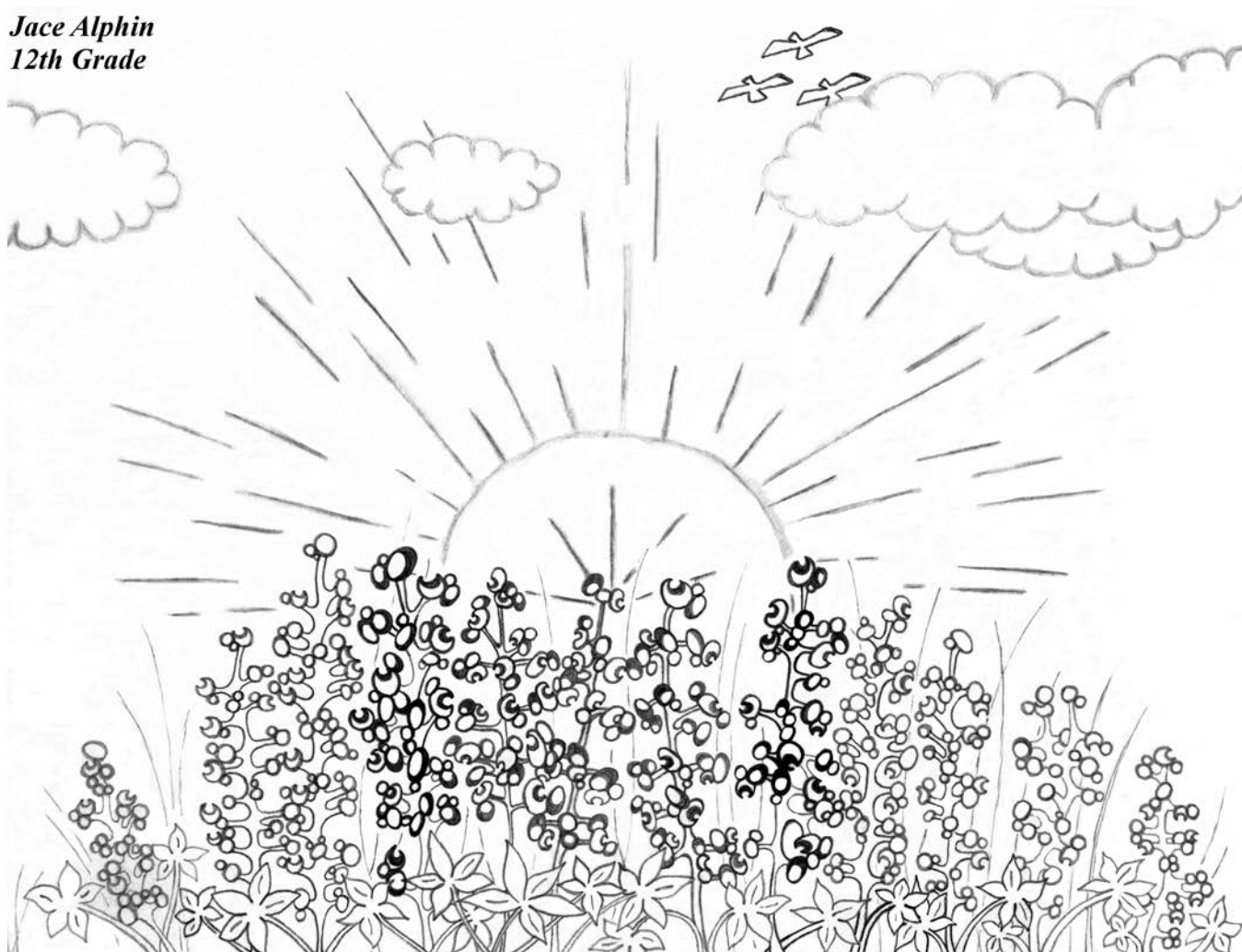

TEXAS REGISTER

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*Jace Alphin
12th Grade*



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

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THE GOVERNOR

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Proclamation 41-3320

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, the Texas State Cemetery has been designated a final resting place to honor elected officials and individuals who have made significant contributions to the history and culture of the State of Texas; and

WHEREAS, current and former statewide elected officials, members of the Texas Legislature and appointees to state agencies who have been confirmed by the Senate are eligible under Section 2165.256 of the Texas Government Code for interment in the State Cemetery along with their spouses and unmarried children; and

WHEREAS, the Texas Government Code makes no provision for the burial of grandchildren in the State Cemetery but allows the governor to issue a proclamation recommending an individual who does not meet these criteria for burial in the State Cemetery, subject to the review and approval of the Texas State Cemetery Committee; and

WHEREAS, Senator Leticia Van de Putte has voluntarily and lovingly given up her eligibility under this statute to be buried in the State Cemetery so that her infant grandson Rex Neal Van de Putte may be laid to rest in the burial space previously allotted and assigned to Senator Van de Putte;

NOW, THEREFORE, I, RICK PERRY, Governor of the State of Texas, under the authority vested in me by the Constitution and pursuant to the provisions of Section 2165.256 of the Texas Government Code, do hereby proclaim that Rex Neal Van de Putte is eligible for burial in the Texas State Cemetery, subject to review and approval by the State Cemetery Committee. The Secretary of State shall take notice of this action and inform the State Cemetery Committee of this proclamation.

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 8th day of May, 2013.

Rick Perry, Governor

TRD-201302043



Proclamation 41-3321

TO ALL TO WHOM THESE PRESENTS SHALL COME:

I, RICK PERRY, Governor of the State of Texas, issued an Emergency Disaster Proclamation on July 5, 2011, certifying that exceptional drought conditions posed a threat of imminent disaster in specified counties in Texas.

WHEREAS, record high temperatures, preceded by significantly low rainfall, have resulted in declining reservoir and aquifer levels, threatening water supplies and delivery systems in many parts of the state; and

WHEREAS, prolonged dry conditions continue to increase the threat of wildfire across many portions of the state; and

WHEREAS, these drought conditions have reached historic levels and continue to pose an imminent threat to public health, property and the economy; and

WHEREAS, this state of disaster includes the counties of Anderson, Andrews, Archer, Armstrong, Atascosa, Austin, Bailey, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Borden, Bosque, Brazoria, Brazos, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Cameron, Carson, Castro, Childress, Clay, Cochran, Coke, Coleman, Collingsworth, Colorado, Comal, Comanche, Concho, Cooke, Coryell, Cottle, Crane, Crockett, Crosby, Culberson, Dallam, Dawson, Deaf Smith, Denton, DeWitt, Dickens, Dimmit, Donley, Duval, Eastland, Ector, Edwards, El Paso, Erath, Falls, Fayette, Fisher, Floyd, Foard, Freestone, Frio, Gaines, Garza, Gillespie, Goliad, Gonzales, Gray, Grayson, Grimes, Guadalupe, Hale, Hall, Hamilton, Hansford, Hardeman, Hardin, Harris, Hartley, Haskell, Hays, Hemphill, Hidalgo, Hill, Hockley, Hood, Houston, Hudspeth, Hutchinson, Irion, Jack, Jackson, Jeff Davis, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kendall, Kenedy, Kent, Kerr, Kimble, King, Kinney, Kleberg, Knox, La Salle, Lamb, Lampasas, Lee, Leon, Liberty, Limestone, Lipscomb, Live Oak, Llano, Lubbock, Lynn, Madison, Martin, Mason, Matagorda, Maverick, McCulloch, McLennan, McMullen, Medina, Menard, Midland, Milam, Mills, Montague, Montgomery, Moore, Motley, Navarro, Nolan, Nueces, Ochiltree, Oldham, Palo Pinto, Parker, Parmer, Pecos, Potter, Presidio, Randall, Reagan, Real, Reeves, Refugio, Roberts, Robertson, Runnels, San Jacinto, San Patricio, San Saba, Schleicher, Scurry, Shackelford, Sherman, Somervell, Starr, Stephens, Stonewall, Sutton, Swisher, Tarrant, Taylor, Terrell, Terry, Throckmorton, Tom Green, Travis, Trinity, Upton, Uvalde, Val Verde, Victoria, Walker, Waller, Ward, Washington, Webb, Wheeler, Wichita, Wilbarger, Willacy, Williamson, Wilson, Winkler, Wise, 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 renew the disaster proclamation 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 17th day of May, 2013.

Rick Perry, Governor

TRD-201302035



Proclamation 41-3322

TO ALL TO WHOM THESE PRESENTS SHALL COME:

I, RICK PERRY, Governor of the State of Texas, do hereby certify that the severe storms and tornado outbreak that occurred on May 15, 2013, have caused a disaster in Ellis, Hood and Johnson counties in the State of Texas.

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 in the counties listed above based on the existence of such disaster, and direct that all necessary measures both public and private as authorized under Section 418.017 of the code be implemented to meet that disaster.

As provided in Section 418.016 of the code, all rules and regulations that may inhibit or prevent prompt response to this disaster are suspended for the duration of the 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 20th day of May, 2013.

Rick Perry, Governor

TRD-201302036

◆ ◆ ◆

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 13. CULTURAL RESOURCES

PART 2. TEXAS HISTORICAL COMMISSION

CHAPTER 15. ADMINISTRATION OF FEDERAL PROGRAMS

13 TAC §15.4, §15.7

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

The Texas Historical Commission (hereafter referred to as the "commission") proposes the repeal of 13 TAC §15.4, concerning Historic Preservation Fund Grants; and §15.7, concerning the Memoranda of Understanding between the commission and the Texas Department of Transportation.

The purpose of repealing §15.4 is due to the fact the federal grant program has been discontinued. The purpose of repealing §15.7 is due to the fact the memoranda is now included in 13 TAC Chapter 26.

Mark Wolfe, Executive Director, has determined that for the first five-year period the repeal of the rules is in effect there will be no fiscal implications for state or local government.

Mr. Wolfe has determined for each year of the first five-year period the repeal of the rules is in effect the public benefit anticipated as a result of the repeal will be an increased clarity of the administration of the agency's awards. Additionally, Mr. Wolfe has determined there will be no effect on small or micro businesses or individuals due to the repeal.

Comments on the proposal may be submitted to Mark Wolfe, Executive Director, Texas Historical Commission, P.O. Box 12276, Austin, Texas 78711-2276. Comments will be accepted for 30 days after publication in the *Texas Register*.

The repeal of §15.4 and §15.7 is proposed under §442.005(q), Texas Government Code, which provides the commission with the authority to promulgate rules and conditions to reasonably effect the purposes of Chapter 442 of the Texas Government Code.

The repeal implements §442.005 of the Texas Government Code. No other statutes, articles, or codes are affected by this repeal.

§15.4. *Historic Preservation Fund Grants.*

§15.7. *Memoranda of Understanding.*

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

Filed with the Office of the Secretary of State on May 15, 2013.

TRD-201301974

Mark Wolfe

Executive Director

Texas Historical Commission

Earliest possible date of adoption: June 30, 2013

For further information, please call: (512) 463-8817



CHAPTER 17. STATE ARCHITECTURAL PROGRAMS

13 TAC §17.2

The Texas Historical Commission (hereafter referred to as the "commission") proposes amendments to §17.2, concerning Review of Work on County Courthouses.

Section 17.2, Review of Work on County Courthouses, is the agency's responsibility under Texas Government Code §442.008, which states:

"(a) A county may not demolish, sell, lease, or damage the historical and architectural integrity of any building that serves or has served as a county courthouse without notifying the commission of the intended action at least six months before the date on which it acts.

"(b) If the commission determines that a courthouse has historical significance worthy of preservation, the commission shall notify the commissioners court of the county of that fact not later than the 30th day after the date on which the commission received notice from the county. A county may not demolish, sell, lease or damage the historical and architectural integrity of a courthouse before the 180th day after the date on which it received notice from the commission. The commission shall cooperate with any interested person during the 180-day period to preserve the historical integrity of the courthouse.

