010 assessing \$12,906 in administrative penalties with \$2,581 deferred.

Information concerning any aspect of this order may be obtained by contacting Judy Kluge, Enforcement Coordinator at (817) 588-5825, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding TBNL Investments, Inc. dba Texaco, Docket No. 2010-0900-PST-E on December 16, 2010 assessing \$4,179 in administrative penalties with \$835 deferred.

Information concerning any aspect of this order may be obtained by contacting Rajesh Acharya, Enforcement Coordinator at (512) 239-0577, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Thirsty Parrot, LLC, Docket No. 2010-0903-PWS-E on December 16, 2010 assessing \$423 in administrative penalties with \$84 deferred.

Information concerning any aspect of this order may be obtained by contacting Stephen Thompson, Enforcement Coordinator at (512) 239-2558, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding K C Utilities, Inc, Docket No. 2010-0905-PWS-E on December 16, 2010 assessing \$275 in administrative penalties with \$55 deferred.

Information concerning any aspect of this order may be obtained by contacting Amanda Henry, Enforcement Coordinator at (713) 767-3672, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding American Acryl L.P., Docket No. 2010-0922-AIR-E on December 16, 2010 assessing \$10,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Raymond Marlow, Enforcement Coordinator at (409) 899-8785, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding NABLUS #1, INC., Docket No. 2010-0930-PST-E on December 16, 2010 assessing \$7,918 in administrative penalties with \$1,583 deferred.

Information concerning any aspect of this order may be obtained by contacting JR Cao, Enforcement Coordinator at (512) 239-2543, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding SUNRISE MATERIALS, L.P., Docket No. 2010-0932-WQ-E on December 16, 2010 assessing \$2,000 in administrative penalties with \$400 deferred.

Information concerning any aspect of this order may be obtained by contacting Lanae Foard, Enforcement Coordinator at (512) 239-2554, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding JD Cambridge Enterprise Inc dba Kwik Mart 3 Beverages, Docket No. 2010-0944-PST-E on December 16, 2010 assessing \$4,182 in administrative penalties with \$836 deferred.

Information concerning any aspect of this order may be obtained by contacting Thomas Greimel, Enforcement Coordinator at (512) 239-5690, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Marathon Petroleum Company LLC, Docket No. 2010-0952-AIR-E on December 16, 2010 assessing \$7,300 in administrative penalties with \$1,460 deferred.

Information concerning any aspect of this order may be obtained by contacting James Nolan, Enforcement Coordinator at (512) 239-6634, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Westpark Station Inc dba Nancy's Citgo, Docket No. 2010-0969-PST-E on December 16, 2010 assessing \$6,031 in administrative penalties with \$1,206 deferred.

Information concerning any aspect of this order may be obtained by contacting Keith Frank, Enforcement Coordinator at (512) 239-1203, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Fulshear and Fort Bend County Municipal Utility District No. 169, Docket No. 2010-0975-MWD-E on December 16, 2010 assessing \$2,850 in administrative penalties with \$570 deferred.

Information concerning any aspect of this order may be obtained by contacting Jennifer Graves, Enforcement Coordinator at (956) 430-6023, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Oraphine Douangkesone dba Snack & Tackle, Docket No. 2010-0980-PST-E on December 16, 2010 assessing \$7,175 in administrative penalties with \$1,435 deferred.

Information concerning any aspect of this order may be obtained by contacting Philip Aldridge, Enforcement Coordinator at (512) 239-0855, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding RUDY'S TEXAS BAR-B-Q, LLC dba Rudy's Country Store & Bar-B-Q, Docket No. 2010-0984-PST-E on December 16, 2010 assessing \$6,100 in administrative penalties with \$1,220 deferred.

Information concerning any aspect of this order may be obtained by contacting Rajesh Acharya, Enforcement Coordinator at (512) 239-0577, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Chemtrade Refinery Services, Inc., Docket No. 2010-0991-IWD-E on December 16, 2010 assessing \$5,940 in administrative penalties with \$1,188 deferred.

Information concerning any aspect of this order may be obtained by contacting Cheryl Thompson, Enforcement Coordinator at (817) 588-5886, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding SAMA INC. dba E-Z-7 Food Store, Docket No. 2010-0996-PST-E on December 16, 2010 assessing \$5,806 in administrative penalties with \$1,161 deferred.

Information concerning any aspect of this order may be obtained by contacting Andrea Park, Enforcement Coordinator at (512) 239-4575, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Moody, Docket No. 2010-0999-MWD-E on December 16, 2010 assessing \$4,650 in administrative penalties with \$930 deferred.

Information concerning any aspect of this order may be obtained by contacting Jeremy Escobar, Enforcement Coordinator at (361) 825-3422, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Mark E. Rhode dba Turf Masters, Docket No. 2010-1015-LII-E on December 16, 2010 assessing \$500 in administrative penalties with \$100 deferred.

Information concerning any aspect of this order may be obtained by contacting Rebecca Johnson, Enforcement Coordinator at (361) 825-3420, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Agrifos Fertilizer L.L.C., Docket No. 2010-1035-AIR-E on December 16, 2010 assessing \$7,550 in administrative penalties with \$1,510 deferred.

Information concerning any aspect of this order may be obtained by contacting Roshondra Lowe, Enforcement Coordinator at (713) 767-3553, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding MUREE VALLEY INTERNATIONAL INC dba Circle M Food Mart, Docket No. 2010-1045-PST-E on December 16, 2010 assessing \$2,173 in administrative penalties with \$434 deferred.

Information concerning any aspect of this order may be obtained by contacting Thomas Greimel, Enforcement Coordinator at (512) 239-

5690, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Gulf Marine Fabricators, L.P., Docket No. 2010-1064-MWD-E on December 16, 2010 assessing \$3,930 in administrative penalties with \$786 deferred.

Information concerning any aspect of this order may be obtained by contacting Carlie Konkol, Enforcement Coordinator at (512) 239-0735, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding PALMERA INC. dba Zang Food Store, Docket No. 2010-1065-PST-E on December 16, 2010 assessing \$3,330 in administrative penalties with \$666 deferred.

Information concerning any aspect of this order may be obtained by contacting Theresa Hagood, Enforcement Coordinator at (512) 239-2540, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding WE ARE CRAZY, INC. dba Country Pantry 11, Docket No. 2010-1137-PST-E on December 16, 2010 assessing \$2,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Marshall Coover, Staff Attorney at (512) 239-0620, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Beckville, Docket No. 2010-1141-MWD-E on December 16, 2010 assessing \$4,737 in administrative penalties with \$947 deferred.

Information concerning any aspect of this order may be obtained by contacting Harvey Wilson, Enforcement Coordinator at (512) 239-0321, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding West Hardin County Consolidated Independent School District, Docket No. 2010-1162-MWD-E on December 16, 2010 assessing \$3,500 in administrative penalties with \$700 deferred.

Information concerning any aspect of this order may be obtained by contacting Jorge Ibarra, P.E., Enforcement Coordinator at (817) 588-5890, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Gregory, Docket No. 2010-1186-PWS-E on December 16, 2010 assessing \$635 in administrative penalties with \$127 deferred.

Information concerning any aspect of this order may be obtained by contacting Rebecca Clausewitz, Enforcement Coordinator at (210) 403-4012, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Montgomery County Water Control and Improvement District No. 1, Docket No. 2010-1198-MWD-E on December 16, 2010 assessing \$3,450 in administrative penalties with \$690 deferred.

Information concerning any aspect of this order may be obtained by contacting Jorge Ibarra, P.E., Enforcement Coordinator at (817) 588-5890, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Sathya Enterprises, LLC dba Westwood Shell, Docket No. 2010-1239-PST-E on December 16, 2010 assessing \$3,834 in administrative penalties with \$766 deferred.

Information concerning any aspect of this order may be obtained by contacting Nadia Hameed, Enforcement Coordinator at (713) 767-3629, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Bul-Tex Development Corporation, Docket No. 2010-1393-EAQ-E on December 16, 2010 assessing \$1,500 in administrative penalties with \$300 deferred.

Information concerning any aspect of this order may be obtained by contacting Thomas Jecha, Enforcement Coordinator at (512) 239-2576, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Texas Department of Aging & Disability Services, Docket No. 2010-1578-PST-E on December 16, 2010 assessing \$1,750 in administrative penalties.

Information concerning any aspect of this citation may be obtained by contacting Melissa Keller, Citation Coordinator at (512) 239-1769, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Dennis Jordan, Docket No. 2010-1653-WOC-E on December 16, 2010 assessing \$210 in administrative penalties.

Information concerning any aspect of this citation may be obtained by contacting Melissa Keller, Citation Coordinator at (512) 239-1769, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Johnnie L. Anderson, Docket No. 2010-1624-WOC-E on December 16, 2010 assessing \$210 in administrative penalties.

Information concerning any aspect of this citation may be obtained by contacting Melissa Keller, Citation Coordinator at (512) 239-1769, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Westin Homes and Properties, L.P., Docket No. 2010-1551-WQ-E on December 16, 2010 assessing \$700 in administrative penalties.

Information concerning any aspect of this citation may be obtained by contacting Melissa Keller, Citation Coordinator at (512) 239-1769, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Mullen-Telles, Inc., Docket No. 2010-1615-WQ-E on December 16, 2010 assessing \$700 in administrative penalties.

Information concerning any aspect of this citation may be obtained by contacting Melissa Keller, Citation Coordinator at (512) 239-1769, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Pioneer General Contractors Inc., Docket No. 2010-1535-WQ-E on December 16, 2010 assessing \$700 in administrative penalties.

Information concerning any aspect of this citation may be obtained by contacting Melissa Keller, Citation Coordinator at (512) 239-1769, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Texas A&M University - Corpus Christi, Docket No. 2010-1660-WQ-E on December 16, 2010 assessing \$700 in administrative penalties.

Information concerning any aspect of this citation may be obtained by contacting Melissa Keller, Citation Coordinator at (512) 239-1769, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding C T Corporation dba Anderson Columbia Co., Inc., Docket No. 2010-1616-WR-E on December 16, 2010 assessing \$350 in administrative penalties.

Information concerning any aspect of this citation may be obtained by contacting Melissa Keller, Citation Coordinator at (512) 239-1769, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Harrison County, Docket No. 2010-1614-WR-E on December 16, 2010 assessing \$350 in administrative penalties.

TRD-201007413

LaDonna Castañuela

Chief Clerk

Texas Commission on Environmental Quality

Filed: December 29, 2010



Notice of Opportunity to Comment on Agreed Orders of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. Section 7.075 requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. Section 7.075 requires that notice of the 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 7, 2011**. Section 7.075 also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the attorney designated for the AO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on February 7, 2011**. Comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The designated attorney is available to discuss the AO and/or the comment procedure at the listed phone number; however, §7.075 provides that comments on an AO shall be submitted to the commission in **writing**.

(1) COMPANY: Annette Villegas dba Gulf Coast Environmental; DOCKET NUMBER: 2010-0255-SLG-E; TCEQ ID NUMBER: RN104662283; LOCATION: 501 North Clarkwood Road, Corpus Christi, Nueces County; TYPE OF FACILITY: sludge transporter business; RULES VIOLATED: 30 TAC §312.142(d), by failing to renew an existing TCEQ Sludge Transporter registration by August

31, 2008; and 30 TAC §312.147(b), by failing to maintain written approval from the executive director to temporarily store waste at a fixed or permanent site; PENALTY: \$12,600; STAFF ATTORNEY: Stephanie J. Frazee, Litigation Division, MC 175, (512) 239-3693; REGIONAL OFFICE: Corpus Christi Regional Office, NRC Building, Suite 1200, 6300 Ocean Drive, Unit 5839, Corpus Christi, Texas 78412-5839, (361) 825-3100.

(2) COMPANY: Bisma-Zaem, Inc. d/b/a B-Z Mart; DOCKET NUMBER: 2009-1555-MLM-E; TCEQ ID NUMBER: RN102349917; LOCATION: 500 West Garland Street, Grand Saline, Van Zandt County; TYPE OF FACILITY: four underground storage tanks (USTs) and a convenience store; RULES VIOLATED: 30 TAC §334.7(d)(3), by failing to notify the agency of any change or additional information regarding the USTs within 30 days of the occurrence of the change or addition; 30 TAC §334.50(a)(1)(A), (d)(1)(B)(ii), (iii)(I) and TWC, §26.3475(c)(1), by failing to provide a release detection method capable of detecting a release from any portion of the UST system which contains regulated substances; by failing to provide a release detection method for the USTs by failing to conduct reconciliation of inventory control records at least once a month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons; and by failing to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day; 30 TAC §334.48(c), by failing to conduct effective manual or automatic inventory control procedures for the UST system; 30 TAC §334.8(c)(5)(C), by failing to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form; 30 TAC §335.10(a) and 40 Code of Federal Regulations (CFR) §262.20(a)(1), by failing to properly prepare and complete waste manifests as required; 30 TAC §335.62 and 40 CFR §262.11, by failing to conduct a hazardous waste determination for each solid waste generated; 30 TAC §335.2(b) and §335.6(a), by failing to dispose of industrial hazardous waste at an authorized facility and by failing to notify the agency of the intent to dispose of solid waste prior to beginning disposal activities; 30 TAC §335.63(a) and (b), by failing to obtain an United States Environmental Protection Agency identification number before storing, processing, disposing of, transporting, or offering for transportation of a hazardous waste; and 30 TAC §334.51(a)(6) and TWC, §26.3475(c)(2), by failing to ensure that all spill and overflow prevention devices are maintained in good operating condition; PENALTY: \$13,468; STAFF ATTORNEY: Jeffrey J. Huhn, Litigation Division, MC R-13, (210) 403-4023; REGIONAL OFFICE: Tyler Regional Office, 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(3) COMPANY: Bruce F. Neibrandt dba 5 O'Clock Somewhere Bar; DOCKET NUMBER: 2010-0133-PWS-E; TCEQ ID NUMBER: RN105854236; LOCATION: 45 Depot Street, Telferner, Victoria County; TYPE OF FACILITY: public water system; RULES VIOLATED: 30 TAC §290.39(e) and (m), by failing to provide written notification to the commission of the startup of a new public water system and by failing to submit engineering plans and specifications for a new water system; and 30 TAC §290.42(b)(1), by failing to provide disinfection facilities for microbiological control and distribution protection; PENALTY: \$600; STAFF ATTORNEY: Sharesa Y. Alexander, Litigation Division, MC 175, (512) 239-3503; REGIONAL OFFICE: Corpus Christi Regional Office, NRC Building, Suite 1200, 6300 Ocean Drive, Unit 5839, Corpus Christi, Texas 78412-5839, (361) 825-3100.

(4) COMPANY: Bucky's Navigation, Inc. dba Corpus Christi Truck Stop; DOCKET NUMBER: 2009-1806-PST-E; TCEQ ID NUMBER:

RN103141982; LOCATION: 1302 Navigation Boulevard, Corpus Christi, Nueces County; TYPE OF FACILITY: one UST and a truck stop with retail sales of gasoline; RULES VIOLATED: 30 TAC §26.3475(d) and §334.49(c)(2)(C), by failing to inspect the impressed current cathodic protection system at least once every 60 days to ensure the rectifier and other system components are operating properly; 30 TAC §334.72(3), by failing to report a suspected release to the agency within 24 hours after the receipt of an inconclusive statistical inventory reconciliation (SIR) analysis report; and 30 TAC §334.74, by failing to immediately investigate a suspected release of a regulated substance after the receipt of an inconclusive SIR analysis report; PENALTY: \$41,674; STAFF ATTORNEY: Gary Shiu, Litigation Division, MC R-12, (713) 422-8916; REGIONAL OFFICE: Corpus Christi Regional Office, NRC Building, Suite 1200, 6300 Ocean Drive, Unit 5839, Corpus Christi, Texas 78412-5839, (361) 825-3100.

(5) COMPANY: Cheryl McCarey and James McCarey dba The Little Store; DOCKET NUMBER: 2010-0613-PST-E; TCEQ ID NUMBER: RN101875938; LOCATION: 17714 County Road (CR) 463, Brazoria, Brazoria County; TYPE OF FACILITY: three USTs and a convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §115.245(2) and Texas Health and Safety Code (THSC), §382.085(b), by failing to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifold and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first; 30 TAC §334.8(c)(4)(A)(vii) and (5)(B)(ii), by failing to renew a previously issued TCEQ delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date; 30 TAC §334.8(c)(5)(A)(i) and TWC, §26.3467(a), by failing to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs; 30 TAC §334.50(b)(1)(A) and (2)(A)(i)(III) and TWC, §26.3475(a) and (c)(1), by failing to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); and by failing to test the line leak detectors at least once per year for performance and operational reliability; 30 TAC §334.8(c)(5)(C), by failing to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form; 30 TAC §334.51(b)(2)(C) and TWC, §26.3475(c)(2), by failing to equip the USTs with a valve or other appropriate device designed to automatically shut off the flow of regulated substances into the tank when the liquid level in the tank reaches a preset level no higher than 95% capacity level for the tank; and 30 TAC §334.42(i), by failing to inspect at least once every 60 days any sumps, manways, overspill containers or catchment basins to assure that their sides, bottoms, and any penetration points are maintained liquid-tight; PENALTY: \$16,467; STAFF ATTORNEY: Gary Shiu, Litigation Division, MC R-12, (713) 422-8916; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Avenue, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(6) COMPANY: The City of Overton; DOCKET NUMBER: 2009-1689-MWD-E; TCEQ ID NUMBER: RN102096203; LOCATION: 2,900 feet east of the intersection of Henderson Street and Linda Lane, Overton, Rusk County; TYPE OF FACILITY: domestic wastewater treatment system; RULES VIOLATED: TWC, §26.121(a), 30 TAC §305.125(5) and Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0010242001 Permit Conditions 2.g., by failing to prevent unauthorized discharges from the sewage collection system; TWC, §26.121(a), 30 TAC §305.125(9) and TPDES Permit Number WQ0010242001 Monitoring and Reporting Requirement Number 7, by failing to submit noncompliance notification for an unauthorized discharge of approximately 30,000 gallons of wastewa-

ter that occurred on June 23, 2009; and TWC, §26.121(a), 30 TAC §305.125(1) and TPDES Permit Number WQ0010242001 Operational Requirement Number 4, by failing to have adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternative power sources, standby generators, and/or retention of inadequately treated waste; PENALTY: \$52,065; STAFF ATTORNEY: Jeffrey J. Huhn, Litigation Division, MC R-13, (210) 403-4023; REGIONAL OFFICE: Tyler Regional Office, 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(7) COMPANY: Daniel Baugh; DOCKET NUMBER: 2010-1118-LII-E; TCEQ ID NUMBER: RN103555082; LOCATION: 2000 South 7th Street, Austin, Travis County; TYPE OF FACILITY: landscaping business; RULES VIOLATED: 30 TAC §30.5(b) and TWC, §37.003, by failing to refrain from advertising or representing himself to the public as a holder of a license or registration unless he possesses a current license or registration or unless he employs an individual who holds a current license; PENALTY: \$250; STAFF ATTORNEY: Sharesa Y. Alexander, Litigation Division, MC 175, (512) 239-3503; REGIONAL OFFICE: Austin Regional Office, 2800 South Interstate Highway 35, Suite 100, Austin, Texas 78704-5712, (512) 339-2929.