"(c) A county may carry out ordinary maintenance of and repairs to a courthouse without notifying the commission."

The purpose of Texas Government Code §442.008 is to protect county courthouses and ensure that all efforts to preserve them are considered. This section of the Texas Government Code was authorized by the 62nd Texas Legislature in 1971.

The amendment will update §17.2 to reference interested party opinion and penalties already stated in Texas Government

Code §442.008 as well as simplify the submittal requirements for project review.

Mark Wolfe, Executive Director, has determined that for the first five-year period the amendments are in effect there will be no fiscal implications for state or local governments as a result of enforcing or administering the section as proposed.

Mr. Wolfe has also determined that for each year of the first five-year period these amendments are in effect the public benefit anticipated as a result of the implementation of the amendments will be improvements in the administration of the commission. There will be minimal effects on small or micro-businesses or individuals.

Comments on the proposal may be submitted to Mark Wolfe, Executive Director, Texas Historical Commission, P.O. Box 12276, Austin, Texas 78711-2276. Comments will be accepted for 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Government Code §442.005(q), which provides the commission with the authority to promulgate rules and conditions to reasonably effect the purposes of Chapter 442 of the Texas Government Code.

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

§17.2. *Review of Work on County Courthouses.*

Texas Government Code, Chapter 442, §442.008, requires that the Texas Historical Commission review changes made to courthouse structures.

(1) Definitions. The following words and terms, when used in this subsection, shall have the following meaning, unless the context clearly indicates otherwise.

(A) Demolish--To remove, in whole or part. Demolition of historical or architectural integrity includes removal of historic architectural materials such as, but not limited to, materials in the following categories: site work, concrete, masonry, metals, carpentry, thermal and moisture protection, doors and windows, finishes, specialties, equipment, furnishings, special construction, conveying systems, mechanical and electrical.

(B) Sell--To give up (property) to another for money or other valuable consideration; this includes giving the property to avoid maintenance, repair, etc.

(C) Lease--To let a contract by which one conveys real estate, equipment, or facilities for a specified term and for a specified rent.

(D) Damage--To alter, in whole or part. Damage to historical or architectural integrity includes alterations of structural elements, decorative details, fixtures, and other material.

(E) Integrity--Refers to the physical condition and therefore the capacity of the resource to convey a sense of time and place or historic identity. Integrity is a quality that applies to location, design, setting, materials, and workmanship. It refers to the clarity of the historic identity possessed by a resource. In terms of architectural design, to have integrity means that a building still possesses much of its mass, scale, decoration, and so on, of either the period in which it was conceived and built, or the period in which it was adapted to a later style which has validity in its own rights as an expression of historical character or development. The question of whether or not a building possesses integrity is a question of the building's retention of sufficient fabric to be identifiable as a historic resource. For a building

to possess integrity, its principal features must be sufficiently intact for its historic identity to be apparent. A building that is significant because of its historic association(s) must retain sufficient physical integrity to convey such association(s).

(F) Courthouse--The principal building(s) which houses county government offices and courts and its (their) surrounding site(s) (typically the courthouse square).

(G) Ordinary maintenance and repairs--Work performed to architectural or site materials which does not cause removal or alteration or concealment of that material.

(2) Procedure.

(A) Notice from the county to the commission. At least six months prior to the proposed work on a county courthouse, a letter from the county judge briefly describing the project should be submitted to the commission, along with construction documents, sketches or drawings which adequately describe the full scope of project work and [five-inch-by-seven-inch or larger] photographs of the areas [to be] affected by the proposed changes.

(B) The commission will consider the opinions of interested parties with regard to the preservation of the courthouse per Texas Government Code, §442.008(b).

(C) [(B)] Notice from the commission to the commissioners court of the county. Written notice of the commission's determination regarding the historical significance of a courthouse for which work is proposed shall include comments pursuant to a review of the proposed work by the commission. Comments shall be made based on the Secretary of the Interior's Standards for the Treatment of Historic Properties 1992 or latest edition, which are summarized in clauses (i) - (iii) of this subparagraph:

(i) Definitions for historic preservation project treatment.

(I) Preservation is defined as the act or process of applying measures necessary to sustain the existing form, integrity, and materials of an historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. New exterior additions are not within the scope of this treatment; however, the limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project.

(II) Rehabilitation is defined as the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values.

(III) Restoration is defined as the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a restoration project.

(IV) Reconstruction is defined as the act or process of depicting, by means of new construction, the form features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.

(ii) General standards for historic preservation projects.

(I) A property shall be used as it was historically, or be given a new use that maximizes the retention of distinctive materials, features, spaces, and spatial relationships. Where a treatment and use have not been identified, a property shall be protected and, if necessary, stabilized until additional work may be undertaken.

(II) The historic character of a property shall be retained and preserved. The replacement of intact or repairable historic materials or alteration of features, spaces, and spatial relationships that characterize a property shall be avoided.

(III) Each property shall be recognized as a physical record of its time, place and use. Work needed to stabilize, consolidate, and conserve existing historic materials and features shall be physically and visually compatible, identifiable upon close inspection, and properly documented for future research.

(IV) Changes to a property that have acquired historic significance in their own right shall be retained and preserved.

(V) Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.

(VI) The existing condition of historic features shall be evaluated to determine the appropriate level of intervention needed. Where the severity of deterioration requires repair or limited replacement of a distinctive feature, the new material shall match the old in composition, design, color, and texture.

(VII) Chemical or physical treatments, if appropriate, shall be undertaken using the gentlest means possible. Treatments that cause damage to historic materials shall not be used.

(VIII) Archeological resources shall be protected and preserved in place to the extent possible. If such resources must be disturbed, mitigation measures shall be undertaken.

(iii) Specific standards for historic preservation projects. In conjunction with the eight general standards listed in clause (ii)(I)-(VIII) of this subparagraph, specific standards are to be used for each treatment type.

(I) Standards for rehabilitation.

(-a-) A property shall be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.

(-b-) The historic character of a property shall be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property shall be avoided.

(-c-) Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, shall not be undertaken.

(-d-) Changes to a property that have acquired historic significance in their own right shall be retained and preserved.

(-e-) Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.

(-f-) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and where possible, materials, replace-

ment of missing features shall be substantiated by documentary and physical evidence.

(-g-) Chemical or physical treatments, if appropriate, shall be undertaken using the gentlest means possible. Treatments that cause damage to historic materials shall not be used.

(-h-) Archeological resources shall be protected and preserved in place to the extent possible. If such resources must be disturbed, mitigation measures shall be undertaken.

(-i-) New additions, exterior alterations, or related new construction shall not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and shall be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

(-j-) New additions and adjacent or related new construction shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

(II) Standards for restoration.

(-a-) A property shall be used as it was historically or be given a new use which reflects the property's restoration period.

(-b-) Materials and features from the restoration period shall be retained and preserved. The removal of materials or alteration of features, spaces, and spatial relationships that characterize the period shall not be undertaken.

(-c-) Each property shall be recognized as a physical record of its time, place and use. Work needed to stabilize, consolidate and conserve materials and features, from the restoration shall be physically and visually compatible, identifiable upon close inspection, and properly documented for future research.

(-d-) Materials, features, spaces, and finishes that characterize other historical periods shall be documented prior to their alteration or removal.

(-e-) Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize the restoration period shall be preserved.

(-f-) Deteriorated features from the restoration period shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and, where possible, materials.

(-g-) Replacement of missing features from the restoration period shall be substantiated by documentary and physical evidence. A false sense of history shall not be created by adding conjectural features, features from other properties, or by combining features that never existed together historically.

(-h-) Chemical or physical treatments, if appropriate, shall be undertaken using the gentlest means possible. Treatments that cause damage to historic materials shall not be used.

(-i-) Archeological resources affected by a project shall be protected and preserved in place to the extent possible. If such resources must be disturbed, mitigation measures shall be undertaken.

(-j-) Designs that were never executed historically shall not be constructed.

(III) Standards for reconstruction.

(-a-) Reconstruction shall be used to depict vanished or non-surviving portions of a property when documentary and physical evidence is available to permit accurate reconstruction with minimal conjecture, and such reconstruction is essential to the public understanding of the property.

(-b-) Reconstruction of a landscape, building, structure, or object in its historic location shall be preceded by a thorough archeological investigation to identify and evaluate those features and artifacts which are essential to an accurate reconstruction. If such resources must be disturbed, mitigation measures shall be undertaken.

(-c-) Reconstruction shall include measures to preserve any remaining historic materials, features, and spatial relationships.

(-d-) Reconstruction shall be based on the accurate duplication of historic features and elements substantiated by documentary or physical evidence rather than on conjectural designs or the availability of different features from other historic properties. A reconstructed property shall re-create the appearance of the non-surviving historic property in materials, design, color, and texture.

(-e-) A reconstruction shall be clearly identified as a contemporary re-creation.

(-f-) Designs that were never executed historically shall not be constructed.

(D) Should the commission determine the work is not consistent with the appropriate treatment (preservation, rehabilitation, restoration or reconstruction) and its associated standards, the commission may prohibit the county from taking action for a 180 day period. Each day of violation is subject to a penalty of not less than \$50 or not more than \$1,000 for each day of violation of this act.

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

Filed with the Office of the Secretary of State on May 15, 2013.

TRD-201301985

Mark Wolfe

Executive Director

Texas Historical Commission

Earliest possible date of adoption: June 30, 2013

For further information, please call: (512) 463-8817



TITLE 16. ECONOMIC REGULATION

PART 4. TEXAS DEPARTMENT OF LICENSING AND REGULATION

CHAPTER 94. PROPERTY TAX PROFESSIONALS

16 TAC §94.25

The Texas Department of Licensing and Regulation (Department) proposes amendments to an existing rule at 16 Texas Administrative Code (TAC) Chapter 94, §94.25, regarding the property tax professionals program.

The proposed rule amendments are necessary to implement changes recommended by the Tax Professional Advisory Committee (Committee) relating to the regulation of property tax professionals. The proposed rule amendments were originally proposed in the February 1, 2013, issue of the *Texas Register* (38 TexReg 460); however, the proposed rule amendments are withdrawn in this issue of the *Texas Register*.

Proposed amendments to §94.25(b)(3) change the required continuing education hours from seven (7) hours in Uniform Standards of Professional Appraisal Practice (USPAP) to three and

one half (3.5) hours in USPAP. Subsection (i) is proposed for deletion, which would eliminate the need for registrants to retain copies of their completed courses. The substance of these proposed rule changes was recommended by the Committee at its meeting on December 6, 2012.

William H. Kuntz, Jr., Executive Director, has determined that for the first five-year period the proposed rule amendments are in effect there will be no direct cost to state or local government as a result of enforcing or administering the proposed rule.

Mr. Kuntz also has determined that for each year of the first five-year period the proposed rule changes are in effect, the public benefit will be realized efficiency for the program and the industry at large.

There is no anticipated adverse economic effect on small or micro businesses or to persons who are required to comply with the rules as proposed.

Since the agency has determined that the proposed rule amendments will have no adverse economic effect on small or micro businesses, preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis, as detailed under Texas Government Code §2006.002, is not required.

Comments on the proposal may be submitted by mail to Shanna Dawson, Legal Assistant, General Counsel's Office, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711, or by facsimile to (512) 475-3032, or electronically to erule@tdlr.texas.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Occupations Code, Chapters 51 and 1151, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposal are those set forth in Texas Occupations Code, Chapters 51 and 1151. No other statutes, articles, or codes are affected by the proposal.

§94.25. Continuing Education.

(a) (No change.)