(8) COMPANY: Jorge Varela aka Jorge Varela Mar aka Jorge Varela-Mar d/b/a Magnolias Transmission; DOCKET NUMBER: 2010-0771-PST-E; TCEQ ID NUMBER: RN101890291; LOCATION: 702 East Main Street, Nacogdoches, Nacogdoches County; TYPE OF FACILITY: three USTs and an automotive repair facility; RULES VIOLATED: 30 TAC §334.47(a)(2), by failing to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, a UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements; PENALTY: \$2,625; STAFF ATTORNEY: Mike Fishburn, Litigation Division, MC 175, (512) 239-0635; REGIONAL OFFICE: Beaumont Regional Office, 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(9) COMPANY: Kevin Stockton d/b/a Nice Yards Landscaping; DOCKET NUMBER: 2010-0225-LII-E; TCEQ ID NUMBER: RN105869481; LOCATION: 6001 Shepherd Mountain Cove, Apartment 216, Austin, Travis County; TYPE OF FACILITY: landscaping business from his personal residence; RULES VIOLATED: 30 TAC §30.5 and TWC, §37.003, by failing to refrain from advertising or representing himself to the public as a holder of a license or registration unless he possesses a current license or registration or unless he employs an individual who holds a current license; PENALTY: \$225; STAFF ATTORNEY: Sharesa Y. Alexander, Litigation Division, MC 175, (512) 239-3503; REGIONAL OFFICE: Austin Regional Office, 2800 South Interstate Highway 35, Suite 100, Austin, Texas 78704-5712, (512) 339-2929.

(10) COMPANY: Local Landscape, LLC; DOCKET NUMBER: 2010-0960-LII-E; TCEQ ID NUMBER: RN105935084; LOCATION: 1034 Island View, Canyon Lake, Comal County; TYPE OF FACILITY: landscape irrigation business; RULES VIOLATED: 30 TAC §30.5(b) and TWC, §37.003, by failing to refrain from advertising or representing itself to the public as a holder of a license or registration unless it possesses a current license or registration or unless it employs an individual who holds a current license; PENALTY: \$250; STAFF ATTORNEY: Sharesa Y. Alexander, Litigation Division, MC 175, (512) 239-3503; REGIONAL OFFICE: San Antonio Regional Office, 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(11) COMPANY: SUNRISE MATERIALS, L.P.; DOCKET NUMBER: 2009-2019-WQ-E; TCEQ ID NUMBER: RN105445696; LOCATION: 25963 Sorters Road, Porter, Montgomery County; TYPE OF FACILITY: sand and gravel mining operation; RULES

VIOLATED: 30 TAC §305.125(1) and TPDES Multi-Sector General Permit (MSGP) Number TXR05W051, Part III, Sections A.5.(g) and (h), by failing to conduct quarterly visual monitoring and site inspections for the last two quarters of 2008 and the first two quarters of 2009; 30 TAC §305.125(1) and TPDES MSGP Number TXR05W051, Part III, Section A.5.(f), by failing to conduct annual employee training during 2008; 30 TAC §305.125(1) and TPDES MSGP Number TXR05W051, Part III, Section A.7., by failing to conduct the annual comprehensive compliance site evaluation during 2008; 30 TAC §305.125(1) and TPDES MSGP Number TXR05W051, Part III, Section D., by failing to conduct annual numeric effluent limitations monitoring during 2008; 30 TAC §305.125(1) and TPDES MSGP Number TXR05W051, Part IV, Section C., by failing to conduct semiannual benchmark monitoring for the second half of 2008 and the first half of 2009; 30 TAC §305.125(1) and TPDES MSGP Number TXR05W051, Part III, Section A.3.(c), by failing to submit the non-storm water certification within 180 days of filing a Notice of Intent (NOI) for permit coverage; and 30 TAC §305.125(1) and TPDES MSGP Number TXR05W051, Part III, Section C.1.(c), by failing to maintain a rain gauge at the site; PENALTY: \$12,299; STAFF ATTORNEY: Gary Shiu, Litigation Division, MC R-12, (713) 422-8916; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Avenue, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(12) COMPANY: TOTAL PETROCHEMICALS USA, INC.; DOCKET NUMBER: 2009-0131-AIR-E; TCEQ ID NUMBER: RN102457520; LOCATION: 7600 32nd Street, Port Arthur, Jefferson County; TYPE OF FACILITY: petroleum refinery; RULES VIOLATED: 30 TAC §§106.6(b), 116.115(b)(2)(F) and (c), and 122.143(4), THSC, §382.085(b), Federal Operating Permit (FOP) Number 1267, Special Condition (SC) Number 27, and Air Permit Numbers 35329, 43981, 49982, 56735, 72930, and 74505, SC Number 1, and 46396, General Terms and Conditions (GTC) Number 8 and SC Number 1, by failing to maintain allowable emissions rates; 30 TAC §116.115(b)(2)(F) and (c), and §122.143(4), THSC, §382.085(b), FOP Number 1267, SC Number 27, and Air Permit Number 18936, SC Numbers 1 and 8, by failing to maintain allowable emissions rates; 30 TAC §101.201(b)(1)(D), (G) and (H), and §122.143(4), THSC, §382.085(b), and FOP Number 1267, GTC and SC Number 2F, by failing to properly report an emission event; and 30 TAC §116.115(b)(2)(F) and (c), and §122.143(4), THSC, §382.085(b), FOP Number 1267, GTC and SC Number 26, and Air Permit Number 54026, SC Number 1, by failing to prevent unauthorized emissions during incident Number 115548; PENALTY: \$130,575; Supplemental Environmental Project offset amount of \$32,644 applied to Texas Association of Resource Conservation and Development Clean School Buses and \$32,643 applied to Southeast Texas Regional Planning Commission West Port Arthur Home Energy Efficiency Program; STAFF ATTORNEY: Jeffrey J. Huhn, Litigation Division, MC R-13, (210) 403-4023; REGIONAL OFFICE: Beaumont Regional Office, 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

TRD-201007392

Kathleen C. Decker

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: December 28, 2010



Notice of Opportunity to Comment on Default Orders of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Default Orders (DOs). The commission staff proposes a DO

when the staff has sent an executive director's preliminary report and petition (EDPRP) to an entity outlining the alleged violations; the proposed penalty; the proposed technical requirements necessary to bring the entity back into compliance; and the entity fails to request a hearing on the matter within 20 days of its receipt of the EDPRP or requests a hearing and fails to participate at the hearing. Similar to the procedure followed with respect to Agreed Orders entered into by the executive director of the commission, in accordance with Texas Water Code (TWC), §7.075, this notice of the proposed order and the opportunity to comment is 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 7, 2011**. The commission will consider any written comments received and the commission may withdraw or withhold approval of a DO if a comment discloses facts or considerations that indicate that consent to the proposed DO is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction, or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed DO is not required to be published if those changes are made in response to written comments.

A copy of each proposed DO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about the DO should be sent to the attorney designated for the DO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on February 7, 2011**. Comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The commission's attorneys are available to discuss the DOs and/or the comment procedure at the listed phone numbers; however, §7.075 provides that comments on the DOs shall be submitted to the commission in **writing**.

(1) COMPANY: Billy Peoples, Jr.; DOCKET NUMBER: 2010-1160-PST-E; TCEQ ID NUMBER: RN101534840; LOCATION: 202 North Fannin Street, Rockwall, Rockwall County; TYPE OF FACILITY: five underground storage tanks (USTs); RULES VIOLATED: 30 TAC §334.55(a)(6)(D)(i) and (ii), by failing to comply with all the applicable release investigation and corrective action requirements and submit detailed written records of the release determination following the removal from service of a UST system; PENALTY: \$2,675; STAFF ATTORNEY: Mike Fishburn, Litigation Division, MC 175, (512) 239-0635; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(2) COMPANY: Borth Newton dba Borth's Garage; DOCKET NUMBER: 2010-1115-PST-E; TCEQ ID NUMBER: RN101912236; LOCATION: 436 East Main Street, Yorktown, Dewitt County; TYPE OF FACILITY: four USTs and a property with an automotive repair facility; RULES VIOLATED: 30 TAC §334.47(a)(2), by failing to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, a UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements; PENALTY: \$5,250; STAFF ATTORNEY: Sharesa Y. Alexander, Litigation Division, MC 175, (512) 239-3503; REGIONAL OFFICE: Corpus Christi Regional Office, NRC Building, Suite 1200, 6300 Ocean Drive, Unit 5839, Corpus Christi, Texas 78412-5839, (361) 825-3100.

(3) COMPANY: Clayton Violette dba GTO Automotive; DOCKET NUMBER: 2010-0806-AIR-E; TCEQ ID NUMBER: RN105927958; LOCATION: 512 East Veterans Memorial Boulevard, Harker Heights, Bell County; TYPE OF FACILITY: auto body refinishing and painting shop; RULES VIOLATED: 30 TAC §116.110(a), Texas Health and Safety Code (THSC), §382.085(b), and §382.0518(a), by failing

to obtain authorization to operate; PENALTY: \$4,000; STAFF ATTORNEY: Stephanie J. Frazee, Litigation Division, MC 175, (512) 239-3693; REGIONAL OFFICE: Waco Regional Office, 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(4) COMPANY: E & D Contractors LLC and Kiplin Ellis; DOCKET NUMBER: 2010-0936-PST-E; TCEQ ID NUMBER: RN101775575; LOCATION: 2501 Main Avenue, Groves, Jefferson County; TYPE OF FACILITY: four USTs and a former retail dispensing facility; RULES VIOLATED: 30 TAC §334.47(a)(2), by failing to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, a UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements; and 30 TAC §334.7(d)(3), by failing to notify the agency of any change or additional information regarding the USTs within 30 days of the occurrence of the change; PENALTY: \$3,500; STAFF ATTORNEY: Sharesa Y. Alexander, Litigation Division, MC 175, (512) 239-3503; REGIONAL OFFICE: Beaumont Regional Office, 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(5) COMPANY: George W. Jackson dba Fort Jackson Mobile Estates; DOCKET NUMBER: 2010-1399-PWS-E; TCEQ ID NUMBER: RN102698545; LOCATION: 116th Street and South University, Lubbock County; TYPE OF FACILITY: public water system; RULES VIOLATED: 30 TAC §290.41(c)(3)(K), by failing to seal the wellhead with a gasket or sealing compound; 30 TAC §290.45(b)(1)(A)(i) and THSC, §341.0315(c), by failing to provide a well capacity of 1.5 gallons per connection (gpm) per connection; 30 TAC §290.46(f)(2), by failing to provide facility records to commission personnel at the time of the investigation; and 30 TAC §290.110(d)(1), by failing to measure the free chlorine residual within the distribution system using the amperometric titration method, ferrous titration method, or a diethyl-p-phenylendiamine colorimetric method which measures the free chlorine residual to a minimum accuracy of plus or minus 0.1 milligrams per liter (mg/L); PENALTY: \$518; STAFF ATTORNEY: Peipey Tang, Litigation Division, MC 175, (512) 239-0654; REGIONAL OFFICE: Lubbock Regional Office, 5012 50th Street, Suite 100, Lubbock, Texas 79414-3421, (806) 796-7613.

(6) COMPANY: Karen Gerla and Rocky Gerla; DOCKET NUMBER: 2010-0831-PST-E; TCEQ ID NUMBER: RN101738516; LOCATION: 425 East Sinton, Sinton, San Patricio County; TYPE OF FACILITY: four USTs and an automotive repair facility; RULES VIOLATED: 30 TAC §334.47(a)(2), by failing to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, a UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements; 30 TAC §334.7(d)(3), by failing to notify the agency of any change or additional information regarding the USTs within 30 days of the occurrence of the change or addition; and 30 TAC §334.22(a) and TWC, §5.702, by failing to pay outstanding UST fees and associated late fees for TCEQ Financial Account Number 0061222U for Fiscal Years 1995 - 2007; PENALTY: \$6,300; STAFF ATTORNEY: Mike Fishburn, Litigation Division, MC 175, (512) 239-0635; REGIONAL OFFICE: Corpus Christi Regional Office, NRC Building, Suite 1200, 6300 Ocean Drive, Unit 5839, Corpus Christi, Texas 78412-5839, (361) 825-3100.

(7) COMPANY: Mark Perkins; DOCKET NUMBER: 2009-1857-OSI-E; TCEQ ID NUMBER: RN105516637; LOCATION: 9127 Farm-to-Market (FM) Road 139, Joaquin, Shelby County; TYPE OF FACILITY: constructed, installed, altered, and/or repaired an on-site sewage facility (OSSF); RULES VIOLATED: 30 TAC §285.61(11), by failing to request the initial and final inspection of an OSSF from the permitting authority; 30 TAC §285.32(a)(5), by failing to install a cleanout plug every 50 feet on long runs of pipe from the sewer

stub-out to the treatment tank; 30 TAC §285.33(d)(2)(D), by failing to disinfect effluent prior to surface application; and 30 TAC §285.31(d) and §285.91(10), by failing to meet the minimum required separation distance for surface application with a timer; PENALTY: \$2,479; STAFF ATTORNEY: Mike Fishburn, Litigation Division, MC 175, (512) 239-0635; REGIONAL OFFICE: Beaumont Regional Office, 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(8) COMPANY: PS Royal Car Wash, L.P.; DOCKET NUMBER: 2010-0567-WQ-E; TCEQ ID NUMBER: RN105829014; LOCATION: 26780 United States Highway 380 East, Denton County; TYPE OF FACILITY: automated car wash; RULES VIOLATED: TWC, §26.121(a)(2), by failing to prevent the unauthorized discharge of wastewater into or adjacent to any water in the state; PENALTY: \$2,377; STAFF ATTORNEY: Peipey Tang, Litigation Division, MC 175, (512) 239-0654; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(9) COMPANY: William F. Stephens dba W S Tire Transport; DOCKET NUMBER: 2010-1124-MSW-E; TCEQ ID NUMBER: RN105121065; LOCATION: 3572 Southeast 3rd Avenue, Amarillo, Potter County; TYPE OF FACILITY: authorized scrap tire transporter business; RULES VIOLATED: 30 TAC §328.55(4), by failing to notify the agency of any change regarding the relocation of the site within 15 days of the occurrence of the change; PENALTY: \$2,625; STAFF ATTORNEY: Marshall Coover, Litigation Division, MC 175, (512) 239-0620; REGIONAL OFFICE: Amarillo Regional Office, 3918 Canyon Drive, Amarillo, Texas 79109-4933, (806) 353-9251.

TRD-201007393

Kathleen C. Decker

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: December 28, 2010



Notice of Opportunity to Request a Public Meeting for a New Municipal Solid Waste Facility Registration Application No. 40250

APPLICATION. Lone Star - SRD - Shredding Recycling Disposal, LLC, has applied to the Texas Commission on Environmental Quality (TCEQ) for proposed Registration (No. 40250), to construct and operate a Type V municipal solid waste medical waste processing facility. The proposed facility, Lone Star - SRD - Shredding Recycling Disposal, LLC will be located at 712 Pasadena Freeway, Pasadena 77506, in Harris County. This facility is requesting authorization to process, store, and transfer municipal solid waste which includes medical waste and sharps, and shred documents for recycling. The registration application is available for viewing and copying at the Pasadena Public Library, 1202 Jeff Ginn Memorial Dr., Pasadena 77506 and may be viewed online at <http://gurukulindia.net/client/LoneStarSRD/>.

PUBLIC COMMENT/PUBLIC MEETING. Written public comments or written requests for a public meeting must be submitted to the Office of Chief Clerk at the address included in the information section below. Comments may also be received if a public meeting is held on the facility. A public meeting will be held by the executive director if requested by a member of the legislature who represents the general area where the development is to be located, or if there is a substantial public interest in the proposed development. The purpose of the public meeting is for the public to provide input for consideration by the commission, and for the applicant and the commission staff to provide information to the public. A public meeting is not a contested case hearing. The executive director will review and consider public comments and writ-

ten requests for a public meeting submitted prior to the notice of final determination. The executive director is not required to file a response to comments.

EXECUTIVE DIRECTOR ACTION. The executive director shall, after review of an application for registration, determine if the application will be approved or denied in whole or in part. If the executive director acts on an application, the chief clerk shall mail or otherwise transmit notice of the action and an explanation of the opportunity to file a motion to reconsider the executive director's decision. The chief clerk shall mail this notice to the owner and operator, the public interest counsel, to adjacent landowners as shown on the required land ownership map and landowners list, and to other persons who timely filed public comment in response to public notice. Not all persons on the mailing list for this notice will receive the notice letter from the Office of the Chief Clerk.

INFORMATION. Written public comments or requests to be placed on the permanent mailing list for this application should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087 or electronically submitted to <http://www10.tceq.state.tx.us/epic/ecmnts/>. Individual members of the general public may contact the Office of Public Assistance at 1-800-687-4040. General information regarding the TCEQ can be found at our web site at www.tceq.state.tx.us. Further information may also be obtained from Lone Star - SRD - Shredding Recycling Disposal, LLC at the address stated above or by calling Joe Kappil at (713) 472-6900.