(b) A Registered Professional Appraiser (RPA) must complete 30 hours of approved continuing education to be eligible to renew the registration. The continuing education must include:

- (1) two hours in professional ethics;
- (2) a state laws and rules update course; and
- (3) 3.5 [seven] hours in USPAP.

(c) - (h) (No change.)

~~[(i) A RTC, RPA, or RTA must retain a copy of the certificate of completion for a course for two years after the date of completion. In conducting any inspection or investigation of the registrant, the department may examine the registrant's records to determine compliance with this subsection.]~~

~~[(j) To be approved by the Comptroller, a provider's course must be dedicated to instruction in:~~

- ~~(1) appraisal procedures and methods;~~
- ~~(2) tax assessment and collection;~~
- ~~(3) professional ethics;~~
- ~~(4) laws and rules;~~

- (5) USPAP; or
- (6) customer service.

(j) [(k)] The provisions in this section apply to registrations that renew on or after January 1, 2011.

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

Filed with the Office of the Secretary of State on May 20, 2013.

TRD-201301998

William H. Kuntz, Jr.

Executive Director

Texas Department of Licensing and Regulation

Earliest possible date of adoption: June 30, 2013

For further information, please call: (512) 475-4879



TITLE 19. EDUCATION

PART 7. STATE BOARD FOR EDUCATOR CERTIFICATION

CHAPTER 249. DISCIPLINARY PROCEEDINGS, SANCTIONS, AND CONTESTED CASES

The State Board for Educator Certification (SBEC) proposes amendments to §§249.3, 249.13-249.15, 249.26, and 249.30, concerning disciplinary proceedings, sanctions, and contested cases. The rules establish guidelines and procedures for conducting investigations and disciplinary actions relating to educator misconduct.

The proposed amendments to 19 TAC Chapter 249 would revise the definition of "serious state assessment violation" and would replace a cross reference to a State Board of Education rule that has been repealed. Also, proposed amendments to 19 TAC §249.13, Cancellation of an Erroneously Issued Certificate; §249.14, Complaint, Required Reporting, and Investigation; Investigative Notice; Filing of Petition; §249.26, Petition; and §249.30, Notice of Hearing, would update a cross reference to a rule relating to certificate issuance procedures.

The Texas Education Code (TEC), §21.041(b)(7), authorizes the SBEC to adopt rules that provide for disciplinary proceedings for certificate holders. The SBEC rules in 19 TAC Chapter 249 are organized as follows: Subchapter A, General Provisions; Subchapter B, Enforcement Actions and Guidelines; Subchapter C, Prehearing Matters; Subchapter D, Hearing Procedures; and Subchapter E, Posthearing Matters.

Proposed 19 TAC §249.3(50), defining "serious state assessment testing violation," would be revised to define the term as "state assessment testing violation" so that the term would be consistently used in both 19 TAC §249.14(h)(1)(J) and 19 TAC §249.15(b)(9)(J).

Section §101.65, Penalties, previously contained provisions relating to educator sanctions for violations of state assessment procedures that were referenced in 19 TAC §249.15(b)(8). In March 2013, 19 TAC §101.65, as well as §101.61, Security of Tests, and §101.63, Confidentiality, were repealed, and the sub-

stantive provisions they contained were transferred to the state assessment *Test Security Supplement*, which is adopted in rule in 19 TAC §101.3031, Required Test Administration Procedures and Training Activities to Ensure Validity, Reliability, and Security of Assessments.

Proposed 19 TAC §249.15(g) would be added to replace the content of the repealed 19 TAC §101.65. The amendment would result in a more easily accessible and specific description of examples of conduct considered to be a state assessment violation for purposes of SBEC sanctions. Accordingly, 19 TAC §249.15(b)(8) would be amended to reference 19 TAC §249.15(g) instead of 19 TAC §101.65.

In addition, 19 TAC §§249.13(b), 249.14(j)(1)(A) and (j)(2)(A), 249.26(c), and 249.30(c)(3)(A) would be amended to update references to 19 TAC §230.91 due to the reorganization of SBEC rules in 19 TAC Chapter 230, Professional Educator Preparation and Certification.

The proposed amendments would have no procedural and reporting implications. Also, the proposed amendments would have no locally maintained paperwork requirements.

Michele Moore, associate commissioner for educator leadership and quality, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed amendments.

Ms. Moore has determined that for the first five-year period the proposed amendments are in effect the public and student benefit anticipated as a result of the proposed amendments would be clarification of the conduct that may be sanctioned by the SBEC as a state assessment violation. There are no additional costs to persons required to comply with the proposed amendments.

In addition, there is no direct adverse economic impact for small businesses and microbusinesses; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

Comments on the proposal may be submitted to Cristina De La Fuente-Valadez, Rulemaking, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, (512) 475-1497. Comments may also be submitted electronically to sbecrules@tea.state.tx.us or faxed to (512) 463-5337. All requests for a public hearing on the proposed amendments submitted under the Administrative Procedure Act must be received by the Department of Educator Leadership and Quality, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, Attention: Ms. Michele Moore, associate commissioner for educator leadership and quality, not more than 14 calendar days after notice of the proposal has been published in the *Texas Register*.

SUBCHAPTER A. GENERAL PROVISIONS

19 TAC §249.3

The amendment is proposed under the Texas Education Code (TEC), §21.041(b)(1), which requires the State Board for Educator Certification (SBEC) to propose rules that provide for the regulation of educators and the general administration of Chapter 21, Subchapter B, in a manner consistent with that subchapter; §21.041(b)(7), which requires the SBEC to propose rules that provide for disciplinary proceedings, including the suspension or revocation of an educator certificate, as provided by the Texas Government Code, Chapter 2001; and §21.041(b)(8), which re-

quires the SBEC to propose rules that provide for the enforcement of an educator's code of ethics.

The proposed amendment implements the TEC, §21.041(b)(1), (7), and (8).

§249.3. *Definitions.*

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

(1) - (49) (No change.)

~~[(50) Serious state assessment testing violation--Failure to observe the requirements of test administration, security, and confidentiality of any assessment required by the Texas Education Code, Chapter 39, Subchapter B, in a manner that involves dishonesty or intent to affect the test score of a student, the evaluation of an educator, or the state or federal accountability rating of a school district or a campus. The term does not include benchmark tests or other locally required assessments.]~~

~~[(51) Solicitation of a romantic relationship--Deliberate or repeated acts that can be reasonably interpreted as the solicitation by an educator of a relationship with a student that is romantic in nature. A romantic relationship is often characterized by a strong emotional or sexual attachment and/or by patterns of exclusivity, but does not include appropriate educator-student relationships that arise out of legitimate contexts such as familial connections or longtime acquaintance. The following acts, considered in context, may constitute prima facie evidence of the solicitation by an educator of a romantic relationship with a student:~~

~~(A) - (K) (No change.)~~

~~[(52) State assessment testing violation--Conduct that violates the security or confidential integrity of any test or assessment required by the Texas Education Code, Chapter 39, Subchapter B, or conduct that is a departure from the test administration procedures established by the commissioner of education in Chapter 101 of this title (relating to Assessment). The term does not include benchmark tests or other locally required assessments.]~~

~~(52) - (60) (No change.)~~

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

Filed with the Office of the Secretary of State on May 20, 2013.

TRD-201301999

Cristina De La Fuente-Valadez

Director, Rulemaking, Texas Education Agency

State Board for Educator Certification

Earliest possible date of adoption: June 30, 2013

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



SUBCHAPTER B. ENFORCEMENT ACTIONS AND GUIDELINES

19 TAC §§249.13 - 249.15

The amendments are proposed under the Texas Education Code (TEC), §21.041(b)(1), which requires the State Board for Educator Certification (SBEC) to propose rules that provide for the regulation of educators and the general administration of Chapter 21, Subchapter B, in a manner consistent with that subchapter;

§21.041(b)(7), which requires the SBEC to propose rules that provide for disciplinary proceedings, including the suspension or revocation of an educator certificate, as provided by the Texas Government Code, Chapter 2001; and §21.041(b)(8), which requires the SBEC to propose rules that provide for the enforcement of an educator's code of ethics.

The proposed amendments implement the TEC, §21.041(b)(1), (7), and (8).

§249.13. *Cancellation of an Erroneously Issued Certificate.*

(a) (No change.)

(b) Before canceling the certificate, the TEA staff shall notify the person issued the certificate of the reasons for which the TEA intends to cancel the certificate and shall provide the person issued the certificate at least ten calendar days to respond and show cause why the certificate should not be canceled. Unless otherwise proved by the person, the show cause notice shall be deemed to have been received by the person no later than five calendar days after mailing to the most recent address the person is required to provide pursuant to §230.91 ~~[§230.434]~~ of this title (relating to Procedures in General).

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

§249.14. *Complaint, Required Reporting, and Investigation; Investigative Notice; Filing of Petition.*

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

(h) To efficiently administer and implement the SBEC's purpose under this chapter and the TEC, the TEA staff may set priorities for the investigation of complaints based on the severity and immediacy of the allegations and the likelihood of harm posed by the subject of the investigation. All cases accepted for investigation shall be assigned one of the following priorities.

(1) Priority 1: conduct that may result in the placement of an investigative notice pursuant to the TEC, §21.007, and subsection (i) of this section because it presents a risk to the health, safety, or welfare of a student or minor, parent of a student, fellow employee, or professional colleague, including, but not limited to, the following:

(A) - (I) (No change.)

(J) ~~[serious]~~ state assessment testing violations;

(K) - (L) (No change.)

(2) (No change.)

(i) (No change.)

(j) The following procedures must be followed for placing an investigative notice on the educator's certification records.

(1) At the time of placing an investigative notice on an educator's certification records for alleged conduct that indicates a risk to the health, safety, or welfare of a student or minor, the TEA staff shall serve the certificate holder with a letter informing the educator of the investigation and the basis of the complaint.

(A) Within ten calendar days of placing an investigative notice on the educator's certification records, the letter notifying the certificate holder of the investigation shall be mailed to the address provided to the TEA staff pursuant to the requirements set forth in §230.91 ~~[§230.434]~~ of this title (relating to Procedures in General).

(B) (No change.)

(2) Prior to placing an investigative notice on an educator's certification records for alleged conduct that indicates a risk to the health, safety, or welfare of a parent of a student, fellow employee, or

professional colleague, as described in subsection (h)(1) of this section, the TEA staff shall serve the certificate holder with a letter informing the educator of the investigation and the basis of the complaint.

(A) At least ten calendar days before placing an investigative notice on the educator's certification records, the letter notifying the certificate holder of the investigation shall be mailed to the address provided to the TEA staff pursuant to the requirements set forth in §230.91 [~~§230.434~~] of this title.

(B) (No change.)

(3) (No change.)

(k) - (m) (No change.)

§249.15. Disciplinary Action by State Board for Educator Certification.

(a) Pursuant to this chapter, the State Board for Educator Certification (SBEC) may take any of the following actions:

(1) place restrictions on the issuance, renewal, or holding of a certificate, either indefinitely or for a set term;

(2) issue an inscribed or non-inscribed reprimand;

(3) suspend a certificate for a set term or issue a probated suspension for a set term;

(4) revoke or cancel, which includes accepting the surrender of, a certificate without opportunity for reapplication for a set term or permanently; or

(5) impose any additional conditions or restrictions upon a certificate that the SBEC deems necessary to facilitate the rehabilitation and professional development of the educator or to protect students, parents of students, school personnel, or school officials.

(b) The SBEC may take any of the actions listed in subsection (a) of this section based on satisfactory evidence that:

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

(8) the person has violated the security or integrity of any assessment required by the TEC, Chapter 39, Subchapter B, as described in subsection (g) of this section or has committed an act that is a departure from the test administration procedures established by the commissioner of education in Chapter 101 of this title (relating to Assessment) [~~including, but not limited to, conduct or omissions described in §101.65 of this title (relating to Penalties)~~];

(9) the person has committed an act described in §249.14(h)(1) of this title, which constitutes sanctionable Priority 1 conduct, as follows:

(A) - (I) (No change.)

(J) [~~serious~~] state assessment testing violations;

(K) - (L) (No change.)

(10) - (11) (No change.)

(c) - (f) (No change.)

(g) The statewide assessment program as defined by the TEC, Chapter 39, Subchapter B, is a secure testing program.

(1) Procedures for maintaining security shall be specified in the appropriate test administration materials.

(2) Secure test materials must be accounted for before, during, and after each test administration. Only authorized personnel may have access to secure test materials.

(3) The contents of each test booklet and answer document are confidential in accordance with the Texas Government Code, Chapter 551, and the Family Educational Rights and Privacy Act of 1974. Individual student performance results are confidential as specified under the TEC, §39.030(b).

(4) Violation of security or confidential integrity of any test required by the TEC, Chapter 39, Subchapter B, shall be prohibited. A person who engages in conduct prohibited by this section may be subject to sanction of credentials, including any of the sanctions provided by subsection (a) of this section.

(5) Charter school test administrators are not required to be certified; however, any irregularity in the administration of any test required by the TEC, Chapter 39, Subchapter B, would cause the charter itself to come under review by the commissioner of education for possible sanctions or revocation, as provided under the TEC, §12.115(a)(4).

(6) Conduct that violates the security and confidential integrity of a test is evidenced by any departure from the test administration procedures established by the commissioner of education. Conduct of this nature may include, but is not limited to, the following acts and omissions:

(A) viewing a test before, during, or after an assessment unless specifically authorized to do so;

(B) duplicating secure examination materials;

(C) disclosing the contents of any portion of a secure test;

(D) providing, suggesting, or indicating to an examinee a response or answer to a secure test item or prompt;

(E) changing or altering a response or answer of an examinee to a secure test item or prompt;

(F) aiding or assisting an examinee with a response or answer to a secure test item or prompt;

(G) fraudulently exempting or preventing a student from the administration of a required state assessment;

(H) encouraging or assisting an individual to engage in the conduct described in paragraphs (1)-(7) of this subsection; or

(I) failing to report to an appropriate authority that an individual has engaged in conduct outlined in paragraphs (1)-(8) of this subsection.

(7) Any irregularities in test security or confidential integrity may also result in the invalidation of student results.

(8) The superintendent and campus principal of each school district and chief administrative officer of each charter school and any private school administering the tests as allowed under the TEC, §39.033, shall develop procedures to ensure the security and confidential integrity of the tests specified in the TEC, Chapter 39, Subchapter B, and shall be responsible for notifying the TEA in writing of conduct that violates the security or confidential integrity of a test administered under the TEC, Chapter 39, Subchapter B. A person who fails to report such conduct as required by this subsection may be subject to any of the sanctions provided by subsection (a) 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 May 20, 2013.

TRD-201302000
Cristina De La Fuente-Valadez
Director, Rulemaking, Texas Education Agency
State Board for Educator Certification
Earliest possible date of adoption: June 30, 2013
For further information, please call: (512) 475-1497

SUBCHAPTER C. PREHEARING MATTERS

19 TAC §249.26

The amendment is proposed under the Texas Education Code (TEC), §21.041(b)(1), which requires the State Board for Educator Certification (SBEC) to propose rules that provide for the regulation of educators and the general administration of Chapter 21, Subchapter B, in a manner consistent with that subchapter; §21.041(b)(7), which requires the SBEC to propose rules that provide for disciplinary proceedings, including the suspension or revocation of an educator certificate, as provided by the Texas Government Code, Chapter 2001; and §21.041(b)(8), which requires the SBEC to propose rules that provide for the enforcement of an educator's code of ethics.

The proposed amendment implements the TEC, §21.041(b)(1), (7), and (8).

§249.26. *Petition.*

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

(c) The petition shall be served on the respondent by United States certified mail, return receipt requested, and by regular first-class United States mail, to the address a certified educator is required to provide pursuant to §230.91 [§230.434] of this title (relating to Procedures in General), or as otherwise specified in this chapter. If an educator, applicant, or examinee is the petitioner, the address to which the petition shall be served is Texas Education Agency, Legal Certification Enforcement Division, 1701 North Congress Avenue, Austin, Texas 78701. A certificate evidencing service shall be included in the petition. For purposes of this section and §249.27 of this title (relating to Answer), it is a rebuttable presumption that a petition was served on the respondent no later than five calendar days after mailing.

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

Filed with the Office of the Secretary of State on May 20, 2013.

TRD-201302001
Cristina De La Fuente-Valadez
Director, Rulemaking, Texas Education Agency
State Board for Educator Certification
Earliest possible date of adoption: June 30, 2013
For further information, please call: (512) 475-1497

SUBCHAPTER D. HEARING PROCEDURES

19 TAC §249.30

The amendment is proposed under the Texas Education Code (TEC), §21.041(b)(1), which requires the State Board for Educator Certification (SBEC) to propose rules that provide for the regulation of educators and the general administration of Chapter 21, Subchapter B, in a manner consistent with that subchapter; §21.041(b)(7), which requires the SBEC to propose rules that provide for disciplinary proceedings, including the suspension or revocation of an educator certificate, as provided by the Texas Government Code, Chapter 2001; and §21.041(b)(8), which requires the SBEC to propose rules that provide for the enforcement of an educator's code of ethics.

The proposed amendment implements the TEC, §21.041(b)(1), (7), and (8).

§249.30. *Notice of Hearing.*

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

(c) For purposes of this subsection, the last known address is:

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

(3) if the party has not provided an address in response to the complaint or proposed action:

(A) for a certified educator, the address supplied by the educator pursuant to §230.91(c) [§230.434(e)] of this title (relating to Procedures in General);

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

(d) (No change.)

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

Filed with the Office of the Secretary of State on May 20, 2013.

TRD-201302002
Cristina De La Fuente-Valadez
Director, Rulemaking, Texas Education Agency
State Board for Educator Certification
Earliest possible date of adoption: June 30, 2013
For further information, please call: (512) 475-1497

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 16. ECONOMIC REGULATION

PART 4. TEXAS DEPARTMENT OF LICENSING AND REGULATION

CHAPTER 94. PROPERTY TAX PROFESSIONALS

16 TAC §94.25

The Texas Department of Licensing and Regulation withdraws the proposed amendment to §94.25 which appeared in the February 1, 2013, issue of the *Texas Register* (38 TexReg 460).

Filed with the Office of the Secretary of State on May 20, 2013.

TRD-201301997

William H. Kuntz, Jr.

Executive Director

Texas Department of Licensing and Regulation

Effective date: May 20, 2013

For further information, please call: (512) 475-4879

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TITLE 19. EDUCATION

PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

CHAPTER 1. AGENCY ADMINISTRATION SUBCHAPTER A. GENERAL PROVISIONS

19 TAC §1.18

The Texas Higher Education Coordinating Board withdraws the proposed amendment to §1.18 which appeared in the May 10, 2013, issue of the *Texas Register* (38 TexReg 2815).

Filed with the Office of the Secretary of State on May 16, 2013.

TRD-201301986

Bill Franz

General Counsel

Texas Higher Education Coordinating Board

Effective date: May 16, 2013

For further information, please call: (512) 427-6127

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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 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 115. TEXAS ESSENTIAL KNOWLEDGE AND SKILLS FOR HEALTH EDUCATION

The State Board of Education (SBOE) adopts amendments to §§115.2-115.7, 115.22, and 115.23, concerning Texas essential knowledge and skills (TEKS) for health education. The amendments are adopted without changes to the proposed text as published in the March 8, 2013, issue of the *Texas Register* (38 TexReg 1499) and will not be republished. The sections establish the TEKS for health education instruction in elementary and middle school. The adopted amendments add student expectations for bullying prevention to the TEKS for health education as required by House Bill (HB) 1942, 82nd Texas Legislature, 2011.

The 82nd Texas Legislature, 2011, passed HB 1942, amending the Texas Education Code (TEC), §28.002, to define bullying and harassment. Under the TEC, §28.002, as amended, the SBOE shall adopt TEKS for the health curriculum, in consultation with the Texas School Safety Center, that include evidence-based practices that will effectively address awareness, prevention, identification, self-defense in response to, and resolution of and intervention in bullying and harassment. The Texas Education Agency (TEA) worked with the Texas School Safety Center to provide recommendations for amendments to the health education TEKS in Kindergarten-Grade 8 to address bullying behavior, including the addition of a specific bullying prevention strand for Grades 4-8.

The adopted amendments have no procedural and reporting implications. The adopted amendments have no locally maintained paperwork requirements.

The TEA determined that there is no direct adverse economic impact for small businesses and microbusinesses; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

The SBOE took action to approve the amendments for second reading and final adoption during its April 19, 2013, meeting.

No public comments were received on the proposal.

SUBCHAPTER A. ELEMENTARY

19 TAC §§115.2 - 115.7

The amendments are adopted under the Texas Education Code, §7.102(c)(4), which authorizes the SBOE to establish curriculum and graduation requirements, and §28.002(s), which authorizes the SBOE to adopt essential knowledge and skills for the health curriculum, in consultation with the Texas School Safety Cen-

ter, that include evidence-based practices that will effectively address awareness, prevention, identification, self-defense in response to, and resolution of and intervention in bullying and harassment.

The amendments implement the Texas Education Code, §§7.102(c)(4), 28.002(s), 37.001, and 37.0832.

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

Filed with the Office of the Secretary of State on May 17, 2013.

TRD-201301990

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Effective date: August 26, 2013

Proposal publication date: March 8, 2013

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



SUBCHAPTER B. MIDDLE SCHOOL

19 TAC §115.22, §115.23

The amendments are adopted under the Texas Education Code, §7.102(c)(4), which authorizes the SBOE to establish curriculum and graduation requirements, and §28.002(s), which authorizes the SBOE to adopt essential knowledge and skills for the health curriculum, in consultation with the Texas School Safety Center, that include evidence-based practices that will effectively address awareness, prevention, identification, self-defense in response to, and resolution of and intervention in bullying and harassment.

The amendments implement the Texas Education Code, §§7.102(c)(4), 28.002(s), 37.001, and 37.0832.

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

Filed with the Office of the Secretary of State on May 17, 2013.

TRD-201301991

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Effective date: August 26, 2013

Proposal publication date: March 8, 2013

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



TITLE 22. EXAMINING BOARDS

PART 17. TEXAS STATE BOARD OF PLUMBING EXAMINERS

CHAPTER 361. ADMINISTRATION

SUBCHAPTER A. GENERAL PROVISIONS

22 TAC §361.14

The Texas State Board of Plumbing Examiners (Board) adopts new 22 TAC §361.14 (Board Rule §361.14), concerning Petition for Adoption of Rules, without changes to the proposed text as published in the February 8, 2013, issue of the *Texas Register* (38 TexReg 573).

REASONED JUSTIFICATION. New Board Rule §361.14 is adopted to replace a similar rule and to position it in proximate numerical sequence with other rules. The new rule is adopted in conjunction with the repeal of 22 TAC §361.21 (Board Rule §361.21). The new rule will replace Board Rule §361.21.

PUBLIC COMMENTS. No comments were received regarding the proposed new rule after publication in the *Texas Register*.

STATUTORY AUTHORITY. The new Board Rule §361.14 is adopted under and affects Chapter 1301 of the Texas Occupations Code (Plumbing License Law). Plumbing License Law §1301.251 requires the Board to adopt and enforce rules necessary to administer the Plumbing License Law.

No other statute, article, or code is affected by this adopted new 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 May 15, 2013.