Notice of Opportunity to Request a Public Meeting for a New Municipal Solid Waste Facility Registration Application No. 40253

APPLICATION. Stericycle, Inc. (Applicant), located at 28161 N. Keith Drive, Lake Forest, Illinois, 60045, has applied to the Texas Commission on Environmental Quality (TCEQ) for proposed Registration No. 40253, to operate a Type V medical waste processing facility. The proposed facility, Stericycle-Garland, is located at 2821 Industrial Lane, Garland, Texas 75041, Dallas County. The Applicant is requesting authorization to process and transfer untreated medical waste, outdated/off specification pharmaceuticals, seized drugs, confidentiality documents, and may accept Animal and Plant Health Inspection Services (APHIS) waste. The registration application is available for viewing and copying at the Garland Central Public Library located at 625 Austin Street, Garland, Texas 75040 and may be viewed online at www.texaspermits.net.

PUBLIC COMMENT/PUBLIC MEETING. Written public comments or written requests for a public meeting must be submitted to the Office of Chief Clerk at the address included in the information section below. If a public meeting is held, comments may be made orally at the meeting or submitted in writing by the close of the public meeting. A public meeting will be held by the executive director if requested by a member of the legislature who represents the general area where the development is to be located, or if there is a substantial public interest in the proposed development. The purpose of the public meeting is for the public to provide input for consideration by the commission, and for the applicant and the commission staff to provide information to the public. A public meeting is not a contested case hearing. The executive director will review and consider public comments and written requests for a public meeting submitted prior to the notice of final determination. The executive director is not required to file a response to comments.

EXECUTIVE DIRECTOR ACTION. The executive director shall, after review of an application for registration, determine if the application will be approved or denied in whole or in part. If the executive director acts on an application, the chief clerk shall mail or otherwise transmit

notice of the action and an explanation of the opportunity to file a motion to overturn the executive director's decision. The chief clerk shall mail this notice to the owner and operator, the public interest counsel, to adjacent landowners as shown on the required land ownership map and landowners list, and to other persons who timely filed public comment in response to public notice. Not all persons on the mailing list for this notice will receive the notice letter from the Office of the Chief Clerk.

INFORMATION. Written public comments or requests to be placed on the permanent mailing list for this application should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087 or electronically submitted to <http://www10.tceq.state.tx.us/epic/ecmnts/>. Individual members of the general public may contact the Office of Public Assistance at 1-800-687-4040. General information regarding the TCEQ can be found at our web site at www.tceq.state.tx.us. Further information may also be obtained from Stericycle, Inc. at the address stated above or by calling Mr. Mark Triplett at (504) 220-9732.

If you need more information about these permit applications or the permitting process, please call the TCEQ Office of Public Assistance, Toll Free, at 1-800-687-4040. General information about the TCEQ can be found at our web site at www.TCEQ.state.tx.us. Si desea información en Español, puede llamar al 1-800-687-4040.

TRD-201007411

LaDonna Castañuela

Chief Clerk

Texas Commission on Environmental Quality

Filed: December 29, 2010



Notice of Receipt of Application and Intent to Obtain a Municipal Solid Waste Limited Scope Permit Amendment Permit No. 783A

APPLICATION. Zapata County (San Ygnacio Landfill), P.O. Box 99, Zapata, Zapata County, Texas 78076, has applied to the Texas Commission on Environmental Quality (TCEQ) for a Type IAE Municipal Solid Waste limited scope permit amendment requesting to update their public waste acceptance hours and to change the frequency of landfill gas monitoring within the landfill office from monthly to quarterly. The facility is located approximately 350 yards northeast of U.S. Highway 83; 2 miles south of San Ygnacio, Zapata County, Texas 78076. The TCEQ received the application on September 21, 2010. The permit application is available for viewing and copying at the Zapata County Courthouse, 201 East 7th Avenue, Zapata, Zapata County, Texas 78076.

ADDITIONAL NOTICE. TCEQ's Executive Director has determined the application is administratively complete and will conduct a technical review of the application. After technical review of the application is complete, the Executive Director may prepare a draft permit and will issue a preliminary decision on the application. Notice of the Application and Preliminary Decision will be published and mailed to those who are on the county-wide mailing list and to those who are on the mailing list for this application. That notice will contain the deadline for submitting public comments.

PUBLIC COMMENT/PUBLIC MEETING. You may submit public comments or request a public meeting on this application. The purpose of a public meeting is to provide the opportunity to submit comments or to ask questions about the application. TCEQ will hold a public meeting if the Executive Director determines that there is a significant

degree of public interest in the application or if requested by a local legislator. A public meeting is not a contested case hearing.

OPPORTUNITY FOR A CONTESTED CASE HEARING. After the deadline for submitting public comments, the Executive Director will consider all timely comments and prepare a response to all relevant and material, or significant public comments. Unless the application is directly referred for a contested case hearing, the response to comments, and the Executive Director's decision on the application, will be mailed to everyone who submitted public comments and to those persons who are on the mailing list for this application. If comments are received, the mailing will also provide instructions for requesting reconsideration of the Executive Director's decision and for requesting a contested case hearing. A person who may be affected by the facility is entitled to request a contested case hearing from the commission. A contested case hearing is a legal proceeding similar to a civil trial in state district court.

TO REQUEST A CONTESTED CASE HEARING, YOU MUST INCLUDE THE FOLLOWING ITEMS IN YOUR REQUEST: your name, address, phone number; applicant's name and permit number; the location and distance of your property/activities relative to the facility; a specific description of how you would be adversely affected by the facility in a way not common to the general public; and the statement "[I/we] request a contested case hearing." If the request for contested case hearing is filed on behalf of a group or association, the request must designate the group's representative for receiving future correspondence; identify an individual member of the group who would be adversely affected by the facility or activity; provide the information discussed above regarding the affected member's location and distance from the facility or activity; explain how and why the member would be affected; and explain how the interests the group seeks to protect are relevant to the group's purpose.

Following the close of all applicable comment and request periods, the Executive Director will forward the application and any requests for reconsideration or for a contested case hearing to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

The Commission will only grant a contested case hearing 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 in timely filed comments that were not subsequently withdrawn.

MAILING LIST. If you submit public comments, a request for a contested case hearing or a reconsideration of the Executive Director's decision, you will be added to the mailing list for this specific application to receive future public notices mailed by the Office of the Chief Clerk. In addition, you may request to be placed on: (1) the permanent mailing list for a specific applicant name and permit number; and/or (2) the mailing list for a specific county. If you wish to be placed on the permanent and/or the county mailing list, clearly specify which list(s) and send your request to TCEQ Office of the Chief Clerk at the address below.

AGENCY CONTACTS AND INFORMATION. All written public comments and requests must be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087 or electronically at www.tceq.state.tx.us/about/comments.html. If you need more information about this permit application or the permitting process, please call TCEQ Office of Public Assistance, Toll Free, at 1-800-687-4040. Si desea información en Español, puede llamar al 1-800-687-4040. General information about TCEQ can be found at our web site at www.tceq.state.tx.us.

Further information may also be obtained from Zapata County at the address stated above or by calling Mr. Jeff Arrington, P.E., Project Engineers, SCS Engineers at (817) 358-6111.

Notice of Receipt of Application and Intent to Obtain a New Municipal Solid Waste Permit (Proposed) Permit No. 2370

APPLICATION. Jerry Lynn Cooper dba Texas Remediation, 13510 Al-dine Westfield Road, Houston, Harris County, Texas 77039-3006, has applied to the Texas Commission on Environmental Quality (TCEQ) for proposed Permit No. 2370, to operate a MSW Type V GG processing facility. The applicant is requesting a permit to process septic and holding tank waste, grit and grease trap wastes. The facility is located at 10217A Wallisville Road, Houston, within the permit boundary of the Texas Remediation Service Wastewater Treatment Facility (Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0003987000) in Harris County, Texas 77013. The TCEQ received the application on November 29, 2010. The permit application is available for viewing and copying at the Jacinto City Library, 921 Akron Street, Houston, Harris County, Texas 77029-2149.

ADDITIONAL NOTICE. TCEQ's Executive Director has determined the application is administratively complete and will conduct a technical review of the application. After technical review of the application is complete, the Executive Director may prepare a draft permit and will issue a preliminary decision on the application. Notice of the Application and Preliminary Decision will be published and mailed to those who are on the county-wide mailing list and to those who are on the mailing list for this application. That notice will contain the deadline for submitting public comments.

PUBLIC COMMENT/PUBLIC MEETING. You may submit public comments or request a public meeting on this application. The purpose of a public meeting is to provide the opportunity to submit comments or to ask questions about the application. TCEQ will hold a public meeting if the Executive Director determines that there is a significant degree of public interest in the application or if requested by a local legislator. A public meeting is not a contested case hearing.

OPPORTUNITY FOR A CONTESTED CASE HEARING. After the deadline for submitting public comments, the Executive Director will consider all timely comments and prepare a response to all relevant and material, or significant public comments. Unless the application is directly referred for a contested case hearing, the response to comments, and the Executive Director's decision on the application, will be mailed to everyone who submitted public comments and to those persons who are on the mailing list for this application. If comments are received, the mailing will also provide instructions for requesting reconsideration of the Executive Director's decision and for requesting a contested case hearing. A person who may be affected by the facility is entitled to request a contested case hearing from the commission. A contested case hearing is a legal proceeding similar to a civil trial in state district court.

TO REQUEST A CONTESTED CASE HEARING, YOU MUST INCLUDE THE FOLLOWING ITEMS IN YOUR REQUEST: your name, address, phone number; applicant's name and permit number; the location and distance of your property/activities relative to the facility; a specific description of how you would be adversely affected by the facility in a way not common to the general public; and the statement "[I/we] request a contested case hearing." If the request for contested case hearing is filed on behalf of a group or association, the request must designate the group's representative for receiving future correspondence; identify an individual member of the group who would be adversely affected by the facility or activity; provide the information discussed above regarding the affected member's location and distance from the facility or activity; explain how and why the

member would be affected; and explain how the interests the group seeks to protect are relevant to the group's purpose.

Following the close of all applicable comment and request periods, the Executive Director will forward the application and any requests for reconsideration or for a contested case hearing to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

The Commission will only grant a contested case hearing 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 in timely filed comments that were not subsequently withdrawn.

MAILING LIST. If you submit public comments, a request for a contested case hearing or a reconsideration of the Executive Director's decision, you will be added to the mailing list for this specific application to receive future public notices mailed by the Office of the Chief Clerk. In addition, you may request to be placed on: (1) the permanent mailing list for a specific applicant name and permit number; and/or (2) the mailing list for a specific county. If you wish to be placed on the permanent and/or the county mailing list, clearly specify which list(s) and send your request to TCEQ Office of the Chief Clerk at the address below.

AGENCY CONTACTS AND INFORMATION. All written public comments and requests must be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087 or electronically at www.tceq.state.tx.us/about/comments.html. If you need more information about this permit application or the permitting process, please call TCEQ Office of Public Assistance, Toll Free, at 1-800-687-4040. Si desea información en Español, puede llamar al 1-800-687-4040. General information about TCEQ can be found at our web site at www.tceq.state.tx.us.

Further information may also be obtained from Jerry Lynn Cooper dba Texas Remediation at the address stated above or by calling Mr. Jerry Lynn Cooper, Owner, at (281) 449-3205.

If you need more information about these permit applications or the permitting process, please call the TCEQ Office of Public Assistance, Toll Free, at 1-800-687-4040. General information about the TCEQ can be found at our web site at www.TCEQ.state.tx.us. Si desea información en Español, puede llamar al 1-800-687-4040.

TRD-201007302

LaDonna Castañuela

Chief Clerk

Texas Commission on Environmental Quality

Filed: December 22, 2010



Notice of Water Quality Applications

The following notice was issued on December 6, 2010 through December 17, 2010.

The following require the applicants to publish notice in a newspaper. Public comments, requests for public meetings, or requests for a contested case hearing may be submitted to the Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087, WITHIN 30 DAYS OF THE DATE OF NEWSPAPER PUBLICATION OF THE NOTICE.

INFORMATION SECTION

DELEK REFINING, LTD., which operates the Delek Tyler Refinery, has applied for a major amendment with renewal to TPDES Permit No. WQ0001590000 to authorize the addition of a new Outfall 013,

which will discharge non-process area storm water runoff. The current permit authorizes the discharge of storm water runoff associated with industrial activity on an intermittent and flow variable basis via Outfalls 001, 002, 003-006, 008, and 010-012. The facility is located at 1702 East Commerce Street, approximately 0.6 mile west of the intersection of East Commerce Street and State Loop 323 in the City of Tyler, Smith County, Texas 75702.

TRUMAN ARNOLD COMPANIES, Texarkana, Texas 75501, which operates a bulk petroleum fuel storage and tank truck loading facility, has applied for a renewal of TPDES Permit No. WQ0002837000, which authorizes the discharge of storm water at an intermittent and flow variable rate. The facility is located at 2738 County Road 2168, Hunt County, Texas 75135.

LUMINANT MINING COMPANY LLC, which operates Monticello-Thermo Lignite Mining Area, has applied for a major amendment to TPDES Permit No. WQ0004122000 to authorize the addition of a 286-acre Thermo A-1 Auxiliary Area located adjacent to the existing Northern Boundary of the Monticello-Thermo Lignite Mining Area. The current permit authorizes the discharge of mine drainage and surface runoff from the active mining area, groundwater, and previously monitored effluents (surface runoff from post mining areas and previously monitored Outfall 001 effluent on an intermittent and flow variable basis via Outfall 101 and treated domestic wastewater at a daily average flow not to exceed 2,600 gallons per day via Outfall 201) on an intermittent and flow variable basis via Outfall 001. The facility is located on State Highway 11, approximately 2.5 miles southeast of the intersection of State Highway 11 and Interstate Highway 30, Hopkins County, Texas 75482.

NORTH ALAMO WATER SUPPLY CORPORATION, which proposes to operate the Victoria Road Plant No. 5 Reverse Osmosis Water Treatment Plant, has applied for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0004915000, to authorize the discharge of water treatment wastes at a daily average flow not to exceed 1,000,000 gallons per day via Outfall 001. The facility is located approximately 2.71 miles north of Expressway 83 at the intersection of Victoria Road and Mile 11 North Road in the City of Donna, Hidalgo County, Texas 78537.

TRAIL OF THE LAKES MUNICIPAL UTILITY DISTRICT has applied for a renewal of TPDES Permit No. WQ0011901001, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 1,750,000 gallons per day. The facility is located approximately 6,500 feet south and 150 feet east of the intersection of Woodland Hills Drive and Atascocita Road in Harris County, Texas 77396.

WEST HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 7 has applied to the Texas Commission on Environmental Quality (TCEQ) for a renewal of TPDES Permit No. WQ0012140001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 500,000 gallons per day. The facility is located at 20356 Desert Willow Drive, Katy, a point 1.9 miles north of Interstate Highway 10, approximately 5,500 feet northwest of the intersection of Fry Road and Franz Road on the southwest bank of South Mayde Creek and approximately 5.9 miles northwest of the intersection of Interstate Highway 10 and State Highway 6 in Harris County, Texas 77449.

AQUA UTILITIES, INC. has applied for a renewal of TPDES Permit No. WQ0013619001 which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 40,000 gallons per day. The facility is located at 23427 Bettywood Lane, approximately 1,000 feet southeast of Kuykendahl Road crossing of Willow Creek

and 800 feet east of Willow Creek, in Tomball in Harris County, Texas 77375.

CHAPEL HILL INDEPENDENT SCHOOL DISTRICT has applied for a renewal of TPDES Permit No. WQ0013821001 which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 32,000 gallons per day. The facility is located approximately 1,300 feet east of the intersection of Farm-to-Market Road 1735 and County Road 4825 in Titus County, Texas 75455.

PURE UTILITIES, L.C. has applied for a renewal of TPDES Permit No. WQ0014014001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 30,000 gallons per day. The facility is located at 258 East Lake Drive, approximately 500 feet east of U.S. Highway 59, approximately 1 mile south of the intersection of U.S. Highway 59 and Farm-to-Market Road 1988, approximately 3 miles south of the intersection of U.S. Highway 59 and State Highway 190 in Polk County, Texas 77351.

CITY OF BIG SANDY has applied for a renewal of TPDES Permit No. WQ0014071001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 235,000 gallons per day. The facility is located approximately 1 mile south of the intersection of U.S. Highway 80 and State Highway 155, approximately 1.25 miles east of State Highway 155 in Upshur County, Texas 75755.

BRIGHT STAR-SALEM SPECIAL UTILITY DISTRICT has applied for a renewal of TPDES Permit No. WQ0014220001 which authorizes the discharge of treated filter backwash effluent from a water treatment plant at a daily average flow not to exceed 6,000 gallons per day. The facility is located approximately 0.85 of a mile southwest of the intersection of State Highway 515 and State Highway 17 along County Road 1513 in Wood County, Texas 75410.

AQUA WATER SUPPLY CORPORATION has applied for a renewal of TPDES Permit No. WQ0014224001, which authorizes the discharge of treated filter backwash effluent from a water treatment plant at a daily average flow not to exceed 12,000 gallons per day. The facility is located on County Road 106, 1.2 miles west of the County Road 106 and Farm-to-Market Road 696 intersection in Bastrop County, Texas 78621.

ELAN DEVELOPMENT, L.P. has applied for a renewal of TPDES Permit No. WQ0014625002, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 450,000 gallons per day. The facility will be located approximately 1,590 feet west of Lockwood Road, 8,370 feet south of the intersection of Beltway 8 Tollway and Lockwood Road in Harris County, Texas 77044.

MHC TT, INC. has applied for a renewal of TPDES Permit No. WQ0014736001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 40,000 gallons per day. The facility is located approximately one mile west of Farm-to-Market Road 47 and approximately 1.15 miles south of Farm-to-Market Road 35 in Rains County, Texas 75472.