TRD-201301983

Lisa Hill

Executive Director

Texas State Board of Plumbing Examiners

Effective date: June 4, 2013

Proposal publication date: February 8, 2013

For further information, please call: (512) 936-5224



22 TAC §361.15

The Texas State Board of Plumbing Examiners (Board) adopts new 22 TAC §361.15 (Board Rule §361.15), concerning Election of Board Officers, without changes to the proposed text as published in the February 8, 2013, issue of the *Texas Register* (38 TexReg 574).

REASONED JUSTIFICATION. New Board Rule §361.15 is adopted to replace a similar rule and to position it in proximate numerical sequence with other rules. The new rule is adopted in conjunction with the repeal of 22 TAC §361.29 (Board Rule §361.29). The new rule will replace Board Rule §361.29.

PUBLIC COMMENTS. No comments were received regarding the proposed new rule after publication in the *Texas Register*.

STATUTORY AUTHORITY. The new Board Rule §361.15 is adopted under and affects Chapter 1301 of the Texas Oc-

cupations Code (Plumbing License Law). Plumbing License Law §1301.251 requires the Board to adopt and enforce rules necessary to administer the Plumbing License Law.

No other statute, article, or code is affected by this adopted new 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 May 15, 2013.

TRD-201301984

Lisa Hill

Executive Director

Texas State Board of Plumbing Examiners

Effective date: June 4, 2013

Proposal publication date: February 8, 2013

For further information, please call: (512) 936-5224



SUBCHAPTER B. PETITION FOR ADOPTION OF RULES

22 TAC §361.21

The Texas State Board of Plumbing Examiners (Board) adopts the repeal of 22 TAC §361.21 (Board Rule §361.21), concerning Petition for Adoption of Rules, without changes to the proposal as published in the February 8, 2013, issue of the *Texas Register* (38 TexReg 574).

REASONED JUSTIFICATION. The repeal of Board Rule §361.21 is necessary in order to position a new rule to replace it in proximate numerical sequence with prior rules. The replacement rule will be 22 TAC §361.14 and is adopted in conjunction with this repeal.

PUBLIC COMMENTS. No comments were received regarding the proposed repeal after publication in the *Texas Register*.

STATUTORY AUTHORITY. The repeal of Board Rule §361.21 is adopted under and affects Chapter 1301 of the Texas Occupations Code (Plumbing License Law). Plumbing License Law §1301.251 requires the Board to adopt and enforce rules necessary to administer the Plumbing License Law.

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

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

Filed with the Office of the Secretary of State on May 15, 2013.

TRD-201301981

Lisa Hill

Executive Director

Texas State Board of Plumbing Examiners

Effective date: June 4, 2013

Proposal publication date: February 8, 2013

For further information, please call: (512) 936-5224



SUBCHAPTER C. ELECTION OF BOARD OFFICERS

22 TAC §361.29

The Texas State Board of Plumbing Examiners (Board) adopts the repeal of 22 TAC §361.29 (Board Rule §361.29), concerning Board Officers, without changes to the proposal as published in the February 8, 2013, issue of the *Texas Register* (38 TexReg 575).

REASONED JUSTIFICATION. The repeal of Board Rule §361.29 is necessary in order to position a new rule to replace it in proximate numerical sequence with prior rules. The replacement rule will be 22 TAC §361.15 and is adopted in conjunction with this repeal.

PUBLIC COMMENTS. No comments were received regarding the proposed repeal after publication in the *Texas Register*.

STATUTORY AUTHORITY. The repeal of Board Rule §361.29 is adopted under and affects Chapter 1301 of the Texas Occupations Code (Plumbing License Law). Plumbing License Law §1301.251 requires the Board to adopt and enforce rules necessary to administer the Plumbing License Law.

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

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

Filed with the Office of the Secretary of State on May 15, 2013.

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Lisa Hill

Executive Director

Texas State Board of Plumbing Examiners

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For further information, please call: (512) 936-5224



TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 3. TAX ADMINISTRATION SUBCHAPTER V. FRANCHISE TAX

34 TAC §3.588

The Comptroller of Public Accounts adopts an amendment to §3.588, concerning margin: cost of goods sold, with changes to the proposed text as published in the March 15, 2013, issue of the *Texas Register* (38 TexReg 1840).

Subsection (b) is amended to add new paragraph (9), which defines the term "service costs." The following paragraphs are renumbered accordingly.

Comments were received from the State Tax Committee of the Texas Society of Certified Public Accountants (TSCPA) and the Section of Taxation of the State Bar of Texas (SBoT) expressing concern that the proposed definition of the term "service costs" could be read to mean that indirect and administrative overhead

costs other than labor costs would no longer be allowed to be included in a taxable entities' cost of goods sold calculation under Tax Code, §171.1012(f). In addition, the SBoT recommended that the specific examples of "service costs" that were proposed to be provided in subsections (b)(9) and (f)(1) should instead be provided in a single place in the rule. Accordingly, subsection (b)(9) has been amended to define service costs as "indirect costs and administrative overhead costs that can be identified specifically with a service department or function or that directly benefit or are incurred by reason of a service department or function." In addition, the examples of types of allowable service costs that were previously provided in subsection (f)(1) have been reorganized in subsection (b)(9).

Subsection (c) is amended to correct typographical errors and to memorialize current comptroller policies. Subsection (c)(3) is amended to implement a change in the comptroller's policy regarding taxable entities filing amended franchise tax reports to change their election to use either the compensation deduction method or the cost of goods sold (COGS) method to compute margin. See STAR Accession No. 201206444L (June 12, 2012). Previously, the regulations stated that if a taxable entity made an election to compute its margin using the COGS method, the entity could not, after the due date of the original report, file an amended report to change the method of computing margin from the COGS method to the compensation deduction method. The revised regulations provide that a taxable entity that initially computed its margin using the COGS method may file an amended report to change the method of computing margin to the compensation deduction method, 70% of total revenue, or, if qualified, the E-Z computation method.

Comments were received from the SBoT expressing concern that the proposed amendment to subsection (c)(3) would only allow a taxable entity to change its election to use the COGS method by filing an amended franchise tax report. The comments emphasized that while a taxable entity under audit might seek to change its election if the auditor determined that the entity was not eligible to use the COGS method, the proposed amendments to the rule could be interpreted to preclude that change. To address these concerns, subsection (c)(3) has been amended to clarify that in addition to changing its election by filing an amended report, a taxable entity may also change its election while under audit.

In addition, comments were received from P. Harris Consulting, Corporate Tax Services, requesting that the comptroller also amend subsection (c)(2) of this section to allow taxpayers to change their election to either capitalize or expense allowable costs. The comptroller declines to amend subsection (c)(2).

Subsection (d) is amended to improve readability, correct typographical errors, and clarify which expenses qualify as direct costs of acquiring or producing goods under Tax Code, §171.1012(c). Subsection (d), which was named "Cost of goods sold," is renamed "Direct costs." Subsection (d)(1), concerning labor costs, is amended to memorialize the comptroller's revised policy, which is based in part on federal income tax requirements, regarding the labor expenses that may be included in a taxpayer's COGS calculation under Tax Code, §171.1012(c)(1). Internal Revenue Code (IRC), §263A identifies costs that would otherwise be deductible as ordinary and necessary business expenses for federal income tax purposes but must instead be capitalized into inventory. Under IRC, §263A, taxpayers must capitalize both direct labor and material costs and indirect costs that directly benefit, or are incurred by reason of, the

performance of production activities. Many of the indirect costs that are required to be capitalized for federal purposes are specifically referenced in Tax Code, §171.1012(c) as part of "all direct costs of acquiring or producing goods." Based upon this, the comptroller has concluded that Tax Code, §171.1012(c)(1) allows taxable entities to include in their cost of goods sold calculation both direct labor costs and those indirect labor costs, other than service costs, that are subject to capitalization under the Treasury Regulations interpreting IRC, §263A. The proposed amendments reflect this policy determination.

The comptroller is aware that many taxpayers fall under the regulations related to IRC, §460, rather than IRC, §263A. The amendments in this subsection include a reference to the federal regulations interpreting IRC, §460, which apply the rules set forth in the relevant portions of the §263A regulations. In addition, the amendments make clear that the expenses described in subsection (d)(1) are expenses of the type that are subject to capitalization under IRC, §263A, without regard to whether a taxable entity actually capitalized those expenses on its federal return.

The SBoT submitted comments suggesting that the comptroller's position, as expressed in subsection (d)(1), might prevent certain small resellers, agricultural and timber businesses, and oil and gas exploration companies from deducting all of their costs. Consequently, subsection (d)(1) is amended to state as follows: "Labor costs. A taxable entity may include in its cost of goods sold calculation labor costs, other than service costs, that are properly allocable to the acquisition or production of goods and are of the type subject to capitalization or allocation under Treasury Regulation Sections 1.263A-1(e) or 1.460-5 as direct labor costs, indirect labor costs, employee benefit expenses, or pension and other related costs, without regard to whether the taxable entity is required to or actually capitalizes such costs for federal income tax purposes."

Both the TSCPA and the SBoT submitted comments expressing concern about the wording of subsection (d)(1)(A). To address those concerns, the subsection is amended to change the term "1099 wages" to "1099 payments for labor," and the phrase "such as" to "including, but not limited to." The revised subsection now reads as follows: "For purposes of this section, labor costs include W-2 wages, IRS Form 1099 payments for labor, temporary labor expenses, payroll taxes, pension contributions, and employee benefits expenses, including, but not limited to, health insurance and per diem reimbursements for travel expenses."

Subsection (d)(3), concerning consumable materials, is amended to add the word "ordinary" to the phrase "course of performing production activities." This term is added to conform to the rule language to the language of the statute. Specifically, Tax Code, §171.1012(c)(3) states that the cost of goods sold includes the "cost of materials that are consumed in the ordinary course of performing production activities."

Comments received from the TSCPA expressed concern that the addition of the word "ordinary" to subsection (d)(3) "may create confusion or limit the deduction to only routine expenditures" and requested that the term be removed. Because the term appears in the statute, the comptroller declines to delete it from the rule.

The TSCPA also requested clarification that subsection (d)(11) (relating to taxes) allows property taxes paid on buildings and equipment used in the manufacturing process or in the acquisition or storage of goods to be included in a taxable entity's COGS calculation. The comptroller has amended this subsection to provide the requested clarification.

Subsection (f) is amended to correct typographical errors and to explain the comptroller's existing policy more clearly. Tax Code, §171.1012(f) places a four percent cap on a taxpayer's deduction for "indirect or administrative overhead costs, including all mixed service costs... that... are allocable to the acquisition or production of goods." The indirect or administrative overhead costs identified under Tax Code, §171.1012(f) that are allocable to the acquisition or production of goods are analogous to "service costs" in the federal regulations interpreting IRC, §263A. These "service costs" are defined as "a type of indirect costs (e.g., general and administrative costs) that can be identified specifically with a service department or function or that directly benefit or are incurred by reason of a service department or function." The federal regulations differentiate between deductible service costs, service costs that must be capitalized, and mixed service costs. Tax Code, §171.1012(f), however, applies to all service costs that the taxpayer can demonstrate are allocable to the acquisition or production of goods because the legislature specifically included examples of both deductible service costs and service costs that must be capitalized for federal purposes. Under the plain language of the statute, indirect or administrative overhead costs that are not allocable to the production or acquisition of goods cannot be included in a taxable entity's COGS calculation.

Comments received from the TSCPA and the SBoT emphasized that service costs, as defined by the comptroller's proposed rule, are only one category of indirect or administrative overhead costs. Tax Code, §171.1012(f) allows taxable entities to include all indirect or administrative overhead costs in determining the underlying amount to which the four percent limitation is applied. As proposed, this section would have required taxpayers to apply the four percent limitation to service costs only, not to all indirect or administrative overhead costs. In response to these concerns, the final sentence of subsection (f) of this section is amended to state, "The amount subtracted may not exceed 4.0% of total indirect and administrative overhead costs."