CITY OF MARTINDALE has applied for a new permit, proposed TCEQ Permit No. WQ0014974001, to authorize the disposal of treated domestic wastewater at a daily average flow not to exceed 57,000 gallons per day via surface irrigation of 32 acres of non-public access irrigation land. The wastewater treatment facility and disposal site are located approximately 1.7 miles southeast of the intersection of State Highway 80 and State Highway 142 in Caldwell County, Texas 78655. The disposal site is located in the drainage area of Lower San Marcos River in Segment No. 1808 of the Guadalupe River Basin. The permit will not authorize a discharge of pollutants into waters in the State. The facility was previously permitted under Permit No. WQ0013450001 which expired February 1, 2010.

If you need more information about these permit applications or the permitting process, please call the TCEQ Office of Public Assistance, Toll Free, at 1-800-687-4040. General information about the TCEQ can be found at our web site at www.TCEQ.state.tx.us. Si desea información en Español, puede llamar al 1-800-687-4040.

TRD-201007301

LaDonna Castañuela

Chief Clerk

Texas Commission on Environmental Quality

Filed: December 22, 2010



Notice of Water Quality Applications

The following notice was issued on December 8, 2010 through December 20, 2010.

The following require the applicants to publish notice in a newspaper. Public comments, requests for public meetings, or requests for a contested case hearing may be submitted to the Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087, WITHIN 30 DAYS OF THE DATE OF NEWSPAPER PUBLICATION OF THE NOTICE.

INFORMATION SECTION

TURNER INDUSTRIES GROUP, L.L.C. which operates Turner Industries Group, Paris Operations, a facility that fabricates steel pipe fittings, has applied for a renewal of TPDES Permit No. WQ0000300000, which authorizes the discharge of non-contact cooling water and storm water at a daily average flow not to exceed 800,000 gallons per day via Outfall 001. The facility is located at 1200 SW 19th Street, in the northwest quadrant as defined by the intersection of Farm-to-Market Road 137 and the Missouri Pacific Railroad, approximately 0.6 mile north of Loop 286 and one mile southwest of the intersection of Farm-to-Market Road 137 and State Highway 82 in the City of Paris, Lamar County, Texas 75460.

MARTIN OPERATING PARTNERSHIP L.P. which operates the Martin Plainview Chemical Fertilizer Facility, has applied for a major amendment to TCEQ Permit No. WQ0001757000 to authorize an increase in flow to the existing south evaporation pond from 38,000 gallons per day to 61,920 gallons per day, and the removal of authorization to discharge wastewater to the north evaporation pond. The current permit authorizes the discharge of storm water and recovered groundwater routed to evaporation Pond #6 at a daily average flow of 16,000 gallons per day, which will remain the same, and utility wastewater (cooling tower blowdown, team condensate, boiler blowdown, and softener regeneration water), wash water generated from the sulfuric acid plant, storm water collected in the containment sump, and recovered groundwater to the proposed south evaporation pond at a daily average flow of 38,000 gallons per day, and to the north pond at a daily average flow not to exceed 15,000 gallons per day. This permit will not authorize a discharge of pollutants into water in the State. TCEQ received this application on August 25, 2009. The facility and evaporation ponds are located north of State Highway 194, approximately one and one-third miles west of the intersection of State Highway 194 and Interstate Highway 27, Hale County, Texas 79072.

SERMATECH INTERNATIONAL INCORPORATED which operates the Sermatech Power Solutions Surface Coating Facility, has applied to the Texas Commission on Environmental Quality (TCEQ) for a new permit, proposed Permit No. WQ0004938000, to authorize the disposal of non-contact cooling tower blowdown at a daily average flow not to exceed 100 gallons per day via spray irrigation on a combined area of 8.75 acres of Coastal Bermuda grass. This permit will not au-

thorize a discharge of pollutants into water in the State. The facility and disposal area are located 0.62 mile north from the intersection of Farm-to-Market Road 529 and Fairview Road in the City of Houston in Harris County, Texas 77041.

CITY OF CLARKSVILLE has applied for a renewal of TPDES Permit No. WQ0010148001 which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 900,000 gallons per day. The facility is located approximately 1.5 miles southeast of the intersection of U.S. Highway 82 and State Highway 37 and approximately 0.75 mile east of Farm-to-Market Road 910 in Red River County, Texas 75426.

CITY OF WELLINGTON, P.O. Box 949, Wellington, Texas 79095, has applied for a renewal of TCEQ Permit No. WQ0010328001, which authorizes the disposal of treated domestic wastewater at a daily average flow not to exceed 300,000 gallons per day via surface irrigation of 120 acres of non-public access agricultural land. This permit will not authorize a discharge of pollutants into waters in the State. The wastewater treatment facility and disposal site are located 0.5 mile southwest of the intersection of State Highway 338 (15th Street) and Farm-to-Market Road 1035 (Haskell Street) in Collingsworth County, Texas 79095.

CITY OF GUNTER has applied for a renewal of TPDES Permit No. WQ0010569001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 240,000 gallons per day. The facility is located adjacent to the St. Louis-San Francisco and Texas Railway, approximately 2,300 feet west of State Highway 289 and approximately 1,400 feet north of Farm-to-Market Road 121 in the City of Gunter in Grayson County, Texas 75058.

CITY OF AVERY has applied for a renewal of TPDES Permit No. WQ0010733002, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 124,000 gallons per day. The facility is located on Mill Creek, approximately one-half mile northeast of the City of Avery in Red River County, Texas 75554.

CITY OF LOVELADY has applied for a renewal of TPDES Permit No. WQ0010734001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 105,000 gallons per day. The facility is located approximately 0.5 mile southwest of the State Highway 19 and Farm-to-Market Road 1280 in Houston County, Texas 75851.

HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 23 has applied for a renewal of TPDES Permit No. WQ0011485001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 750,000 gallons per day. The facility is located at 7214 Woodland West Drive, approximately 1.3 miles northeast of the intersection of U.S. Highway 290 and Fairbanks-North Houston Road, on the north bank of Whiteoak Bayou in Harris County, Texas 77040.

CITY OF LAGO VISTA has applied for a major amendment to TCEQ Permit No. WQ0011752001 to authorize an increase in the daily average flow from 600,000 gallons per day to 1,000,000 gallons per day and to increase the acreage irrigated from 90 acres to 140 acres of a golf course and from 67 acres to 180 acres of non-public access land planted in cedar trees. The current permit authorizes the disposal of treated domestic wastewater at a daily average flow not to exceed 600,000 gallons per day via surface irrigation of 90 acres of a golf course and 67 acres of non-public access land planted in cedar trees. This permit will not authorize a discharge of pollutants into waters in the State. The wastewater treatment facility and disposal site are located west of Country Club Drive and the Lago Vista Golf Course on the east shore of Lake Travis in Lago Vista, approximately five miles west of Jonestown in Travis County. The Lago Vista Golf Course disposal site is located at 4616 Rimrock Drive, approximately 200 feet northwest of the intersec-

tion of Outpost Trace and Rimrock Drive. The Cedar Breaks cedar tree disposal site is located approximately 3,050 feet northwest of the Lago Vista Independent High School at approximately 21970 Ranch Road 1431, Lago Vista in Travis County, Texas 78645.

MAHESH INVESTMENTS - LAKE FORK, L.L.C. has applied for a renewal of TPDES Permit No. WQ0013975001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 25,000 gallons per day. The facility is located approximately 700 feet east of Farm-to-Market Road 17 and 0.3 mile south of Farm-to-Market Road 515 in Wood County, Texas 75410.

CITY OF POINT has applied for a renewal of TPDES Permit No. WQ0014470001, which authorizes the discharge of treated filter backwash effluent from a water treatment plant at a daily average flow not to exceed 48,000 gallons per day. The facility is located on the north side of County Road 1470, one mile west of the intersection of Farm-to-Market Road 47 and County Road 1470 in Rains County, Texas 75472.

KENNETH RAY BULL has applied for a renewal of TPDES Permit No. WQ0014668001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 12,000 gallons per day. The facility is located at 3035 West State Highway 154, approximately 1/8 mile west of Farm-to-Market Road 3138 in the City of Quitman in Wood County, Texas 75783.

If you need more information about these permit applications or the permitting process, please call the TCEQ Office of Public Assistance, Toll Free, at 1-800-687-4040. General information about the TCEQ can be found at our web site at www.TCEQ.state.tx.us. Si desea información en Español, puede llamar al 1-800-687-4040.

TRD-201007412

LaDonna Castañuela

Chief Clerk

Texas Commission on Environmental Quality

Filed: December 29, 2010

◆ ◆ ◆
Texas Facilities Commission

Request for Proposals #303-1-20257

The Texas Facilities Commission (TFC), on behalf of the Texas Department of Assistive and Rehabilitative Services (DARS), announces the issuance of Request for Proposals (RFP) #303-1-20257. TFC seeks a five (5) or ten (10) year lease of approximately 2,185 square feet of usable office space in Houston, Harris County, Texas. Preference will be given to sites located within the zip codes of 77033, 77047, 77048, 77061, 77075, 77087, 77089, and 77261

The deadline for questions is January 14, 2011, and the deadline for proposals is January 21, 2011, at 3:00 p.m. The target award date is February 14, 2011. TFC reserves the right to accept or reject any or all proposals submitted. TFC is under no legal or other obligation to execute a lease on the basis of this notice or the distribution of an RFP. Neither this notice nor the RFP commits TFC to pay for any costs incurred prior to the award of a grant.

Parties interested in submitting a proposal may obtain information by contacting TFC Contract Specialist Sandy Williams at (512) 475-0453 or sandy.williams@tfc.state.tx.us. Any addendum to the original RFP will be posted to the Electronic State Business Daily (ESBD). A copy of the RFP may be downloaded from the Electronic State Business Daily at http://esbd.cpa.state.tx.us/bid_show.cfm?bidid=91901.

TRD-201007294

Kay Molina
General Counsel
Texas Facilities Commission
Filed: December 21, 2010

Kay Molina
General Counsel
Texas Facilities Commission
Filed: December 21, 2010

◆ ◆ ◆
Request for Proposals #303-1-20263

The Texas Facilities Commission (TFC), on behalf of the Texas Health and Human Services Commission (HHSC), the Texas Department of Family and Protective Services (DFPS), the Texas Department of Aging and Disability Services (DADS), and the Texas Department of State Health Services (DSHS), announces the issuance of Request for Proposals (RFP) #303-1-20263. TFC seeks a five (5) or ten (10) year lease of approximately 12,404 square feet of usable office space in the City of Gainesville, Cooke County, Texas.

The deadline for questions is January 28, 2011, and the deadline for proposals is February 4, 2011, at 3:00 p.m. The target award date is March 16, 2011. TFC reserves the right to accept or reject any or all proposals submitted. TFC is under no legal or other obligation to execute a lease on the basis of this notice or the distribution of an RFP. Neither this notice nor the RFP commits TFC to pay for any costs incurred prior to the award of a grant.

Parties interested in submitting a proposal may obtain information by contacting TFC Contract Specialist Sandy Williams at (512) 475-0453 or sandy.williams@tfc.state.tx.us. Any addendum to the original RFP will be posted to the Electronic State Business Daily (ESBD). A copy of the RFP may be downloaded from the Electronic State Business Daily at http://esbd.cpa.state.tx.us/bid_show.cfm?bidid=92408.

TRD-201007295
Kay Molina
General Counsel
Texas Facilities Commission
Filed: December 21, 2010

◆ ◆ ◆
Request for Proposals #303-1-20265

The Texas Facilities Commission (TFC), on behalf of the Texas Health and Human Services Commission (HHSC), the Texas Department of Family and Protective Services (DFPS), the Texas Department of Aging and Disability Services (DADS), and the Texas Department of State Health Services (DSHS), announces the issuance of Request for Proposals (RFP) #303-1-20265. TFC seeks a five (5) or ten (10) year lease of approximately 19,014 square feet of usable office space in the City of Texarkana, Bowie County, Texas.

The deadline for questions is January 21, 2011, and the deadline for proposals is January 28, 2011, at 3:00 p.m. The target award date is March 16, 2011. TFC reserves the right to accept or reject any or all proposals submitted. TFC is under no legal or other obligation to execute a lease on the basis of this notice or the distribution of an RFP. Neither this notice nor the RFP commits TFC to pay for any costs incurred prior to the award of a grant.

Parties interested in submitting a proposal may obtain information by contacting TFC Contract Specialist Sandy Williams at (512) 475-0453 or sandy.williams@tfc.state.tx.us. Any addendum to the original RFP will be posted to the Electronic State Business Daily (ESBD). A copy of the RFP may be downloaded from the Electronic State Business Daily at http://esbd.cpa.state.tx.us/bid_show.cfm?bidid=92410.

TRD-201007296

◆ ◆ ◆
Texas Health and Human Services Commission

Correction of Error

The Texas Health and Human Services Commission published a notice titled "Notice of Public Hearing on Proposed Medicaid Payment Rates" in the December 24, 2010, issue of the *Texas Register* (35 TexReg 11753), TRD-201007089.

The notice identified certain programs and services that will be subject to proposed payment rate reductions. Supported Employment in the Consolidated Waiver Program (CWP) was inadvertently left off the list of services identified in the earlier notice. The correct text of the notice, as below, includes Supported Employment in the Consolidated Waiver Program as a service that will be affected by the proposed payment rate reductions.

The corrected text reads as follows:

"Hearing. The Texas Health and Human Services Commission will conduct a public hearing on January 7, 2011, at 11:00 a.m. to receive public comment on payment rate reductions for the non-state operated Intermediate Care Facilities for Persons with Mental Retardation (ICF/MR) program and the Home and Community-based Services (HCS) and Texas Home Living (TxHmL) waiver programs and the Supported Employment, Out-of-Home Respite in an ICF/MR, Consumer Directed Services Out-of-Home Respite in an ICF/MR and 24-Hour Residential Habilitation services in the Consolidated Waiver Program (CWP) and the Supported Employment and Employment Assistance services in the Deaf-Blind with Multiple Disabilities (DBMD) waiver program. These programs are operated by the Texas Department of Aging and Disability Services (DADS). The hearing will be held in compliance with Human Resources Code §32.0282, which requires a public hearing on proposed payment rates. The public hearing will be held in the Brown-Heatly Building Public Hearing Room, 4900 North Lamar Boulevard, Austin, Texas. Persons requiring Americans with Disability Act (ADA) accommodation or auxiliary aids or services should contact Esther Brown by calling (512) 491-1445, at least 72 hours prior to the hearing so appropriate arrangements can be made."

TRD-201007385
Steve Aragon
Chief Counsel
Texas Health and Human Services Commission
Filed: December 28, 2010

◆ ◆ ◆
Notice of Public Hearing on Proposed Medicaid Payment Rates for Biofeedback Services

Hearing. The Texas Health and Human Services Commission (HHSC) will conduct a public hearing on February 15, 2011, at 1:30 p.m., to receive comment on proposed Medicaid payment rates for Biofeedback Services.

The public hearing will be held in the Lone Star Conference Room of HHSC, Braker Center, Building H, located at 11209 Metric Boulevard, Austin, Texas. Entry is through security at the main entrance of the building, which faces Metric Boulevard. The hearing will be held in compliance with Human Resources Code §32.0282 and Title 1

Texas Administrative Code §355.201, which require public notice of and hearings on proposed Medicaid reimbursements.

Proposal. The proposed payment rates are proposed to be effective January 1, 2011, for Biofeedback Services.

Methodology and Justification. The proposed payment rate was calculated in accordance with 1 TAC:

§355.8081, which addresses payments for laboratory and x-ray services, radiation therapy, physical therapists' services, physician services, podiatry services, chiropractic services, optometric services, ambulance services, dentists' services, psychologists' services, licensed psychological associates' services, maternity clinic services, and tuberculosis clinic services;

§355.8085, which addresses the reimbursement methodology for physicians and certain other practitioners;

§355.8093, which addresses the reimbursement methodology for physician assistants;

§355.8121, which addresses the reimbursement methodology for ambulatory surgical centers; and

§355.8221, which addresses the reimbursement methodology for nurse practitioners and clinical nurse specialists.

Reimbursements paid to providers for the procedure codes included in these rate actions are to be reduced by two percent. A one percent reimbursement reduction was implemented for services provided on and after September 1, 2010, in compliance with a plan approved in response to the January 15, 2010, letter from the Governor, Lieutenant Governor, and Speaker regarding the revision to the Spending Reduction Plan for the 2010-2011 Biennium submitted by HHSC. An additional one percent reimbursement reduction, for a total of a two percent reduction, is being proposed to begin February 1, 2011, in response to the December 6, 2010, letter from the Governor, Lieutenant Governor, and Speaker.

Briefing Package. A briefing package describing the proposed payment rates will be available on or after January 25, 2011. Interested parties may obtain a copy of the briefing package prior to the hearing by contacting Rate Analysis by telephone at (512) 491-1445; by fax at (512) 491-1998; or by e-mail at esther.brown@hhsc.state.tx.us. The briefing package also will be available at the public hearing.

Written Comments. Written comments regarding the proposed payment rates may be submitted in lieu of, or in addition to, oral testimony until 5:00 p.m. the day of the hearing. Written comments may be sent by U.S. mail to the attention of Rate Analysis, HHSC, Rate Analysis, Mail Code H-400, P.O. Box 85200, Austin, Texas 78708-5200; by fax to Rate Analysis at (512) 491-1998; or by e-mail to esther.brown@hhsc.state.tx.us. In addition, written comments may be sent by overnight mail or hand delivered to HHSC Rate Analysis, Mail Code H-400, Braker Center, Building H, 11209 Metric Boulevard, Austin, Texas 78758-4021.

Persons with disabilities who wish to attend the hearing and require auxiliary aids or services should contact Rate Analysis at (512) 491-1445 at least 72 hours in advance, so appropriate arrangements can be made.

TRD-201007290

Steve Aragon

Chief Counsel

Texas Health and Human Services Commission

Filed: December 21, 2010



Notice of Public Hearing on Proposed Medicaid Payment Rates for Certified Respiratory Care Practitioner Services

Hearing. The Texas Health and Human Services Commission (HHSC) will conduct a public hearing on February 15, 2011, at 1:30 p.m., to receive comment on proposed Medicaid payment rates for Certified Respiratory Care Practitioner Services.

The public hearing will be held in the Lone Star Conference Room of HHSC, Braker Center, Building H, located at 11209 Metric Boulevard, Austin, Texas. Entry is through security at the main entrance of the building, which faces Metric Boulevard. The hearing will be held in compliance with Human Resources Code §32.0282 and Title 1 Texas Administrative Code §355.201, which require public notice of and hearings on proposed Medicaid reimbursements.

Proposal. The proposed payment rates are proposed to be effective January 1, 2011, for Certified Respiratory Care Practitioner Services.

Methodology and Justification. The proposed payment rate was calculated in accordance with 1 TAC §355.8089, which addresses payments for in-home respiratory therapy services for ventilator-dependent persons.

Reimbursements paid to providers for the procedure codes included in these rate actions are to be reduced by two percent. A one percent reimbursement reduction was implemented for services provided on and after September 1, 2010, in compliance with a plan approved in response to the January 15, 2010, letter from the Governor, Lieutenant Governor, and Speaker regarding the revision to the Spending Reduction Plan for the 2010-2011 Biennium submitted by HHSC. An additional one percent reimbursement reduction, for a total of a two percent reduction, is being proposed to begin February 1, 2011, in response to the December 6, 2010, letter from the Governor, Lieutenant Governor, and Speaker.

Briefing Package. A briefing package describing the proposed payment rates will be available on or after January 25, 2011. Interested parties may obtain a copy of the briefing package prior to the hearing by contacting Rate Analysis by telephone at (512) 491-1445; by fax at (512) 491-1998; or by e-mail at esther.brown@hhsc.state.tx.us. The briefing package also will be available at the public hearing.

Written Comments. Written comments regarding the proposed payment rates may be submitted in lieu of, or in addition to, oral testimony until 5:00 p.m. the day of the hearing. Written comments may be sent by U.S. mail to the attention of Rate Analysis, HHSC, Rate Analysis, Mail Code H-400, P.O. Box 85200, Austin, Texas 78708-5200; by fax to Rate Analysis at (512) 491-1998; or by e-mail to esther.brown@hhsc.state.tx.us. In addition, written comments may be sent by overnight mail or hand delivered to HHSC Rate Analysis, Mail Code H-400, Braker Center, Building H, 11209 Metric Boulevard, Austin, Texas 78758-4021.

Persons with disabilities who wish to attend the hearing and require auxiliary aids or services should contact Rate Analysis at (512) 491-1445 at least 72 hours in advance, so appropriate arrangements can be made.

TRD-201007291

Steve Aragon

Chief Counsel

Texas Health and Human Services Commission

Filed: December 21, 2010



Notice of Public Hearing on Proposed Medicaid Payment Rates for Esophageal pH Probe Monitoring Services

Hearing. The Texas Health and Human Services Commission (HHSC) will conduct a public hearing on February 15, 2011, at 1:30 p.m., to receive comment on proposed Medicaid payment rates for Esophageal pH Probe Monitoring Services.

The public hearing will be held in the Lone Star Conference Room of HHSC, Braker Center, Building H, located at 11209 Metric Boulevard, Austin, Texas. Entry is through security at the main entrance of the building, which faces Metric Boulevard. The hearing will be held in compliance with Human Resources Code §32.0282 and Title 1 Texas Administrative Code §355.201, which require public notice of and hearings on proposed Medicaid reimbursements.

Proposal. The proposed payment rates are proposed to be effective January 1, 2011, for Esophageal pH Probe Monitoring Services.

Methodology and Justification. The proposed payment rate was calculated in accordance with 1 TAC:

§355.8081, which addresses payments for laboratory and x-ray services, radiation therapy, physical therapists' services, physician services, podiatry services, chiropractic services, optometric services, ambulance services, dentists' services, psychologists' services, licensed psychological associates' services, maternity clinic services, and tuberculosis clinic services; and

§355.8085, which addresses the reimbursement methodology for physicians and certain other practitioners.

Reimbursements paid to providers for the procedure codes included in these rate actions are to be reduced by two percent. A one percent reimbursement reduction was implemented for services provided on and after September 1, 2010, in compliance with a plan approved in response to the January 15, 2010, letter from the Governor, Lieutenant Governor, and Speaker regarding the revision to the Spending Reduction Plan for the 2010-2011 Biennium submitted by HHSC. An additional one percent reimbursement reduction, for a total of a two percent reduction, is being proposed to begin February 1, 2011, in response to the December 6, 2010, letter from the Governor, Lieutenant Governor, and Speaker.

Briefing Package. A briefing package describing the proposed payment rates will be available on or after January 25, 2011. Interested parties may obtain a copy of the briefing package prior to the hearing by contacting Rate Analysis by telephone at (512) 491-1445; by fax at (512) 491-1998; or by e-mail at esther.brown@hhsc.state.tx.us. The briefing package also will be available at the public hearing.

Written Comments. Written comments regarding the proposed payment rates may be submitted in lieu of, or in addition to, oral testimony until 5:00 p.m. the day of the hearing. Written comments may be sent by U.S. mail to the attention of Rate Analysis, HHSC, Rate Analysis, Mail Code H-400, P.O. Box 85200, Austin, Texas 78708-5200; by fax to Rate Analysis at (512) 491-1998; or by e-mail to esther.brown@hhsc.state.tx.us. In addition, written comments may be sent by overnight mail or hand delivered to HHSC Rate Analysis, Mail Code H-400, Braker Center, Building H, 11209 Metric Boulevard, Austin, Texas 78758-4021.

Persons with disabilities who wish to attend the hearing and require auxiliary aids or services should contact Rate Analysis at (512) 491-1445 at least 72 hours in advance, so appropriate arrangements can be made.

TRD-201007292

Steve Aragon

Chief Counsel

Texas Health and Human Services Commission

Filed: December 21, 2010

◆ ◆ ◆

Notice of Public Hearing on Proposed Medicaid Payment Rates for Implantable Infusion Pump

Hearing. The Texas Health and Human Services Commission (HHSC) will conduct a public hearing on February 15, 2011, at 1:30 p.m., to receive comment on proposed Medicaid payment rates for Implantable Infusion Pump.

The public hearing will be held in the Lone Star Conference Room of HHSC, Braker Center, Building H, located at 11209 Metric Boulevard, Austin, Texas. Entry is through security at the main entrance of the building, which faces Metric Boulevard. The hearing will be held in compliance with Human Resources Code §32.0282 and Title 1 Texas Administrative Code §355.201, which require public notice of and hearings on proposed Medicaid reimbursements.

Proposal. The proposed payment rates are proposed to be effective January 1, 2011, for Implantable Infusion Pump.

Methodology and Justification. The proposed payment rate was calculated in accordance with 1 TAC:

§355.8021 Reimbursement Methodology for Home Health Services and Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS); and

§355.8441, relating to the reimbursement methodology for DMEPOS under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program (known in Texas as Texas Health Steps).

Reimbursements paid to providers for the procedure codes included in these rate actions are to be reduced by two percent. A one percent reimbursement reduction was implemented for services provided on and after September 1, 2010, in compliance with a plan approved in response to the January 15, 2010, letter from the Governor, Lieutenant Governor, and Speaker regarding the revision to the Spending Reduction Plan for the 2010-2011 Biennium submitted by HHSC. An additional one percent reimbursement reduction, for a total of a two percent reduction, is being proposed to begin February 1, 2011, in response to the December 6, 2010, letter from the Governor, Lieutenant Governor, and Speaker.

Briefing Package. A briefing package describing the proposed payment rates will be available on or after January 25, 2011. Interested parties may obtain a copy of the briefing package prior to the hearing by contacting Rate Analysis by telephone at (512) 491-1445; by fax at (512) 491-1998; or by e-mail at esther.brown@hhsc.state.tx.us. The briefing package also will be available at the public hearing.

Written Comments. Written comments regarding the proposed payment rates may be submitted in lieu of, or in addition to, oral testimony until 5:00 p.m. the day of the hearing. Written comments may be sent by U.S. mail to the attention of Rate Analysis, HHSC, Rate Analysis, Mail Code H-400, P.O. Box 85200, Austin, Texas 78708-5200; by fax to Rate Analysis at (512) 491-1998; or by e-mail to esther.brown@hhsc.state.tx.us. In addition, written comments may be sent by overnight mail or hand delivered to HHSC Rate Analysis, Mail Code H-400, Braker Center, Building H, 11209 Metric Boulevard, Austin, Texas 78758-4021.

Persons with disabilities who wish to attend the hearing and require auxiliary aids or services should contact Rate Analysis at (512) 491-1445 at least 72 hours in advance, so appropriate arrangements can be made.

TRD-201007287

Steve Aragon
Chief Counsel
Texas Health and Human Services Commission
Filed: December 21, 2010



Notice of Public Hearing on Proposed Medicaid Payment Rates for Incontinence Supplies - Home Health

Hearing. The Texas Health and Human Services Commission (HHSC) will conduct a public hearing on February 15, 2011, at 1:30 p.m., to receive comment on proposed Medicaid payment rates for Incontinence Supplies - Home Health.

The public hearing will be held in the Lone Star Conference Room of HHSC, Braker Center, Building H, located at 11209 Metric Boulevard, Austin, Texas. Entry is through security at the main entrance of the building, which faces Metric Boulevard. The hearing will be held in compliance with Human Resources Code §32.0282 and Title 1 Texas Administrative Code §355.201, which require public notice of and hearings on proposed Medicaid reimbursements.

Proposal. The proposed payment rates are proposed to be effective January 1, 2011, for Incontinence Supplies - Home Health.

Methodology and Justification. The proposed payment rate was calculated in accordance with 1 TAC:

§355.8021 Reimbursement Methodology for Home Health Services and Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS); and

§355.8441, relating to the reimbursement methodology for DMEPOS under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program (known in Texas as Texas Health Steps).

Reimbursements paid to providers for the procedure codes included in these rate actions are to be reduced by two percent. A one percent reimbursement reduction was implemented for services provided on and after September 1, 2010, in compliance with a plan approved in response to the January 15, 2010, letter from the Governor, Lieutenant Governor, and Speaker regarding the revision to the Spending Reduction Plan for the 2010-2011 Biennium submitted by HHSC. An additional one percent reimbursement reduction, for a total of a two percent reduction, is being proposed to begin February 1, 2011, in response to the December 6, 2010, letter from the Governor, Lieutenant Governor, and Speaker.

Briefing Package. A briefing package describing the proposed payment rates will be available on or after January 25, 2011. Interested parties may obtain a copy of the briefing package prior to the hearing by contacting Rate Analysis by telephone at (512) 491-1445; by fax at (512) 491-1998; or by e-mail at esther.brown@hhsc.state.tx.us. The briefing package also will be available at the public hearing.

Written Comments. Written comments regarding the proposed payment rates may be submitted in lieu of, or in addition to, oral testimony until 5:00 p.m. the day of the hearing. Written comments may be sent by U.S. mail to the attention of Rate Analysis, HHSC, Rate Analysis, Mail Code H-400, P.O. Box 85200, Austin, Texas 78708-5200; by fax to Rate Analysis at (512) 491-1998; or by e-mail to esther.brown@hhsc.state.tx.us. In addition, written comments may be sent by overnight mail or hand delivered to HHSC Rate Analysis, Mail Code H-400, Braker Center, Building H, 11209 Metric Boulevard, Austin, Texas 78758-4021.

Persons with disabilities who wish to attend the hearing and require auxiliary aids or services should contact Rate Analysis at (512) 491-

1445 at least 72 hours in advance, so appropriate arrangements can be made.

TRD-201007288
Steve Aragon
Chief Counsel
Texas Health and Human Services Commission
Filed: December 21, 2010



Notice of Public Hearing on Proposed Medicaid Payment Rates for Physician Evaluation and Management Services

Hearing. The Texas Health and Human Services Commission (HHSC) will conduct a public hearing on February 15, 2011, at 1:30 p.m., to receive comment on proposed Medicaid payment rates for Physician Evaluation and Management Services.

The public hearing will be held in the Lone Star Conference Room of HHSC, Braker Center, Building H, located at 11209 Metric Boulevard, Austin, Texas. Entry is through security at the main entrance of the building, which faces Metric Boulevard. The hearing will be held in compliance with Human Resources Code §32.0282 and Title 1 Texas Administrative Code §355.201, which require public notice of and hearings on proposed Medicaid reimbursements.

Proposal. The proposed payment rates are proposed to be effective January 1, 2011, for Physician Evaluation and Management Services.

Methodology and Justification. The proposed payment rate was calculated in accordance with 1 TAC:

§355.8081, which addresses payments for laboratory and x-ray services, radiation therapy, physical therapists' services, physician services, podiatry services, chiropractic services, optometric services, ambulance services, dentists' services, psychologists' services, licensed psychological associates' services, maternity clinic services, and tuberculosis clinic services; and

§355.8085, which addresses the reimbursement methodology for physicians and certain other practitioners.

Reimbursements paid to providers for the procedure codes included in these rate actions are to be reduced by two percent. A one percent reimbursement reduction was implemented for services provided on and after September 1, 2010, in compliance with a plan approved in response to the January 15, 2010, letter from the Governor, Lieutenant Governor, and Speaker regarding the revision to the Spending Reduction Plan for the 2010-2011 Biennium submitted by HHSC. An additional one percent reimbursement reduction, for a total of a two percent reduction, is being proposed to begin February 1, 2011, in response to the December 6, 2010, letter from the Governor, Lieutenant Governor, and Speaker.

Briefing Package. A briefing package describing the proposed payment rates will be available on or after January 25, 2011. Interested parties may obtain a copy of the briefing package prior to the hearing by contacting Rate Analysis by telephone at (512) 491-1445; by fax at (512) 491-1998; or by e-mail at esther.brown@hhsc.state.tx.us. The briefing package also will be available at the public hearing.

Written Comments. Written comments regarding the proposed payment rates may be submitted in lieu of, or in addition to, oral testimony until 5:00 p.m. the day of the hearing. Written comments may be sent by U.S. mail to the attention of Rate Analysis, HHSC, Rate Analysis, Mail Code H-400, P.O. Box 85200, Austin, Texas 78708-5200; by fax to Rate Analysis at (512) 491-1998; or by e-mail to esther.brown@hhsc.state.tx.us. In addition, written comments may be sent by overnight mail or hand delivered to HHSC Rate Analysis, Mail

Code H-400, Braker Center, Building H, 11209 Metric Boulevard, Austin, Texas 78758-4021.

Persons with disabilities who wish to attend the hearing and require auxiliary aids or services should contact Rate Analysis at (512) 491-1445 at least 72 hours in advance, so appropriate arrangements can be made.

TRD-201007289

Steve Aragon

Chief Counsel

Texas Health and Human Services Commission

Filed: December 21, 2010



Notice of Public Hearing on Proposed Medicaid Payment Rates for the 2011 Annual Healthcare Common Procedure Coding System Update

Hearing. The Texas Health and Human Services Commission (HHSC) will conduct a public hearing on February 15, 2011, at 1:30 p.m., to receive comment on proposed Medicaid payment rates for the 2011 Annual Healthcare Common Procedure Coding System Update (HCPCS).

The public hearing will be held in the Lone Star Conference Room of HHSC, Braker Center, Building H, located at 11209 Metric Boulevard, Austin, Texas. Entry is through security at the main entrance of the building, which faces Metric Boulevard. The hearing will be held in compliance with Human Resources Code §32.0282 and Title 1 Texas Administrative Code §355.201, which require public notice of and hearings on proposed Medicaid reimbursements.

Proposal. The proposed payment rates are proposed to be effective January 1, 2011, for the 2011 Annual HCPCS Update.

Methodology and Justification. These proposed payment rates were calculated in accordance with 1 TAC:

§355.8021, which addresses the reimbursement methodology for durable medical equipment and expendable supplies in home health services;

§355.8081, which addresses payments for laboratory and x-ray services, radiation therapy, physical therapists' services, physician services, podiatry services, chiropractic services, optometric services, ambulance services, dentists' services, psychologists' services, licensed psychological associates' services, maternity clinic services, and tuberculosis clinic services;

§355.8085, which addresses the reimbursement methodology for physicians and certain other practitioners;

§355.8441, which addresses the reimbursement methodology for durable medical equipment and expendable supplies in Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program (known in Texas as Texas Health Steps); and

§355.8610, which addresses Reimbursement for Clinical Laboratory Services.

Reimbursements paid to providers for the procedure codes included in these rate actions are to be reduced by two percent. A one percent reimbursement reduction was implemented for services provided on and after September 1, 2010, in compliance with a plan approved in response to the January 15, 2010, letter from the Governor, Lieutenant Governor, and Speaker regarding the revision to the Spending Reduction Plan for the 2010-2011 Biennium submitted by HHSC. An additional one percent reimbursement reduction, for a total of a two percent reduction, is being proposed to begin February 1, 2011, in response to

the December 6, 2010, letter from the Governor, Lieutenant Governor, and Speaker.

Briefing Package. A briefing package describing the proposed payment rates will be available on or after January 25, 2011. Interested parties may obtain a copy of the briefing package prior to the hearing by contacting Rate Analysis by telephone at (512) 491-1445; by fax at (512) 491-1998; or by e-mail at esther.brown@hhsc.state.tx.us. The briefing package also will be available at the public hearing.

Written Comments. Written comments regarding the proposed payment rates may be submitted in lieu of, or in addition to, oral testimony until 5:00 p.m. the day of the hearing. Written comments may be sent by U.S. mail to the attention of Rate Analysis, HHSC, Rate Analysis, Mail Code H-400, P.O. Box 85200, Austin, Texas 78708-5200; by fax to Rate Analysis at (512) 491-1998; or by e-mail to esther.brown@hhsc.state.tx.us. In addition, written comments may be sent by overnight mail or hand delivered to HHSC Rate Analysis, Mail Code H-400, Braker Center, Building H, 11209 Metric Boulevard, Austin, Texas 78758-4021.

Persons with disabilities who wish to attend the hearing and require auxiliary aids or services should contact Rate Analysis at (512) 491-1445 at least 72 hours in advance, so appropriate arrangements can be made.