In addition, both the TSCPA and the SBoT submitted comments requesting clarification regarding the proposed use of the word "properly" before the term "allocable" in the proposed rule. The TSCPA expressed concern that the word "properly" lacked specific meaning. The SBoT requested that the term "properly" be deleted or, in the alternative, that subsection (f) be amended to state that costs allocated by a reasonable allocation method described in Treasury Regulation Section 1.263A-1(f)(4) would be deemed to be properly allocated. To provide additional clarity and to address the concerns raised, the comptroller has deleted the word "properly" and replaced it with the word "reasonably." The comptroller intends for this provision to clarify for taxpayers that the allocation method used must be reasonable.

Comments received from the TSCPA further requested "that the Comptroller amend Rule 3.588 to state that costs allowable as direct costs under Rule 3.588(d) should not be treated as 'indirect or administrative overhead costs,' which are subject to the limitations of Rule 3.588(f)(1)." Such an amendment would be contrary to the plain language of Tax Code, §171.1012(f), which, as explained above, states that mixed service costs allocable to the production or acquisition of goods are subject to the four percent cap.

Under the comptroller's revised policy, as reflected in the amendments to subsections (b)(9), (d)(1), and (f), taxpayers may include the following labor expenses in their cost of goods sold calculation: all direct labor costs; all indirect labor costs, other

than service costs, that are capitalized under IRC, §263A; and service costs that are allocable to the acquisition or production of goods, subject to a four percent cap.

Finally, comments received from the SBoT and TSCPA also included recommendations for suggested revisions to subsection (g)(12) of this section and to §3.584 (concerning Margin: Reports and Payments) and §3.589 (concerning Margin: Compensation). The comptroller will consider these recommendations when she proposes revisions to those rules.

The amendment is adopted under Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of Tax Code, Title 2.

The amendment implements Tax Code, §171.1012.

§3.588. *Margin: Cost of Goods Sold.*

(a) **Effective Date.** The provisions of this section apply to franchise tax reports originally due on or after January 1, 2008.

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

(1) **Arm's length**--The standard of conduct under which entities that are not related parties and that have substantially equal bargaining power, each acting in its own interest, would negotiate or carry out a particular transaction.

(2) **Computer program**--A series of instructions that are coded for acceptance or use by a computer system and that are designed to permit the computer system to process data and provide results and information. The series of instructions may be contained in or on magnetic tapes, printed instructions, or other tangible or electronic media.

(3) **Goods**--Real or tangible personal property sold in the ordinary course of business of a taxable entity. "Goods" includes:

- (A) the husbandry of animals;
- (B) the growing and harvesting of crops;
- (C) the severance of timber from realty.

(4) **Heavy construction equipment**--Self-propelled, self-powered, or pull-type equipment that weighs at least 3,000 pounds and is intended to be used for construction. The term does not include a motor vehicle required to be titled and registered.

(5) **Lending institution**--An entity that makes loans and:

(A) is regulated by the Federal Reserve Board, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Commodity Futures Trading Commission, the Office of Thrift Supervision, the Texas Department of Banking, the Office of Consumer Credit Commissioner, the Credit Union Department, or any comparable regulatory body;

(B) is licensed by, registered with, or otherwise regulated by the Department of Savings and Mortgage Lending;

(C) is a "broker" or "dealer" as defined by the Securities Exchange Act of 1934 at 15 U.S.C. §78c; or

(D) provides financing to unrelated parties solely for agricultural production.

(6) **Principal business activity**--The activity in which a taxable entity derives the largest percentage of its "total revenue".

(7) **Production--Construction**, manufacture, installation occurring during the manufacturing or construction process, development, mining, extraction, improvement, creation, raising, or growth.

(8) **Related party**--A person, corporation, or other entity, including an entity that is treated as a pass-through or disregarded entity for purposes of federal taxation, whether the person, corporation, or entity is subject to the tax under this chapter or not, in which one person, corporation, or entity, or set of related persons, corporations, or entities, directly or indirectly owns or controls a controlling interest in another entity.

(9) **Service costs**--Indirect costs and administrative overhead costs that can be identified specifically with a service department or function, or that directly benefit or are incurred by reason of a service department or function. For purposes of this section, a service department includes personnel (including costs of recruiting, hiring, relocating, assigning, and maintaining personnel records or employees); accounting (including accounts payable, disbursements, and payroll functions); data processing; security; legal; general financial planning and management; and other similar departments or functions.

(10) **Tangible personal property**--

(A) includes:

(i) personal property that can be seen, weighed, measured, felt, or touched or that is perceptible to the senses in any other manner;

(ii) films, sound recordings, videotapes, live and prerecorded television and radio programs, books, and other similar property embodying words, ideas, concepts, images, or sound, without regard to the means or methods of distribution or the medium in which the property is embodied, for which, as costs are incurred in producing the property, it is intended or is reasonably likely that any medium in which the property is embodied will be mass-distributed by the creator or any one or more third parties in a form that is not substantially altered; and

(iii) a computer program, as defined in paragraph (2) of this subsection.

(B) does not include:

- (i) intangible property or
- (ii) services.

(11) **Undocumented worker**--A person who is not lawfully entitled to be present and employed in the United States.

(c) **General rules for determining cost of goods sold.**

(1) **Affiliated entities.** Notwithstanding any other provision of this section, a payment made by one member of an affiliated group to another member of that affiliated group not included in the combined group may be subtracted as a cost of goods sold only if it is a transaction made at arm's length.

(2) **Capitalization or expensing of certain costs.** The election to capitalize or expense allowable costs is made by filing the franchise tax report using one method or the other. The election is for the entire period on which the report is based and may not be changed after the due date or the date the report is filed, whichever is later. A taxable entity that is allowed a subtraction by this section for a cost of goods sold and that is subject to Internal Revenue Code, §§263A, 460, or 471 (including a taxable entity subject to §471 that elects to use LIFO under §472), may elect to:

(A) Capitalize those costs in the same manner and to the same extent that the taxable entity capitalized those costs on its federal

income tax return, except for those costs excluded under subsection (g) of this section, or in accordance with subsections (d), (e), and (f) of this section. A taxable entity that elects to capitalize costs on its first report due on or after January 1, 2008, may include, in beginning inventory, costs allowable for franchise tax purposes that would be in beginning inventory for federal income tax purposes.

(i) If the taxable entity elects to capitalize those costs allowed under this section as a cost of goods sold, it must capitalize each cost allowed under this section that it capitalized on its federal income tax return.

(ii) If the taxable entity later elects to begin expensing those costs allowed under this section as a cost of goods sold, the entity may not deduct any cost incurred before the first day of the period on which the report is based, including any ending inventory from a previous report.

(B) Expense those costs, except for those costs excluded under subsection (g) of this section, or in accordance with subsections (d), (e), and (f) of this section.

(i) If the taxable entity elects to expense those costs allowed under this section as a cost of goods sold, costs incurred before the first day of the period on which the report is based may not be subtracted as a cost of goods sold.

(ii) If the taxable entity later elects to begin capitalizing those costs allowed under this section as a cost of goods sold, costs incurred prior to the accounting period on which the report is based may not be capitalized.

(3) Election to subtract cost of goods sold. A taxable entity, if eligible, must make an annual election to subtract cost of goods sold in computing margin by the due date, or at the time the report is filed, whichever is later. The election to subtract cost of goods sold is made by filing the franchise tax report using the cost of goods sold method. An amended report may be filed within the time allowed by Tax Code, §111.107 to change the method of computing margin to the cost of goods sold deduction method or from the cost of goods sold deduction method to the compensation deduction method, 70% of total revenue, or, if otherwise qualified, the E-Z computation method. An election may also be changed as part of an audit. See §3.584 of this title (relating to Margin: Reports and Payments).

(4) Exclusions from total revenue. Any expense excluded from total revenue (see §3.587 of this title (relating to Margin: Total Revenue)) may not be included in the determination of cost of goods sold.

(5) Film and broadcasting. A taxable entity whose principal business activity is film or television production or broadcasting or the sale of broadcast rights or the distribution of tangible personal property described by subsection (b)(10)(A)(ii) of this section, or any combination of these activities, and who elects to use cost of goods sold to determine margin, may include as cost of goods sold:

(A) the costs described in this section in relation to the property;

(B) depreciation, amortization, and other expenses directly related to the acquisition, production, or use of the property, including

(C) expenses for the right to broadcast or use the property.

(6) Lending institutions. Notwithstanding any other provision of this section, if the taxable entity is a lending institution that offers loans to the public and elects to subtract cost of goods sold, the

entity may subtract as a cost of goods sold an amount equal to interest expense.

(A) This paragraph does not apply to entities primarily engaged in an activity described by category 5932 of the 1987 Standard Industrial Classification Manual published by the federal Office of Management and Budget.

(B) For purposes of this subsection, an entity engaged in lending to unrelated parties solely for agricultural production offers loans to the public.

(7) Mixed transactions. If a transaction contains elements of both a sale of tangible personal property and a service, a taxable entity may only subtract as cost of goods sold the costs otherwise allowed by this section in relation to the tangible personal property sold.

(8) Owner of goods. A taxable entity may make a subtraction under this section in relation to the cost of goods sold only if that entity owns the goods. The determination of whether a taxable entity is an owner is based on all of the facts and circumstances, including the various benefits and burdens of ownership vested with the taxable entity.

(A) A taxable entity furnishing labor or materials to a project for the construction, improvement, remodeling, repair, or industrial maintenance (as the term "maintenance" is defined in §3.357 of this title (relating to Nonresidential Real Property Repair, Remodeling, and Restoration; Real Property Maintenance)), of real property is considered to be an owner of the labor or materials and may include the costs, as allowed by this section, in the computation of the cost of goods sold.

(B) Solely for the purposes of this section, a taxable entity shall be treated as the owner of goods being manufactured or produced by the entity under a contract with the federal government, including any subcontracts that support a contract with the federal government, notwithstanding that the Federal Acquisition Regulations may require that title or risk of loss with respect to those goods be transferred to the federal government before the manufacture or production of those goods is complete.

(9) Rentals and leases. Notwithstanding any other provision of this section, the following taxable entities may subtract as cost of goods sold the costs otherwise allowed by this section in relation to tangible personal property that the entity rents or leases in the ordinary course of business of the entity:

(A) a motor vehicle rental company that remits a tax on gross receipts imposed under Tax Code, §152.026 or a motor vehicle leasing company;

(B) a heavy construction equipment rental or leasing company; and

(C) a railcar rolling stock rental or leasing company.

(10) Reporting methods. A taxable entity shall determine its cost of goods sold, except as otherwise provided by this section, in accordance with the methods used on the federal income tax return on which the report under this chapter is based. This subsection does not affect the type or category of cost of goods sold that may be subtracted under this section.

(11) Restaurants and bars. Entities engaged in activities described in Major Group 58 (Eating and Drinking Places) of the Standard Industrial Classification Manual may deduct for cost of goods sold only those expenses allowed under subsections (d), (e) and (f) of this section, that relate to the acquisition and production of food and beverages. Any costs related to both the production of food and beverages

and to other activities must be allocated to production on a reasonable basis.

(d) Direct costs. The cost of goods sold includes all direct costs of acquiring or producing the goods. Direct costs include:

(1) Labor costs. A taxable entity may include in its cost of goods sold calculation labor costs, other than service costs, that are properly allocable to the acquisition or production of goods and are of the type subject to capitalization or allocation under Treasury Regulation Sections 1.263A-1(e) or 1.460-5 as direct labor costs, indirect labor costs, employee benefit expenses, or pension and other related costs, without regard to whether the taxable entity is required to or actually capitalizes such costs for federal income tax purposes.