TRD-201007286

Steve Aragon

Chief Counsel

Texas Health and Human Services Commission

Filed: December 21, 2010



Notice of Public Hearing on Proposed Medicaid Payment Rates for the 2011 Annual Healthcare Common Procedure Coding System Update - Vaccine Administration Procedure Codes

Hearing. The Texas Health and Human Services Commission (HHSC) will conduct a public hearing on February 15, 2011, at 1:30 p.m., to receive comment on proposed Medicaid payment rates for the vaccine administration procedure codes included in the 2011 Annual Healthcare Common Procedure Coding System Update (HCPCS).

The public hearing will be held in the Lone Star Conference Room of HHSC, Braker Center, Building H, located at 11209 Metric Boulevard, Austin, Texas. Entry is through security at the main entrance of the building, which faces Metric Boulevard. The hearing will be held in compliance with Human Resources Code §32.0282 and Title 1 Texas Administrative Code §355.201, which require public notice of and hearings on proposed Medicaid reimbursements.

Proposal. The proposed payment rates for the vaccine administration procedure codes are proposed to be effective April 1, 2011.

Methodology and Justification. These proposed payment rates were calculated in accordance with 1 TAC:

Section 355.8085, which addresses the reimbursement methodology for physicians and certain other practitioners.

Reimbursements paid to providers for the procedure codes included in these rate actions are to be reduced by two percent. A one percent reimbursement reduction was implemented for services provided on and after September 1, 2010, in compliance with a plan approved in response to the January 15, 2010, letter from the Governor, Lieutenant Governor, and Speaker regarding the revision to the Spending Reduction Plan for the 2010-2011 Biennium submitted by HHSC. An additional one percent reimbursement reduction, for a total of a two percent

reduction, is being proposed to begin February 1, 2011, in response to the December 6, 2010, letter from the Governor, Lieutenant Governor, and Speaker.

Briefing Package. A briefing package describing the proposed payment rates will be available on or after January 25, 2011. Interested parties may obtain a copy of the briefing package prior to the hearing by contacting Rate Analysis by telephone at (512) 491-1445; by fax at (512) 491-1998; or by e-mail at esther.brown@hhsc.state.tx.us. The briefing package also will be available at the public hearing.

Written Comments. Written comments regarding the proposed payment rates may be submitted in lieu of, or in addition to, oral testimony until 5:00 p.m. the day of the hearing. Written comments may be sent by U.S. mail to the attention of Rate Analysis, HHSC, Rate Analysis, Mail Code H-400, P.O. Box 85200, Austin, Texas 78708-5200; by fax to Rate Analysis at (512) 491-1998; or by e-mail to esther.brown@hhsc.state.tx.us. In addition, written comments may be sent by overnight mail or hand delivered to HHSC Rate Analysis, Mail Code H-400, Braker Center, Building H, 11209 Metric Boulevard, Austin, Texas 78758-4021.

Persons with disabilities who wish to attend the hearing and require auxiliary aids or services should contact Rate Analysis at (512) 491-1445 at least 72 hours in advance, so appropriate arrangements can be made.

TRD-201007377

Steve Aragon
Chief Counsel

Texas Health and Human Services Commission

Filed: December 28, 2010



Notice of Public Hearing on Proposed Medicaid Payment Rates for Quarterly Fee Reviews

Hearing. The Texas Health and Human Services Commission (HHSC) will conduct a public hearing on February 15, 2011, at 1:30 p.m., to receive comment on proposed Medicaid payment rates for the Quarterly Medicaid Fee Reviews for:

- (1) Physician-Administered Drugs;
- (2) Temporary National Procedure Codes ("S Codes");
- (3) Non-Clinical Laboratory Services; Type of Service 1 (Medical Services), 2 (Surgery), I (Professional Component) and T (Technical Component); and
- (4) Clinical Laboratory Services.

The public hearing will be held in the Lone Star Conference Room of HHSC, Braker Center, Building H, located at 11209 Metric Boulevard, Austin, Texas. Entry is through security at the main entrance of the building, which faces Metric Boulevard. The hearing will be held in compliance with Human Resources Code §32.0282 and Title 1 Texas Administrative Code §355.201, which require public notice of and hearings on proposed Medicaid reimbursements.

Proposal. The proposed payment rates are proposed to be effective April 1, 2011, for this Quarterly Fee Review for these services:

- (1) Physician-Administered Drugs;
- (2) Temporary National Procedure Codes ("S Codes");
- (3) Non-Clinical Laboratory Services; Type of Service 1 (Medical Services), 2 (Surgery), I (Professional Component) and T (Technical Component); and

(4) Clinical Laboratory Services.

Methodology and Justification. The proposed payment rates were calculated in accordance with 1 TAC:

§355.8021, which addresses the reimbursement methodology for durable medical equipment and expendable supplies in home health services;

§355.8081, which addresses payments for laboratory and x-ray services, radiation therapy, physical therapists' services, physician services, podiatry services, chiropractic services, optometric services, ambulance services, dentists' services, psychologists' services, licensed psychological associates' services, maternity clinic services, and tuberculosis clinic services;

§355.8085, which addresses the reimbursement methodology for physicians and certain other practitioners;

§355.8441, which addresses the reimbursement methodology for durable medical equipment and expendable supplies in Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program (known in Texas as Texas Health Steps); and

§355.8610, which addresses Reimbursement for Clinical Laboratory Services.

Reimbursements paid to providers for the procedure codes included in these rate actions are to be reduced by two percent. A one percent reimbursement reduction was implemented for services provided on and after September 1, 2010, in compliance with a plan approved in response to the January 15, 2010, letter from the Governor, Lieutenant Governor, and Speaker regarding the revision to the Spending Reduction Plan for the 2010-2011 Biennium submitted by HHSC. An additional one percent reimbursement reduction, for a total of a two percent reduction, is being proposed to begin February 1, 2011, in response to the December 6, 2010, letter from the Governor, Lieutenant Governor, and Speaker.

Briefing Package. A briefing package describing the proposed payment rates will be available on or after January 25, 2011. Interested parties may obtain a copy of the briefing package prior to the hearing by contacting Rate Analysis by telephone at (512) 491-1445; by fax at (512) 491-1998; or by e-mail at esther.brown@hhsc.state.tx.us. The briefing package also will be available at the public hearing.

Written Comments. Written comments regarding the proposed payment rates may be submitted in lieu of, or in addition to, oral testimony until 5:00 p.m. the day of the hearing. Written comments may be sent by U.S. mail to the attention of Rate Analysis, HHSC, Rate Analysis, Mail Code H-400, P.O. Box 85200, Austin, Texas 78708-5200; by fax to Rate Analysis at (512) 491-1998; or by e-mail to esther.brown@hhsc.state.tx.us. In addition, written comments may be sent by overnight mail or hand delivered to HHSC Rate Analysis, Mail Code H-400, Braker Center, Building H, 11209 Metric Boulevard, Austin, Texas 78758-4021.

Persons with disabilities who wish to attend the hearing and require auxiliary aids or services should contact Rate Analysis at (512) 491-1445 at least 72 hours in advance, so appropriate arrangements can be made.

TRD-201007285

Steve Aragon
Chief Counsel

Texas Health and Human Services Commission

Filed: December 21, 2010



Public Notice

The Texas Health and Human Services Commission announces its intent to submit Transmittal Number 10-091 to the Texas State Plan for Medical Assistance, under Title XIX of the Social Security Act.

The proposed amendment is being submitted to comply with the Centers for Medicare & Medicaid Services (CMS) directives to implement Section 6411 of the Affordable Care Act, Expansion of the Recovery Audit Contractor (RAC) Program. Under Section 1902(a)(42)(B)(i) of the Act, States and Territories are required to establish a program to contract with one or more Medicaid RACs for the purpose of identifying underpayments and overpayments and recouping overpayments under the State plan and under any waiver of the State plan with respect to all services for which payment is made to any entity under such plan or waiver. States must establish these programs in a manner consistent with State law, and generally in the same manner as the Secretary contracts with contingency fee contractors for the Medicare RAC program. The proposed amendment is effective December 31, 2010 and is not expected to have a fiscal impact on the state or federal budgets.

To obtain copies of the proposed amendment, interested parties may contact Deborah Keyser by mail at HHSC, P.O. Box 13247, MC H-390, Austin, Texas 78711; by telephone at (512) 491-1865; by facsimile at (512) 491-1957; or by e-mail at deborah.keyser@hhsc.state.tx.us. Copies of the proposal will also be made available for public review at the local offices of the Texas Department of Aging and Disability Services.

TRD-201007342

Steve Aragon

Chief Counsel

Texas Health and Human Services Commission

Filed: December 22, 2010



Public Notice

The Texas Health and Human Services Commission announces its intent to submit amendments to the Texas State Plan for Medical Assistance, under Title XIX of the Social Security Act. The proposed amendment is effective January 1, 2011.

The proposed amendment allows HHSC to make supplemental payments to physicians who are employed by or under contract with a physician group practice organized by, under the control of, or under contract with a non-profit, tax exempt hospital where both the hospital and the physician group practice provide medical education under contract to a state-owned medical school. The listed hospital in the amendment is Scott and White Memorial Hospital. The state funds required to draw down federal matching funds will be provided through intergovernmental transfers of public funds by Texas A&M University.

The proposed amendment is estimated to result in an additional annual aggregate expenditure of \$6,749,262 for the remainder of federal fiscal year (FFY) 2011, with approximately \$4,485,560 in federal funds and \$2,263,702 in State General Revenue (GR). For FFY 2012, the estimated additional aggregate savings is \$8,999,016, with approximately \$5,239,227 in federal funds and \$3,759,789 in GR.

Interested parties may obtain copies of the proposed amendment by contacting Jill Seime, Senior Rate Analyst, by mail at the Rate Analysis Department, Texas Health and Human Services Commission, P.O. Box 85200, H-400, Austin, Texas 78708-5200; by telephone at (512) 491-1863; by facsimile at (512) 491-1998; or by e-mail at Jill.Seime@hhsc.state.tx.us. Copies of the proposals will also be made available for public review at the local offices of the Texas Department of Aging and Disability Services.

TRD-201007384

Steve Aragon

Chief Counsel

Texas Health and Human Services Commission

Filed: December 28, 2010



Public Notice

The Texas Health and Human Services Commission (HHSC) announces its intent to submit Amendment 29 to the Texas State Plan for the Children's Health Insurance Program (CHIP), under Title XXI of the Social Security Act. The proposed effective date of this amendment is September 1, 2010.

Federal CHIP law formerly prohibited federal CHIP funding for children with access to a "state health benefits plan." The Teacher Retirement System (TRS) ActiveCare, established in 2001, is considered a state health benefits plan that provides health coverage to Texas public school employees and their dependents.

The Patient Protection and Affordable Care Act (PPACA) of 2010, which was signed into federal law on March 23, 2010, allows states to provide federally-matched CHIP coverage to the children of public employees effective March 23, 2010, if the child qualifies for a hardship exception or the state health benefits plan satisfies other requirements of the PPACA.

Pursuant to PPACA, the child of a public employee qualifies for a hardship exception if annual aggregate premiums and cost sharing for the public employer's health plan exceed five (5) percent of the child's annual family income. Texas public education employees meet this criterion for families at 200 percent of the federal poverty level (FPL), which is the income limit for Texas CHIP. Texas is requesting a hardship exception under this provision to allow the State to claim federal match for public education employee children enrolled in CHIP.

The proposed amendment is estimated to result in a savings of State General Revenue funds of \$20,569,849 for the end of State Fiscal Year (SFY) 2011 (September 1, 2010 through August 31, 2011). For SFY 2012, the estimated annual savings is \$21,795,369 in State General Revenue.

To obtain copies of the proposed amendments, interested parties may contact Monica Thyssen by mail at P.O. Box 85200, MC: H-310, Austin, TX 78708; by telephone at (512) 491-1404; by facsimile at (512) 491-1953; or by e-mail at monica.thyssen@hhsc.state.tx.us.

TRD-201007389

Steve Aragon

Chief Counsel

Texas Health and Human Services Commission

Filed: December 28, 2010



Texas Department of Housing and Community Affairs

Program Year (PY) 2011 State Community Services Block Grant Discretionary Funds Notice of Funding Availability

I. Notice of Funding Availability (NOFA).

The Texas Department of Housing and Community Affairs (the "Department") is releasing a NOFA for the Community Services Block Grant (CSBG) for CSBG eligible entities, private non-profit organizations, units of local government, and regional councils headquartered within the State of Texas.

II. The CSBG Discretionary Funds NOFA will fund projects for the following categories:

Organizations serving migrant and seasonal farm workers and Native Americans; innovative and demonstration projects; statewide projects addressing hunger and homelessness; and statewide projects that provide training and technical assistance to CSBG eligible entities.

The Department has set aside \$1,250,000 of its PY 2011 annual CSBG allocation for state discretionary projects. Funds will be awarded on a competitive basis.

III. Application Deadline and Availability.

Applications for statewide initiatives and for organizations serving migrant and seasonal farm workers and Native Americans will be due February 1, 2011 with contracts to start on May 1, 2011. Applications for Innovative and Demonstration Projects will be due on February 22, 2011 with contracts to start on July 1, 2011.

The NOFA is posted on the Department’s website: <http://www.td-hca.state.tx.us/community-services/index.htm> and organizations on the Department’s Listserv will receive an email notification that the NOFA is available on the Department’s web site.

IV. Deadline for Receipt.

The original and two (2) complete copies of your organization’s application submission shall be provided to the Department by **5:00 p.m. on February 1, 2011** for applications for statewide initiatives and for organizations serving migrant and seasonal farm workers and Native Americans.

The original and two (2) complete copies of your organization’s application submission shall be provided to the Department by **5:00 p.m. on February 22, 2011** for applications for Innovative and Demonstration Projects.

Mailing Address:

Mr. Stuart Campbell, Manager
Community Services Section
Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, Texas 78711-3941
(All U.S. Postal Service including Express)

Courier Delivery:

221 East 11th Street, 1st Floor
Austin, Texas 78701
(FedEx, UPS, Overnight, etc.)

Hand Delivery:

If you are hand delivering the application, contact Al Almaguer at (512) 475-3908 or Kathy Watkins at (512) 305-8869 when you arrive at the lobby of our building.

Questions. Questions relating to this NOFA packet and instructions for preparing an application may be directed to Al Almaguer, within the TDHCA’s Community Services Section, at (512) 475-3908 or al.almaguer@tdhca.state.tx.us.

TRD-201007293

Michael Gerber
Executive Director
Texas Department of Housing and Community Affairs
Filed: December 21, 2010

◆ ◆ ◆
Texas Department of Insurance

Company Licensing

Application to change the name of REPUBLIC WESTERN INSURANCE COMPANY to REPWEST INSURANCE COMPANY, a foreign fire and/or casualty company. The home office is in Phoenix, Arizona.

Any objections must be filed with the Texas Department of Insurance, within twenty (20) calendar days from the date of the *Texas Register* publication, addressed to the attention of Godwin Ohaechesi, 333 Guadalupe Street, M/C 305-2C, Austin, Texas 78701.

TRD-201007300
Gene C. Jarmon
General Counsel and Chief Clerk
Texas Department of Insurance
Filed: December 22, 2010

◆ ◆ ◆
Company Licensing

Application to change the name of PUTNAM REINSURANCE COMPANY to PROCOVER SPECIALTY INSURANCE COMPANY, a foreign fire and/or casualty company. The home office is in New York City, New York.

Any objections must be filed with the Texas Department of Insurance, within twenty (20) calendar days from the date of the *Texas Register* publication, addressed to the attention of Godwin Ohaechesi, 333 Guadalupe Street, M/C 305-2C, Austin, Texas 78701.

TRD-201007410
Gene C. Jarmon
General Counsel and Chief Clerk
Texas Department of Insurance
Filed: December 29, 2010

◆ ◆ ◆
Notice of Call for Issues Related to the 2010 Biennial Title Hearing

Texas Insurance Code §§2703.201 et seq. require the Department of Insurance to hold a biennial hearing to consider adoption of premium rates and such other matters and subjects relative to the regulation of the business of title insurance as may be requested by any association, any title insurance company, any title insurance agent, any member of the public, or as the Commissioner may determine necessary to consider. Notice of the hearing will appear in the *Texas Register* at a later date. This Call for Issues invites proposals from any association, any title insurance company, any title insurance agent, or any member of the public so notice of matters to be considered at the biennial hearing can be provided pursuant to the requirements of §§2703.203, 2703.204, 2703.205, 2703.207, and 2703.208. The scope of the hearing includes subjects and matters related to both real property title insurance and personal property title insurance. Any association, any title insurance company, any title insurance agent, or any member of the public requesting that any matter or subject, in addition to the rates for title insurance, be considered at the biennial hearing must provide a detailed description of the matter or subject no later than February 7, 2011.

All requests should be addressed to the Office of the Chief Clerk, Mail Code 113-2A, P.O. Box 149104, Austin, Texas 78714-9104 (please refer to reference number T-1210-14-I). Such proposals and submissions must be submitted to the Chief Clerk in two formats. One copy shall be filed on 8 1/2 x 11-inch paper in portrait orientation. An additional copy shall be in Portable Document Format that is full text searchable, is accessible by a computer using the Windows XP operating system, and that will print searchable text on 8 1/2 x 11-inch paper in portrait orientation. All information submitted in electronic format to the Office of the Chief Clerk shall be submitted in a format that does not require the use of passwords or any other security measure for accessibility and utilization by the Department.

TRD-201007274
Gene C. Jarmon
General Counsel and Chief Clerk
Texas Department of Insurance
Filed: December 20, 2010



Third Party Administrator Application

The following third party administrator (TPA) application has been filed with the Texas Department of Insurance and is under consideration.

Application of WAGeworks, INC., a foreign third party administrator. The home office is WILMINGTON, DELAWARE.

Any objections must be filed within 20 days after this notice is published in the *Texas Register*, addressed to the attention of David Moskowitz, MC 305-2E, 333 Guadalupe, Austin, Texas 78701.

TRD-201007273
Gene C. Jarmon
General Counsel and Chief Clerk
Texas Department of Insurance
Filed: December 20, 2010



Third Party Administrator Application

The following third party administrator (TPA) application has been filed with the Texas Department of Insurance and is under consideration.