(A) For purposes of this section, labor costs include W-2 wages, IRS Form 1099 payments for labor, temporary labor expenses, payroll taxes, pension contributions, and employee benefits expenses, including, but not limited to, health insurance and per diem reimbursements for travel expenses, to the extent deductible for federal tax purposes.

(B) Labor costs under this paragraph shall not include any type of costs includable in subsection (f) or excluded in subsection (g) of this section. Costs for labor that do not meet the requirements set forth in this paragraph may still be subtracted as a cost of goods sold if the cost is allowed under another provision of this section. For example, service costs may be included in a taxable entity's cost of goods sold calculation to the extent provided by subsection (f) of this section.

(2) Incorporated materials. A taxable entity may include in its cost of goods sold calculation the cost of materials that are an integral part of specific property produced.

(3) Consumable materials. A taxable entity may include in its cost of goods sold calculation the cost of materials that are consumed in the ordinary course of performing production activities.

(4) Handling costs. A taxable entity may include in its cost of goods sold calculation handling costs, including costs attributable to processing, assembling, repackaging, and inbound transportation.

(5) Storage costs. A taxable entity may include in its cost of goods sold calculation storage costs, including the costs of carrying, storing, or warehousing property, subject to subsection (g) of this section, concerning excluded costs.

(6) Depreciation, depletion, and amortization. A taxable entity may include in its cost of goods sold calculation depreciation, depletion, and amortization reported on the federal income tax return on which the report under this chapter is based, to the extent associated with and necessary for the production of goods, including recovery described by Internal Revenue Code, §197, and property described in Internal Revenue Code, §179.

(7) Rentals and leases. A taxable entity may include in its cost of goods sold calculation the cost of renting or leasing equipment, facilities, or real property directly used for the production of the goods, including pollution control equipment and intangible drilling and dry hole costs.

(8) Repair and maintenance. A taxable entity may include in its cost of goods sold calculation the cost of repairing and maintaining equipment, facilities, or real property directly used for the production of the goods, including pollution control devices.

(9) Research and development. A taxable entity may include in its cost of goods sold calculation the costs attributable to research, experimental, engineering, and design activities directly related

to the production of the goods, including all research or experimental expenditures described by Internal Revenue Code, §174.

(10) Mineral production. A taxable entity may include in its cost of goods sold calculation geological and geophysical costs incurred to identify and locate property that has the potential to produce minerals.

(11) Taxes. A taxable entity may include in its cost of goods sold calculation taxes paid in relation to acquiring or producing any material, including property taxes paid on buildings and equipment, and taxes paid in relation to services that are a direct cost of production.

(12) Electricity. A taxable entity may include in its cost of goods sold calculation the cost of producing or acquiring electricity sold.

(13) A taxable entity may include in its cost of goods sold calculation a contribution to a partnership in which the taxable entity owns an interest that is used to fund activities, the costs of which would otherwise be treated as cost of goods sold of the partnership, but only to the extent that those costs are related to goods distributed to the contributing taxable entity as goods-in-kind in the ordinary course of production activities rather than being sold by the partnership.

(e) Additional costs. In addition to the amounts includable under subsection (d) of this section, the cost of goods sold includes the following costs in relation to the taxable entity's goods:

(1) deterioration of the goods;

(2) obsolescence of the goods;

(3) spoilage and abandonment, including the costs of rework, reclamation, and scrap;

(4) if the property is held for future production, preproduction direct costs allocable to the property, including storage and handling costs, as provided by subsection (d)(4) and (5) of this section;

(5) postproduction direct costs allocable to the property, including storage and handling costs, as provided by subsection (d)(4) and (5) of this section;

(6) the cost of insurance on a plant or a facility, machinery, equipment, or materials directly used in the production of the goods;

(7) the cost of insurance on the produced goods;

(8) the cost of utilities, including electricity, gas, and water, directly used in the production of the goods;

(9) the costs of quality control, including replacement of defective components pursuant to standard warranty policies, inspection directly allocable to the production of the goods, and repairs and maintenance of goods; and

(10) licensing or franchise costs, including fees incurred in securing the contractual right to use a trademark, corporate plan, manufacturing procedure, special recipe, or other similar right directly associated with the goods produced.

(f) Indirect or administrative overhead costs. A taxable entity may subtract as a cost of goods sold service costs, as defined in subsection (b)(9) of this section, that it can demonstrate are reasonably allocable to the acquisition or production of goods. The amount subtracted may not exceed 4.0% of total indirect and administrative overhead costs.

(1) Any costs already subtracted under subsections (d) or (e) of this section may not be subtracted under this subsection.

(2) Any costs excluded under subsection (g) of this section may not be subtracted under this subsection.

(g) Costs not included. The cost of goods sold does not include the following costs in relation to the taxable entity's goods:

(1) the cost of renting or leasing equipment, facilities, or real property that is not used for the production of the goods;

(2) selling costs, including employee expenses related to sales;

(3) distribution costs, including outbound transportation costs;

(4) advertising costs;

(5) idle facility expenses;

(6) rehandling costs;

(7) bidding costs, which are the costs incurred in the solicitation of contracts ultimately awarded to the taxable entity;

(8) unsuccessful bidding costs, which are the costs incurred in the solicitation of contracts not awarded to the taxable entity;

(9) interest, including interest on debt incurred or continued during the production period to finance the production of the goods;

(10) income taxes, including local, state, federal, and foreign income taxes, and franchise taxes that are assessed on the taxable entity based on income;

(11) strike expenses, including costs associated with hiring employees to replace striking personnel, but not including the wages of the replacement personnel, costs of security, and legal fees associated with settling strikes;

(12) officers' compensation;

(13) costs of operation of a facility that is:

(A) located on property owned or leased by the federal government; and

(B) managed or operated primarily to house members of the armed forces of the United States;

(14) any compensation paid to an undocumented worker used for the production of goods; and

(15) costs funded by a partnership contribution, to the extent that the contributing taxable entity made the cost of goods sold deduction under subsection (d)(13) of this section.

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

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Ashley Harden

General Counsel

Comptroller of Public Accounts

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For further information, please call: (512) 475-0387

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REVIEW OF AGENCY RULES

notices of *intention to review*, which invite public comment to specified rules; and (3) notices of *readoption*, which summarize public comment to specified rules. The complete text of an agency's *plan to review* is available after it is filed with the Secretary of State on the Secretary of State's web site (<http://www.sos.state.tx.us/texreg>). The complete text of an agency's rule being reviewed and considered for *readoption* is available in the *Texas Administrative Code* on the web site (<http://www.sos.state.tx.us/tac>).

For questions about the content and subject matter of rules, please contact the state agency that is reviewing the rules. Questions about the web site and printed copies of these notices may be directed to the *Texas Register* office.

Agency Rule Review Plan

Texas Education Agency

Title 19, Part 2

TRD-201302009

Filed: May 21, 2013



Adopted Rule Reviews

Texas Department of Insurance, Division of Workers' Compensation

Title 28, Part 2

The Texas Department of Insurance (Department), Division of Workers' Compensation (Division) has completed its review required by the Texas Government Code §2001.039 of the following chapter of the Texas Administrative Code, Title 28, Part 2, Chapter 55, concerning Lump Sum Payments. The reviewed sections in this chapter are subsequently referred to collectively in this Notice of Adopted Review as "the sections."

The notice of proposed rule review was published in the March 1, 2013, issue of the *Texas Register* (38 TexReg 1377). As provided in this notice, the Division reviewed and considered the sections for re-adoption, revision, or repeal.

The Division considered whether the reasons for adoption of the sections continue to exist. The Division received no written comments regarding the review of the sections.

The Division has determined that the reasons for adopting the sections continue to exist and the sections are retained. Any revisions in the future will be accomplished in accordance with the Administrative Procedure Act.

This concludes and completes the Division's review of Chapter 55; the chapter will be reviewed again in the future in accordance with Government Code §2001.039.

TRD-201302030

Dirk Johnson

General Counsel

Texas Department of Insurance, Division of Workers' Compensation

Filed: May 22, 2013



The Texas Department of Insurance (Department), Division of Workers' Compensation (Division) has completed its review required by the Texas Government Code §2001.039 of the following chapter of the

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)

Texas Administrative Code, Title 28, Part 2, Chapter 56, concerning Structured Compromise Settlement Agreements. The reviewed sections in this chapter are subsequently referred to collectively in this Notice of Adopted Review as "the sections."

The notice of proposed rule review was published in the March 1, 2013, issue of the *Texas Register* (38 TexReg 1377). As provided in this notice, the Division reviewed and considered the sections for re-adoption, revision, or repeal.

The Division considered whether the reasons for adoption of the sections continue to exist. The Division received no written comments regarding the review of the sections.

The Division has determined that the reasons for adopting the sections continue to exist and the sections are retained. Any revisions in the future will be accomplished in accordance with the Administrative Procedure Act.

This concludes and completes the Division's review of Chapter 56; the chapter will be reviewed again in the future in accordance with Government Code §2001.039.

TRD-201302031

Dirk Johnson

General Counsel

Texas Department of Insurance, Division of Workers' Compensation

Filed: May 22, 2013



The Texas Department of Insurance (Department), Division of Workers' Compensation (Division) has completed its review required by the Texas Government Code §2001.039 of the following chapter of the Texas Administrative Code, Title 28, Part 2, Chapter 57, concerning Request for Case Folders and Certifications of Actions of the Board. The reviewed sections in this chapter are subsequently referred to collectively in this Notice of Adopted Review as "the sections."

The notice of proposed rule review was published in the March 1, 2013, issue of the *Texas Register* (38 TexReg 1378). As provided in this notice, the Division reviewed and considered the sections for re-adoption, revision, or repeal.

The Division considered whether the reasons for adoption of the sections continue to exist. The Division received no written comments regarding the review of the sections.

The Division has determined that the reasons for adopting the sections continue to exist and the sections are retained. Any revisions in the future will be accomplished in accordance with the Administrative Procedure Act.

This concludes and completes the Division's review of Chapter 57; the chapter will be reviewed again in the future in accordance with Government Code §2001.039.

TRD-201302032

Dirk Johnson

General Counsel

Texas Department of Insurance, Division of Workers' Compensation

Filed: May 22, 2013



The Texas Department of Insurance (Department), Division of Workers' Compensation (Division) has completed its review required by the Texas Government Code §2001.039 of the following chapter of the Texas Administrative Code, Title 28, Part 2, Chapter 59, concerning Notices of Intention to Appeal. The reviewed sections in this chapter are subsequently referred to collectively in this Notice of Adopted Review as "the sections".

The notice of proposed rule review was published in the March 8, 2013, issue of the *Texas Register* (38 TexReg 1707). As provided in this notice, the Division reviewed and considered the sections for re-adoption, revision, or repeal.

The Division considered whether the reasons for adoption of the sections continue to exist. The Division received no written comments regarding the review of the sections.

The Division has determined that the reasons for adopting the sections continue to exist and the sections are retained. Any revisions in the future will be accomplished in accordance with the Administrative Procedure Act.

This concludes and completes the Division's review of Chapter 59; the chapter will be reviewed again in the future in accordance with Government Code §2001.039.

TRD-201302033

Dirk Johnson

General Counsel

Texas Department of Insurance, Division of Workers' Compensation

Filed: May 22, 2013



IN ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings issued by the Office of Consumer Credit Commissioner, and consultant proposal requests and awards. State agencies also may publish other notices of general interest as space permits.