Application of AMERICAN ASSOCIATION FOR MEDICAL BENEFITS, a foreign third party administrator. The home office is WILMINGTON, DELAWARE.

Any objections must be filed within 20 days after this notice is published in the *Texas Register*, addressed to the attention of David Moskowitz, MC 305-2E, 333 Guadalupe, Austin, Texas 78701.

TRD-201007414
Gene C. Jarmon
General Counsel and Chief Clerk
Texas Department of Insurance
Filed: December 29, 2010



Texas Lottery Commission

Instant Game Number 1303 "\$100,000 Jackpot"

1.0 Name and Style of Game.

A. The name of Instant Game No. 1303 is "\$100,000 JACKPOT." The play style is "multiple games."

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 1303 shall be \$5.00 per ticket.

1.2 Definitions in Instant Game No. 1303.

A. Display Printing - That area of the instant game ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the ticket.

C. Play Symbol - The printed data under the latex on the front of the instant ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black play symbols are: X SYMBOL, O SYMBOL, \$ SYMBOL, \$5.00, \$10.00, \$15.00, \$20.00, \$50.00, \$100, \$1,000, \$100,000, APPLE SYMBOL, BANANA SYMBOL, BAR SYMBOL, BELL SYMBOL, CHERRY SYMBOL, CLOVER SYMBOL, LEMON SYMBOL, MELON SYMBOL, ORANGE SYMBOL, HORSE SHOE SYMBOL, 7 SYMBOL, TOP HAT SYMBOL, WISH BONE SYMBOL, 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 10X SYMBOL, BAG OF MONEY SYMBOL, DOLLAR BILL SYMBOL, DIAMOND SYMBOL, VAULT SYMBOL, CHEST SYMBOL, BAR GOLD SYMBOL, CROWN SYMBOL, POT OF GOLD SYMBOL and STAR SYMBOL.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 1303 - 1.2D

PLAY SYMBOL	CAPTION
X SYMBOL	X
O SYMBOL	O
\$ SYMBOL	D
\$5.00	FIVE\$
\$10.00	TEN\$
\$15.00	FIFTN
\$20.00	TWENTY
\$50.00	FIFTY
\$100	ONE HUND
\$1,000	ONE THOU
\$100,000	HUN THOU
APPLE SYMBOL	APL
BANANA SYMBOL	BAN
BAR SYMBOL	BAR
BELL SYMBOL	BEL
CHERRY SYMBOL	CHY
CLOVER SYMBOL	CLO
LEMON SYMBOL	LEM
MELON SYMBOL	MEL
ORANGE SYMBOL	ORG
HORSE SHOE SYMBOL	SHO
SEVEN SYMBOL	SVN
TOP HAT SYMBOL	TPHAT
WISH BONE SYMBOL	WBN
\$ SYMBOL	WINX10
1	ONE
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
7	SVN
8	EGT
9	NIN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
10X SYMBOL	WINX10
MONEY BAG SYMBOL	WINX10

DOLLAR BILL SYMBOL	\$BILL
DIAMOND SYMBOL	DMD
VAULT SYMBOL	VAULT
CHEST SYMBOL	CHEST
GOLD BAR SYMBOL	GOLD
CROWN SYMBOL	CRN
POT OF GOLD SYMBOL	POTGLD
STAR SYMBOL	STA

E. Serial Number - A unique 14 (fourteen) digit number appearing under the latex scratch-off covering on the front of the ticket. There will be a four (4)-digit "security number" which will be individually boxed and randomly placed within the number. The remaining ten (10) digits of the Serial Number are the Validation Number. The Serial Number is positioned beneath the bottom row of play data in the scratched-off play area. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 00000000000000.

F. Low-Tier Prize - A prize of \$5.00, \$10.00, \$15.00 or \$20.00.

G. Mid-Tier Prize - A prize of \$50.00 or \$100.

H. High-Tier Prize - A prize of \$1,000, \$5,000 or \$100,000.

I. Bar Code - A 24 (twenty-four) character interleaved two (2) of five (5) bar code which will include a four (4) digit game ID, the seven (7) digit pack number, the three (3) digit ticket number and the ten (10) digit Validation Number. The bar code appears on the back of the ticket.

J. Pack-Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (1303), a seven (7) digit pack number, and a three (3) digit ticket number. Ticket numbers start with 001 and end with 075 within each pack. The format will be: 1303-0000001-001.

K. Pack - A pack of "\$100,000 JACKPOT" Instant Game tickets contains 75 tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). One will show the front of ticket 001 and back of 075 while the other fold will show the back of ticket 001 and front of 075.

L. Non-Winning Ticket - A ticket which is not programmed to be a winning ticket or a ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC Chapter 401.

M. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "\$100,000 JACKPOT" Instant Game No. 1303 ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general ticket validation requirements set forth in Texas Lottery Rule, §401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each instant ticket. A prize winner in the "\$100,000 JACKPOT" Instant Game is determined once the latex on the ticket is scratched off to expose 37 (thirty-seven) Play Symbols. GAME 1: If a player reveals three "X"s or "O"s" play symbols in any one row, column or diagonal line, the player wins the PRIZE shown. If a player reveals three "\$" play symbol in any one row, column or diagonal, the player wins 10 TIMES the PRIZE! GAME 2: If a player reveals 2 matching play symbols within a GAME, the player wins the PRIZE for that GAME. If a player reveals a "\$" play symbol, the player wins 10 TIMES the PRIZE for that GAME! GAME 3: If a player matches any of YOUR NUMBERS play symbols to either WINNING NUMBER play symbol, the player wins PRIZE for that number. If a player reveals "10X" play symbol, the player wins 10 TIMES the

PRIZE for that symbol! GAME 4: If a player reveals a "dollar bill" play symbol, the player wins the PRIZE for that symbol. If a player reveals a "moneybag" play symbol, the player wins 10 TIMES the PRIZE for that symbol! No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

- Exactly 37 (thirty-seven) Play Symbols must appear under the latex overprint on the front portion of the ticket;
- Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
- Each of the Play Symbols must be present in its entirety and be fully legible;
- Each of the Play Symbols must be printed in black ink except for dual image games;
- The ticket shall be intact;
- The Serial Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;
- The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;
- The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
- The ticket must not be counterfeit in whole or in part;
- The ticket must have been issued by the Texas Lottery in an authorized manner;
- The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;
- The Play Symbols, Serial Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;
- The ticket must be complete and not miscut, and have exactly 37 (thirty-seven) Play Symbols under the latex overprint on the front portion of the ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;
- 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;
- The ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the 37 (thirty-seven) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;
17. Each of the 37 (thirty-seven) Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;
18. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and
19. The ticket must have been received by the Texas Lottery by applicable deadlines.
- B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.
- C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket, solely at the Executive Director's discretion.
- 2.2 Programmed Game Parameters.
- A. Consecutive non-winning tickets will not have identical play data, spot for spot.
- B. The top prize symbol will appear on every ticket unless otherwise restricted.
- C. GAME 1: There will be three "\$" (win x 10) play symbols in a row, column or diagonal only as dictated by the prize structure.
- D. GAME 1: The "\$" (win x 10) play symbol will appear at least two times in all non-winning games.
- E. GAME 2: No duplicate non-winning GAMES in any order.
- F. GAME 2: No three non-winning matching play symbols will appear vertically.
- G. GAME 2: No duplicate non-winning prize symbols in this game.
- H. GAME 2: Non-winning prize symbols will never be the same as the winning prize symbol(s) in this game.
- I. GAME 2: The "\$" (win x 10) will only appear on intended winning games as dictated by the prize structure.
- J. GAME 3: No duplicate WINNING NUMBER play symbols.
- K. GAME 3: No duplicate non-winning YOUR NUMBERS play symbols.
- L. GAME 3: No more than three duplicate non-winning prize symbols in this game.
- M. GAME 3: Non-winning prize symbols will never be the same as the winning prize symbol(s) in this game.
- N. GAME 3: The "10X" (win x 10) play symbol will only appear on intended winning games as dictated by the prize structure.

- O. GAME 3: No prize amount in a non-winning spot will correspond with the play symbol (i.e. 5 and \$5).
- P. GAME 4: No duplicate non-winning prize symbols in this game.
- Q. GAME 4: No duplicate non-winning play symbols in this game.
- R. GAME 4: Non-winning prize symbols will never be the same as the winning prize symbol(s) in this game.
- S. GAME 4: The "moneybag" (win x 10) play symbol will only appear on intended winning games as dictated by the prize structure.
- 2.3 Procedure for Claiming Prizes.
- A. To claim a "\$100,000 JACKPOT" Instant Game prize of \$5.00, \$10.00, \$15.00, \$20.00, \$50.00 or \$100, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the ticket; provided that the Texas Lottery Retailer may, but is not required to pay a \$50.00 or \$100 ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.
- B. To claim a "\$100,000 JACKPOT" Instant Game prize of \$1,000, \$5,000 or \$100,000, the claimant must sign the winning ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.
- C. As an alternative method of claiming a "\$100,000 JACKPOT" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.
- D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:
1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;
 2. delinquent in making child support payments administered or collected by the Attorney General;
 3. delinquent in reimbursing the Texas Health and Human Services Commission for a benefit granted in error under the food stamp program or the program of financial assistance under Chapter 31, Human Resources Code;
 4. in default on a loan made under Chapter 52, Education Code; or
 5. in default on a loan guaranteed under Chapter 57, Education Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "\$100,000 JACKPOT" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of more than \$600 from the "\$100,000 JACKPOT" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game or within the applicable time period for certain eligible military person-

Figure 2: GAME NO. 1303 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in**
\$5	944,000	7.50
\$10	542,800	13.04
\$15	141,600	50.00
\$20	94,400	75.00
\$50	100,300	70.59
\$100	30,149	234.83
\$1,000	885	8,000.00
\$5,000	59	120,000.00
\$100,000	7	1,011,428.57

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 3.82. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Instant Game. The Executive Director may, at any time, announce a closing date (end date) for the Instant Game No. 1303 without advance notice, at which point no further tickets in that game may be sold.

nel as set forth in Texas Government Code, §466.408. Any prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed. An Instant Game ticket may continue to be sold even when all the top prizes have been claimed.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 7,080,000 tickets in the Instant Game No. 1303. The approximate number and value of prizes in the game are as follows:

6.0 Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game No. 1303, 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-201007350
Kimberly L. Kiplin
General Counsel
Texas Lottery Commission
Filed: December 23, 2010



Instant Game Number 1309 "5 Star Cash"

1.0 Name and Style of Game.

A. The name of Instant Game No. 1309 is "5 STAR CASH". The play style is "key number match with doubler and 5X".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 1309 shall be \$5.00 per ticket.

1.2 Definitions in Instant Game No. 1309.

A. Display Printing - That area of the instant game ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the ticket.

C. Play Symbol - The printed data under the latex on the front of the instant ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black play symbols are: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, \$\$ SYMBOL, CASH SYMBOL, \$5.00, \$10.00, \$15.00, \$20.00, \$25.00, \$40.00, \$50.00, \$100, \$500, \$1,000 or \$50,000.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 1309 - 1.2D

PLAY SYMBOL	CAPTION
1	ONE
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
7	SVN
8	EGT
9	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWV
26	TWSX
27	TWSV
28	TWET
29	TWNI
30	TRTY
31	TRON
32	TRTO
33	TRTH
34	TRFR
35	TRFV
36	TRSX
37	TRSV
38	TRET
39	TRNI
40	FRTY
\$\$ SYMBOL	DBL
CASH SYMBOL	WINX5
\$5.00	FIVE\$
\$10.00	TEN\$
\$15.00	FIFTN
\$20.00	TWENTY

\$25.00	TWY FIV
\$40.00	FORTY
\$50.00	FIFTY
\$100	ONE HUND
\$500	FIV HUND
\$1,000	ONE THOU
\$50,000	50 THOU

E. Serial Number - A unique 14 (fourteen) digit number appearing under the latex scratch-off covering on the front of the ticket. There will be a four (4)-digit "security number" which will be individually boxed and randomly placed within the number. The remaining ten (10) digits of the Serial Number are the Validation Number. The Serial Number is positioned beneath the bottom row of play data in the scratched-off play area. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 00000000000000.

F. Low-Tier Prize - A prize of \$5.00, \$10.00, \$15.00 or \$20.00.

G. Mid-Tier Prize - A prize of \$50.00, \$100 or \$500.

H. High-Tier Prize - A prize of \$1,000, \$5,000 or \$50,000.

I. Bar Code - A 24 (twenty-four) character interleaved two (2) of five (5) bar code which will include a four (4) digit game ID, the seven (7) digit pack number, the three (3) digit ticket number and the ten (10) digit Validation Number. The bar code appears on the back of the ticket.

J. Pack-Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (1309), a seven (7) digit pack number, and a three (3) digit ticket number. Ticket numbers start with 001 and end with 075 within each pack. The format will be: 1309-0000001-001.

K. Pack - A pack of "5 STAR CASH" Instant Game tickets contains 75 tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). The packs will alternate. One will show the front of ticket 001 and back of 075 while the other fold will show the back of ticket 001 and front of 075.

L. Non-Winning Ticket - A ticket which is not programmed to be a winning ticket or a ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC Chapter 401.

M. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "5 STAR CASH" Instant Game No. 1309 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 "5 STAR CASH" Instant Game is determined once the latex on the ticket is scratched off to expose 45 (forty-five) Play Symbols. If a player matches any of YOUR NUMBERS play symbols to any of the WINNING NUMBERS play symbols, the player wins the PRIZE for that number. If a player reveals a double dollar "\$\$" play symbol, the player wins DOUBLE the PRIZE for that symbol. If a player reveals a "CASH" play symbol, the player wins 5 TIMES the PRIZE for that symbol. No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly 45 (forty-five) Play Symbols must appear under the latex overprint on the front portion of the ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The ticket shall be intact;
6. The Serial Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;
8. The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The ticket must not be counterfeit in whole or in part;
10. The ticket must have been issued by the Texas Lottery in an authorized manner;
11. The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;
13. The ticket must be complete and not miscut, and have exactly 45 (forty-five) Play Symbols under the latex overprint on the front portion of the ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;
14. The Serial Number of an apparent winning ticket shall correspond with the Texas Lottery's Serial Numbers for winning tickets, and a ticket with that Serial Number shall not have been paid previously;
15. The ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;
16. Each of the 45 (forty-five) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;
17. Each of the 45 (forty-five) Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The ticket must have been received by the Texas Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. Consecutive non-winning tickets in a pack will not have identical play data, spot for spot.

B. No duplicate non-winning YOUR NUMBERS play symbols on a ticket.

C. No duplicate WINNING NUMBER play symbols on a ticket.

D. No more than three matching non-winning prize symbols on a ticket.

E. A non-winning prize symbol will never be the same as a winning prize symbol.

F. No prize amount in a non-winning spot will correspond with the YOUR NUMBERS play symbol (i.e. 5 and \$5).

G. The "\$\$" (doubler) and "CASH" (win x 5) play symbols will only appear on intended winning tickets as dictated by the prize structure.

H. The top prize symbol will appear on every ticket unless otherwise restricted.

2.3 Procedure for Claiming Prizes.

A. To claim a "5 STAR CASH" Instant Game prize of \$5.00, \$10.00, \$15.00, \$20.00, \$50.00, \$100 or \$500, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$50.00, \$100 or \$500 ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "5 STAR CASH" Instant Game prize of \$1,000, \$5,000 or \$50,000, the claimant must sign the winning ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service

(IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "5 STAR CASH" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;

2. delinquent in making child support payments administered or collected by the Attorney General;

3. delinquent in reimbursing the Texas Health and Human Services Commission for a benefit granted in error under the food stamp program or the program of financial assistance under Chapter 31, Human Resources Code;

4. in default on a loan made under Chapter 52, Education Code; or

5. in default on a loan guaranteed under Chapter 57, Education Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "5 STAR 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 "5 STAR CASH" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code, §466.408. Any prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed. An Instant Game ticket may continue to be sold even when all the top prizes have been claimed.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment

to the player whose signature appears on the back of the ticket in the space designated. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 6,000,000 tickets in the Instant Game No. 1309. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 1309 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in**
\$5	480,000	12.50
\$10	640,000	9.38
\$15	180,000	33.33
\$20	160,000	37.50
\$50	80,000	75.00
\$100	7,500	800.00
\$500	800	7,500.00
\$1,000	150	40,000.00
\$5,000	20	300,000.00
\$50,000	6	1,000,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 3.87. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Instant Game. The Executive Director may, at any time, announce a closing date (end date) for the Instant Game No. 1309 without advance notice, at which point no further tickets in that game may be sold. The determination of the closing date and reasons for closing the game will be made in accordance with the instant game closing procedures and the Instant Game Rules, 16 TAC §401.302(j).

6.0 Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game No. 1309, 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-201007387
 Kimberly L. Kiplin
 General Counsel
 Texas Lottery Commission
 Filed: December 28, 2010



Revised Instant Game Number 1296 "Monopoly™"

The Texas Lottery Commission filed for publication Instant Game Number 1296, "Monopoly™". The document was published in the October 29, 2010, issue of the *Texas Register* (35 TexReg 9782). The definitions related to the game's second-chance drawings, found in the following 1.2.I, were added to the Game Procedures after publication. Because of this new section, previously published Sections 1.2.I - 1.2.M required re-numbering. The new Section 1.2.I and re-numbered Sections 1.2.J - 1.2.N read as follows:

I. Second-chance Drawing Prizes to be awarded through second-chance drawings - Monopoly™ Prize Pack containing, one (1) Monopoly™ Ceramic Chip and Dip Serving Set, One (1) Monopoly™ Game Storage Box, One (1) Monopoly™ Neon Wall clock, one (1) Monopoly™ Mission Art Glass Lamp, one (1) Monopoly™ Framed Mirror, two (2) sets of Monopoly™ Glass Coasters, one (1) Monopoly™ Game, and one (1) Monopoly™ Bank.

J. Bar Code - A 24 (twenty-four) character interleaved two (2) of five (5) bar code which will include a four (4) digit game ID, the seven (7) digit pack number, the three (3) digit ticket number and the ten (10) digit Validation Number. The bar code appears on the back of the ticket.

K. Pack-Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (1296), a seven (7) digit pack number, and a three (3) digit ticket number. Ticket numbers start with 001 and end with 125 within each pack. The format will be: 1296-0000001-001.

L. Pack - A pack of "MONOPOLY™" Instant Game tickets contains 125 tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). There will be 2 fanfold configurations for this game. Configuration A will show the front of ticket 001 and the back of ticket 125. Configuration B will show the back of ticket 001 and the front of ticket 125.

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 "MONOPOLY™" Instant Game No. 1296 ticket.

TRD-201007405
Kimberly L. Kiplin
General Counsel
Texas Lottery Commission
Filed: December 29, 2010

◆ ◆ ◆
Public Utility Commission of Texas

Announcement of Application for Amendment to a State-Issued Certificate of Franchise Authority

The Public Utility Commission of Texas received an application on December 17, 2010, to amend a state-issued certificate of franchise authority (CFA), pursuant to §§66.001 - 66.016 of the Public Utility Regulatory Act (PURA).

Project Title and Number: Application of Time Warner Cable to Amend its State-Issued Certificate of Franchise Authority, Project Number 38992.

The requested amendment is to expand the service area footprint to include the City of Cedar Park, Texas.

Information on the application may be obtained by contacting the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at (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) (800) 735-2989. All inquiries should reference Project Number 38992.

TRD-201007276
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: December 20, 2010

◆ ◆ ◆
Announcement of Application for State-Issued Certificate of Franchise Authority

The Public Utility Commission of Texas received an application on December 20, 2010, for a state-issued certificate of franchise authority (CFA), pursuant to §§66.001 - 66.016 of the Public Utility Regulatory Act (PURA).

Project Title and Number: Application of Texas Mid-Gulf Cablevision, L.P. for a State-Issued Certificate of Franchise Authority, Project Number 38996.

The requested CFA service area is for the municipalities of Wharton and West Columbia, Texas.

Information on the application may be obtained by contacting the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at (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) (800) 735-2989. All inquiries should reference Project Number 38996.

TRD-201007346
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: December 22, 2010

◆ ◆ ◆
Announcement of Application for State-Issued Certificate of Franchise Authority

The Public Utility Commission of Texas received an application on December 22, 2010, for a state-issued certificate of franchise authority (CFA), pursuant to §§66.001 - 66.016 of the Public Utility Regulatory Act (PURA).

Project Title and Number: Application of Bay City Cablevision, LP for a State-Issued Certificate of Franchise Authority, Project Number 39020.

The requested CFA service area within the municipality of Palacios and the unincorporated areas of Matagorda County, Texas.

Information on the application may be obtained by contacting the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at (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) (800) 735-2989. All inquiries should reference Project Number 39020.

TRD-201007396
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: December 28, 2010

◆ ◆ ◆
Notice of Application for Designation as an Eligible Telecommunications Carrier and Eligible Telecommunications Provider

Notice is given to the public of an application filed with the Public Utility Commission of Texas on December 20, 2010, for designation as an eligible telecommunications provider (ETP) and eligible telecommunications carrier (ETC) pursuant to P.U.C. Substantive Rule §26.417 and §26.418, respectively.

Docket Title and Number: Application of Telix, LLC for Designation as an Eligible Telecommunications Carrier Pursuant to P.U.C. Substantive Rule §26.418 and Eligible Telecommunications Provider Pursuant to P.U.C. Substantive Rule §26.417. Docket Number 38999.

The Application: The company seeks ETC designation in the entire service areas of AT&T Texas. The company seeks ETP designation in certain wire centers in which AT&T Texas is the incumbent provider. A list of those wire centers is included with the application as Attachment C. The company holds Service Provider Certificate of Operating Authority Number 60849.

Persons wishing to intervene or comment on the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free at (888) 782-8477. The deadline for intervention in this proceeding is January 27, 2011. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or use Relay Texas (toll-free) (800) 735-2989. All comments should reference Docket Number 38999.

TRD-201007347
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: December 22, 2010

◆ ◆ ◆
Notice of Application to Amend Designation as an Eligible Telecommunications Carrier and for Designation as an Eligible Telecommunications Provider

Notice is given to the public of an application filed with the Public Utility Commission of Texas on December 20, 2010, to amend designation as an eligible telecommunications carrier (ETC) and for designation as an eligible telecommunications provider (ETP) pursuant to P.U.C. Substantive Rule §26.418 and §26.417, respectively.

Docket Title and Number: Application of Mid-Tex Cellular, Ltd. to Amend Designation as an Eligible Telecommunications Carrier Pursuant to P.U.C. Substantive Rule §26.418 and for Designation as an Eligible Telecommunications Provider Pursuant to P.U.C. Substantive Rule §26.417. Docket Number 39000.

The Application: Mid-Tex Cellular, Ltd. (Mid-Tex) requests an amendment to its ETC designation to expand the study area to include the following twelve non-rural telephone company wire centers served by Verizon Southwest: Miles, Rowena, Ballinger, Winters, Coleman, Lake Brownwood, Bangs, Brownwood, Zephyr, Blanket, Comanche, and Gustine. In addition, Mid-Texas seeks to be designated as an ETP throughout the Verizon wire centers identified above, as well, as throughout the rural telephone company study areas served by Coleman County Telephone Cooperative, Inc. and Totelcom Communications, LLC where Mid-Tex was granted ETC designation in Docket Number 30666. All the wire centers where Mid-Tex wishes to be designated as an ETC and ETP are identified in Attachments D and E to the application.

Persons wishing to intervene or comment on the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free at (888) 782-8477. The deadline for intervention in this proceeding is January 27, 2011. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or use Relay Texas (toll-free) (800) 735-2989. All comments should reference Docket Number 39000.

TRD-201007344
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: December 22, 2010

◆ ◆ ◆
Notice of Application to Relinquish Designation as an Eligible Telecommunications Carrier

Notice is given to the public of an application filed with the Public Utility Commission of Texas on December 17, 2010, to relinquish its designation as an eligible telecommunications carrier (ETC).

Docket Title and Number: Application of Caprock Cellular to Relinquish its Designation as an Eligible Telecommunications Carrier (ETC) Pursuant to P.U.C. Substantive Rule §26.418(i)(1). Docket Number 38994.

The Application: Caprock Cellular recently completed the sale of a portion of its wireless assets to AT&T Caprock Cellular and is requesting relinquishment of its ETC designation pursuant to P.U.C. Substantive Rule §26.418(i)(1) because the company is not the sole ETC in the service area for which it received ETC designation. Cap Rock Telephone Cooperative, Inc. is designated as an ETC in the same service area and can offer federally supported services to Caprock Cellular's customers. The company requested an effective date of March 17, 2011.

Persons who wish to comment on this application should notify the Public Utility Commission by January 14, 2011. Requests for further information should be mailed to the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326, or you may call the Public Utility Commission's Customer Protection Division at (512) 936-7120 or toll-free at (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) (800) 735-2989. All comments should reference Docket Number 38994.

TRD-201007345
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: December 22, 2010

◆ ◆ ◆
Notice of Filing to Withdraw FibreMAN Service Pursuant to P.U.C. Substantive Rule §26.208(h)

Notice is given to the public of AT&T Texas' application was filed with the Public Utility Commission of Texas (commission) on December 10, 2010, to withdraw FibreMAN Service pursuant to P.U.C. Substantive Rule §26.208(h).

Docket Title and Number: Application of Southwestern Bell Telephone Company d/b/a AT&T Texas to withdraw FibreMAN Service pursuant to P.U.C. Substantive Rule §26.208(h) - Docket Number 38968.

The Application: On December 10, 2010, Southwestern Bell Telephone Company d/b/a AT&T Texas filed an application to withdraw FibreMAN Service. AT&T Texas proposes to discontinue the FibreMAN Service effective December 31, 2012. Current customers will be grandfathered in until the last current FibreMAN contract expires. Further new installations, moves, rearrangements and other types of changes will not be allowed. The proceedings were docketed and suspended on December 13, 2010, to allow adequate time for review and intervention.

Information on the application may be obtained by contacting the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at (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) (800) 735-2989. All inquiries should reference Docket Number 38968.

TRD-201007397

Adriana A. Gonzales

Rules Coordinator

Public Utility Commission of Texas

Filed: December 28, 2010



Notice of Intent to File LRIC Study Pursuant to P.U.C. Substantive Rule §26.214

Notice is given to the public of the filing on December 22, 2010, with the Public Utility Commission of Texas (commission), a notice of intent to file a long run incremental cost (LRIC) study pursuant to P.U.C. Substantive Rule §26.214. The Applicant will file the LRIC study on or before January 7, 2011.

Docket Title and Number: Application of Windstream Communications Southwest for Approval of LRIC Study for Residential Non-Recurring Service Charge Pursuant to P.U.C. Substantive Rule §26.214, Docket Number 39019.

Any party that demonstrates a justiciable interest may file with the administrative law judge written comments or recommendations concerning the LRIC study referencing Docket Number 39019. Written comments or recommendations should be filed no later than 45 days after the date of a sufficient study and should be filed at the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All comments should reference Docket Number 39019.

TRD-201007375

Adriana A. Gonzales

Rules Coordinator

Public Utility Commission of Texas

Filed: December 27, 2010



Texas Department of Transportation

Aviation Division - Request for Proposal for Professional Engineering Services

The City of Temple, through its agent the Texas Department of Transportation (TxDOT), intends to engage an aviation professional engineering firm for services pursuant to Government Code, Chapter 2254, Subchapter A. TxDOT Aviation Division will solicit and receive proposals for professional aviation engineering design services described below.

Airport Sponsor: City of Temple. TxDOT CSJ No. 1109TMPLE.

Scope of Work:

The design phase will encompass all services described in the Scope of Work but those services will be divided into two construction phases: Phase I construction will include Runway 2-20 and associated items, and Phase II construction will include the Taxiways and associated items. The following Scope of Work services are to be included in the design proposals: mill, overlay, regrade shoulder, and mark Runway 2-20; adjust Runway edge light elevations for Runway 2-20; install twenty surface painted hold signs; reconstruct and mark Taxiways A, B, C, D, E and F; rehabilitate and mark terminal apron,

and install a supplemental windsock at the Draughon-Miller Central Texas Regional Airport.

The **DBE** goal is set at 7%. The TxDOT Project Manager is Russell Deason.

Future scope work items for engineering/design services within the next five years may include the following:

1. Stripe and mark Runway 15-33 Precision Instrument
2. Reconstruct/strengthen General Aviation Taxiway
3. Reconstruct/strengthen General Aviation apron
4. Rehabilitate Runway 15-33
5. Install Precision Approach Path Indicator-4 Runway 2

To assist in your proposal preparation the criteria, 5010 drawing, project illustration, and most recent airport layout plan are available online at www.txdot.gov/avn/avninfo/notice/consult/index.htm by selecting "Draughon-Miller Central Texas Regional Airport."

Interested firms shall utilize the latest version of Form AVN-550, titled "Aviation Engineering Services Proposal." The form may be requested from TxDOT Aviation Division, 125 East 11th Street, Austin, Texas 78701-2483, phone number, 1-800-68-PILOT (74568). The form may be emailed by request or downloaded from the TxDOT web site at <http://www.txdot.gov/business/projects/aviation.htm>. The form may not be altered in any way. All printing must be in black on white paper, except for the optional illustration page. Firms must carefully follow the instructions provided on each page of the form. Proposals may not exceed the number of pages in the proposal format. The proposal format consists of seven pages of data plus two optional pages consisting of an illustration page and a proposal summary page. A prime provider may only submit one proposal. If a prime provider submits more than one proposal, that provider will be disqualified. Proposals shall be stapled but not bound in any other fashion. **PROPOSALS WILL NOT BE ACCEPTED IN ANY OTHER FORMAT.**

ATTENTION: To ensure utilization of the latest version of Form AVN-550, firms are encouraged to download Form AVN-550 from the TxDOT website as addressed above. Utilization of Form AVN-550 from a previous download may not be the exact same format. Form AVN-550 is a PDF Template.

Please note:

Eight (8) completed, unfolded copies of Form AVN-550 **must be received** by TxDOT Aviation Division at 150 East Riverside Drive, 5th Floor, South Tower, Austin, Texas 78704 no later than **February 1, 2011, 4:00 p.m.** Electronic facsimiles or forms sent by email will not be accepted. **Please mark the envelope of the forms to the attention of Beverly Longfellow, Grant Manager.**

The consultant selection committee will be composed of local government members. The final selection by the committee will generally be made following the completion of review of proposals. The committee will review all proposals and rate and rank each. The criteria for evaluation of engineering proposals can be found at <http://www.txdot.gov/business/projects/aviation.htm>. All firms will be notified and the top rated firm will be contacted to begin fee negotiations. The selection committee does, however, reserve the right to conduct interviews for the top rated firms if the committee deems it necessary. If interviews are conducted, selection will be made following interviews.

If there are any procedural questions, please contact Beverly Longfellow, Grant Manager at 1-800-68-PILOT, extension 4516. For technical questions, please contact Russell Deason, at 1-800-68-PILOT, extension 4526.

TRD-201007297
Joanne Wright
Deputy General Counsel
Texas Department of Transportation
Filed: December 22, 2010



Notice Affording Opportunity for Public Hearing

Pursuant to 43 Texas Administrative Code Chapter 2, Subchapter A, §2.18(b), the Texas Department of Transportation's (department) Maintenance Division undertook an environmental review of the department's nine maintenance programs: 1) bridge; 2) customer service; 3) debris and spills; 4) drainage; 5) ferries; 6) enhancement; 7) pavement; 8) roadside appurtenances; and 9) traffic pavements and markings. The department's maintenance programs help the department to provide a safe and functional roadway system, ensure clean and aesthetically pleasing highways and facilities, and improve the value and prolong the functional lifespan of the department infrastructure. The department's environmental review of the programs as documented in the Draft Environmental Assessment describes the purpose of and need for each of the nine maintenance programs; program alternatives; direct, indirect, and cumulative environmental consequences of the programs; and identifies best management practices that when implemented avoid, minimize, or compensate for any adverse environmental impacts resulting from the department maintenance program activities.

The Draft Environmental Assessment is on file and available for review at the department Maintenance Division office located at 150 East Riverside Drive, Austin, Texas 78704. Anyone may request that a public hearing be held covering the social, economic, and environmental effects of the project by sending a written request to Dennis Markwardt, Maintenance Division, Texas Department of Transportation, 150 East Riverside Drive, Austin, Texas 78704 postmarked on or before January

18, 2011. Persons may contact Mr. Markwardt at (512) 416-3093 with any questions.

TRD-201007395
Jack Ingram
Associate General Counsel
Texas Department of Transportation
Filed: December 28, 2010



Public Notice - Aviation

Pursuant to Transportation Code, §21.111, and Title 43, Texas Administrative Code, §30.209, the Texas Department of Transportation conducts public hearings to receive comments from interested parties concerning proposed approval of various aviation projects.

For information regarding actions and times for aviation public hearings, please go to the following web site:

http://www.txdot.gov/public_involvement/hearings_meetings.

Or visit www.txdot.gov, click on Public Involvement and click on Hearings and Meetings.

Or contact Texas Department of Transportation, Aviation Division, 150 East Riverside, Austin, Texas 78704, (512) 416-4501 or 1-800-68-PILOT.

TRD-201007298
Joanne Wright
Deputy General Counsel
Texas Department of Transportation
Filed: December 22, 2010



How to Use the Texas Register

Information Available: The 14 sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

Governor - Appointments, executive orders, and proclamations.

Attorney General - summaries of requests for opinions, opinions, and open records decisions.

Secretary of State - opinions based on the election laws.

Texas Ethics Commission - summaries of requests for opinions and opinions.

Emergency Rules- sections adopted by state agencies on an emergency basis.

Proposed Rules - sections proposed for adoption.

Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

Adopted Rules - sections adopted following public comment period.

Texas Department of Insurance Exempt Filings - notices of actions taken by the Texas Department of Insurance pursuant to Chapter 5, Subchapter L of the Insurance Code.

Texas Department of Banking - opinions and exempt rules filed by the Texas Department of Banking.

Tables and Graphics - graphic material from the proposed, emergency and adopted sections.

Transferred Rules- notice that the Legislature has transferred rules within the *Texas Administrative Code* from one state agency to another, or directed the Secretary of State to remove the rules of an abolished agency.

In Addition - miscellaneous information required to be published by statute or provided as a public service.

Review of Agency Rules - notices of state agency rules review.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative quarterly and annual indexes to aid in researching material published.

How to Cite: Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words "TexReg" and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 36 (2011) is cited as follows: 36 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 "36 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 36 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 at: <http://www.sos.state.tx.us>. The *Register* is available in an .html version as well as a .pdf (portable document

format) version through the internet. For website information, call the Texas Register at (512) 463-5561.

Texas Administrative Code

The *Texas Administrative Code (TAC)* is the compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the *TAC*.

The *TAC* volumes are arranged into Titles and Parts (using Arabic numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency.

The complete TAC is available through the Secretary of State's website at <http://www.sos.state.tx.us/tac>.

The following companies also provide complete copies of the TAC: Lexis-Nexis (800-356-6548), and West Publishing Company (800-328-9352).

The Titles of the *TAC*, and their respective Title numbers are:

1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

How to Cite: Under the *TAC* scheme, each section is designated by a *TAC* number. For example in the citation 1 TAC §27.15: 1 indicates the title under which the agency appears in the *Texas Administrative Code*; *TAC* stands for the *Texas Administrative Code*; §27.15 is the section number of the rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).

How to update: To find out if a rule has changed since the publication of the current supplement to the *Texas Administrative Code*, please look at the *Index of Rules*. The *Index of Rules* is published cumulatively in the blue-cover quarterly indexes to the *Texas Register*. If a rule has changed during the time period covered by the table, the rule's *TAC* number will be printed with the *Texas Register* page number and a notation indicating the type of filing (emergency, proposed, withdrawn, or adopted) as shown in the following example.

TITLE 1. ADMINISTRATION

Part 4. Office of the Secretary of State

Chapter 91. Texas Register

40 TAC §3.704.....950 (P)