Texas State Affordable Housing Corporation

Notice of Public Hearing Regarding the Issuance of Bonds

Notice is hereby given of a public hearing to be held by the Texas State Affordable Housing Corporation ("Issuer") at the Georgetown Public Library, Classroom 211, 402 West 8th Street, Georgetown, Texas 78626 on Monday, June 17, 2013, at 6:30 p.m. The hearing is regarding the proposed issuance by the Issuer of one or more series of multifamily housing revenue bonds ("Bonds") to provide financing for the construction and equipping of a multifamily housing project to be known as The Gateway Northwest Apartments consisting of an apartment building or buildings containing approximately 180 units ("Project"), as well as to fund any working capital for the Project, any reserve funds and costs of issuance for the Bonds. The Project will be located at the northwest corner of the intersection of Northwest Boulevard and Washam Drive, Georgetown, Williamson County, Texas, and will be owned by THF Georgetown Gateway Northwest, Ltd. and its successors and assigns. The maximum aggregate face amount of the Bonds to be issued with respect to the Project is \$15,000,000.

All interested persons are invited to attend the public hearing to express orally, or in writing, their views on the Project and the issuance of the Bonds. The Bonds shall not constitute or create an indebtedness, general or specific, or liability of the State of Texas, or any political subdivision thereof. The Bonds shall never constitute or create a charge against the credit or taxing power of the State of Texas, or any political subdivision thereof. Neither the State of Texas, nor any political subdivision thereof shall in any manner be liable for the payment of the principal of or interest on the Bonds or for the performance of any agreement or pledge of any kind which may be undertaken by the Issuer and no breach by the Issuer of any agreements will create any obligation upon the State of Texas, or any political subdivision thereof. Further information with respect to the proposed Bonds will be available at the hearing or upon written request prior thereto addressed to the Issuer at 2200 East Martin Luther King Jr. Boulevard, Austin, Texas 78702, Attention: David W. Danenfelzer; (512) 477-3562.

Individuals who require auxiliary aids in order to attend this meeting should contact Laura Ross, ADA Responsible Employee, at (512) 477-3560 at least two days before the meeting so that appropriate arrangements can be made.

Individuals may transmit written testimony or comments regarding the subject matter of this public hearing to David Danenfelzer at ddanenfelzer@tsahc.org.

David Danenfelzer

Manager of Multifamily Programs

Texas State Affordable Housing Corporation

2200 East Martin Luther King Jr. Boulevard

Austin, Texas 78702

TRD-201301996

David Long

President

Texas State Affordable Housing Corporation

Filed: May 20, 2013

Texas Department of Agriculture

Notice of Texas Equine Incentive Program Fee for 2013 Calendar Year

Pursuant to 4 TAC Part 1, Chapter 17, Subchapter I, §17.504(b), relating to Breeding Report; Program Fee, the Texas Department of Agriculture has set the equine incentive program fee for the 2013 calendar year at \$30 per mare bred. Eligible breed associations and owners of eligible foals may obtain further information by contacting Karen Reichel, Grants Coordinator, P.O. Box 12847, Austin, Texas 78711, Phone: (512) 936-2450, Fax: 888-223-9048, Email: Karen.Reichel@TexasAgriculture.gov.

TRD-201302027

Dolores Alvarado Hibbs

General Counsel

Texas Department of Agriculture

Filed: May 22, 2013

Comptroller of Public Accounts

Notice of Contract Award

The Texas Comptroller of Public Accounts (Comptroller), State Energy Conservation Office (SECO) announces the award of a grant as a result of Request for Applications (RFA) No. BE-G6-2012 to Navasota ISD, 705 E. Washington Ave., Navasota, Texas 77868, for funds for approved projects and activities under the Comptroller's State Energy Program for energy retrofits under the LoanSTAR Revolving Loan Program. The total amount of the loan is not to exceed \$912,465.00. The term of the loan is May 8, 2013, until repaid in full.

The notice of request for applications was published in the April 27, 2012, issue of the *Texas Register* (37 TexReg 3222).

TRD-201302018

Jason C. Frizzell

Assistant General Counsel, Contracts

Comptroller of Public Accounts

Filed: May 21, 2013

Notice of Request for Proposals

Pursuant to Chapter 2155, §2155.001, Chapter 403, §403.011 and Chapter 2156, §2156.121 of the Texas Government Code, the Texas Comptroller of Public Accounts ("Comptroller") announces its Request for Proposals No. 206g ("RFP") for Outbound Mailing Services to Comptroller. Comptroller desires to obtain the services of qualified firms to provide outbound mailing services on an as-needed basis.

No minimum amount of services or compensation will be guaranteed under any contract resulting from the RFP. The successful respondent will be expected to begin performance of the contract on or after September 1, 2013.

Contact: Parties interested in a hard copy of the RFP should contact Robin Reilly, Assistant General Counsel, Contracts, Texas Comptroller of Public Accounts, 111 E. 17th St., Rm. 201, Austin, Texas 78774 ("Issuing Office"), telephone number: (512) 305-8673. The RFP will be available electronically on the Electronic State Business Daily ("ESBD") at: <http://esbd.cpa.state.tx.us> on Friday, May 31, 2013, after 10:00 a.m., CT.

Questions: All written questions must be received at the above-referenced address no later than 2:00 p.m., CT, on Friday, June 14, 2013. Questions received after this time and date will not be considered. Prospective respondents are encouraged to fax or e-mail Questions to (512) 463-3669 or contracts@cpa.state.tx.us to ensure timely receipt. On or about Friday, June 28, 2013, Comptroller expects to post responses to questions as an addendum to the ESBD notice on the issuance of the RFP.

Closing Date: Proposals must be delivered to the Issuing Office no later than 2:00 p.m., CT, on Friday, July 12, 2013. Proposals received in the Issuing Office after this time and date will not be considered. Respondents shall be solely responsible for ensuring the timely receipt of their proposals in the Issuing Office.

Evaluation Criteria: Proposals will be evaluated under the evaluation criteria outlined in the RFP. Comptroller shall make the final decision on any contract award or awards resulting from the RFP. Comptroller reserves the right, in its sole discretion, to accept or reject any or all proposals submitted. Comptroller is not obligated to award or execute any contracts on the basis of this notice or the distribution of any RFP. Comptroller shall not pay for any costs incurred by any entity in responding to this notice or the RFP.

The anticipated schedule of events is as follows: Issuance of RFP - May 31, 2013, after 10:00 a.m., CT; Questions Due - June 14, 2013, 2:00 p.m., CT; Official Responses to Questions posted - June 28, 2013, or as soon thereafter as practical; Proposals Due - July 12, 2013, 2:00 p.m., CT; Contract Execution - August 31, 2013, or as soon thereafter as practical; and Commencement of Project Activities - on or after September 1, 2013. Any amendment to this solicitation will be posted on the ESBD as a RFP Addendum. It is the responsibility of interested parties to periodically check the ESBD for updates to the RFP prior to submitting a Proposal.

TRD-201302028
Robin Reilly
Assistant General Counsel, Contracts
Comptroller of Public Accounts
Filed: May 22, 2013

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, 303.005, and 303.009, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 05/20/13 - 05/26/13 is 18% for Consumer¹/Agricultural/Commercial² credit through \$250,000.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 05/20/13 - 05/26/13 is 18% for Commercial over \$250,000.

¹ Credit for personal, family or household use.

² Credit for business, commercial, investment or other similar purpose.

TRD-201302004
Leslie Pettijohn
Commissioner
Office of Consumer Credit Commissioner
Filed: May 20, 2013

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 Doches Credit Union (Nacogdoches) seeking approval to merge with Toledo Bend Teachers Credit Union (Hemphill), with Doches Credit Union being 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-201302021
Harold E. Feeney
Commissioner
Credit Union Department
Filed: May 22, 2013

Application to Amend Articles of Incorporation

Notice is given that the following application has been filed with the Credit Union Department (Department) and is under consideration:

An application for a name change was received from The Education Credit Union, Amarillo, Texas. The credit union is proposing to change its name to Education 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-201302019
Harold E. Feeney
Commissioner
Credit Union Department
Filed: May 22, 2013

Application to Expand Field of Membership

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 Suntide Credit Union, Corpus Christi, Texas to expand its field of membership. The proposal would permit persons who live, work, worship, or attend school in Nueces County, Texas, to be eligible for membership in the credit union.

Comments or a request for a meeting by any interested party relating to an application must be submitted in writing within 30 days from the date of this publication. Credit unions that wish to comment on any application must also complete a Notice of Protest form. The form may be obtained by contacting the Department at (512) 837-9236 or downloading the form at <http://www.cud.texas.gov/page/bylaw-charter-applications>. 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-201302020
Harold E. Feeney
Commissioner
Credit Union Department
Filed: May 22, 2013



Notice of Final Action Taken

In accordance with the provisions of 7 TAC §91.103, the Credit Union Department provides notice of the final action taken on the following application:

Application to Expand Field of Membership - Approved

Space City Credit Union, Houston, Texas - See *Texas Register* issue dated December 28, 2012.

TRD-201302022
Harold E. Feeney
Commissioner
Credit Union Department
Filed: May 22, 2013



Texas Council for Developmental Disabilities

Request for Proposals

The Texas Council for Developmental Disabilities (TCDD) announces the availability of funds for up to two projects to develop ideas and strategies that 1) educate drivers about the impact that accessible parking violations have on people with accessible parking placards and license plates, and 2) decrease the number of accessible parking violations. Proposed strategies will be considered by the Council for possible implementation.

TCDD has approved funding up to \$40,000 per project. Projects are expected to be completed within six months of the award. Funds available for these projects are provided to TCDD by the U.S. Department of Health and Human Services, Administration on Intellectual and Developmental Disabilities, pursuant to the Developmental Disabilities Assistance and Bill of Rights Act. Funding for the project is dependent on the results of a review process established by TCDD and on the availability of funds. Non-federal matching funds of at least 10% of the total project costs are required for projects in federally designated poverty areas. Non-federal matching funds of at least 25% of total project costs are required for projects in other areas.

Additional information concerning this Request for Proposals (RFP) or more information about TCDD may be obtained through TCDD's website at <http://www.tcdd.texas.gov/grants-rfps/funding-available-for-grants/>. All questions pertaining to this RFP should be directed to Melissa Loe, Communications Coordinator, at (512) 437-5441 or via email Melissa.Loe@tcdd.texas.gov. Proposal packets must be requested in writing or downloaded from the Internet.

Deadline: One hard copy, with original signatures, and one electronic copy must be submitted. All proposals must be received by TCDD, not later than 4:00 p.m. Central Time, Wednesday, July 10, 2013, or, if mailed, postmarked prior to midnight on the date specified above. Proposals may be delivered by hand or mailed to TCDD at 6201 East Oltorf, Suite 600, Austin, Texas 78741-7509 to the attention of Jeri Barnard. Faxed proposals cannot be accepted. Electronic copies should be sent to Jerianne.Barnard@tcdd.texas.gov.

Proposals will not be accepted after the due date.

Grant Proposers' Workshops: The Texas Council for Developmental Disabilities will conduct telephone conferences to help potential proposers understand the grant proposal process and this specific RFP. In addition, answers to frequently asked questions will be posted on the TCDD website. Please check the TCDD website at <http://tcdd.texas.gov/grants-rfps/funding-available-for-grants/> for a schedule of conference calls for this RFP.

TRD-201301995
Roger Webb
Executive Director
Texas Council for Developmental Disabilities
Filed: May 17, 2013



Commission on State Emergency Communications

Public Notice of Rulemaking Workshop Regarding §251.10, Guidelines for Implementing Wireless E9-1-1 Service

The staff of the Commission on State Emergency Communications (CSEC) will conduct a workshop regarding 1 TAC §251.10, Guidelines for Implementing Wireless E911 Service, on Tuesday, June 25, 2013, from 10:00 a.m. to 4:00 p.m., in the Hobby Building, 333 Guadalupe Street, Room 100, Austin, Texas 78701. Registration information is provided below. All 9-1-1 entities, wireless service providers, service providers, and interested persons are invited to attend this public workshop.

CSEC rules, with a couple of exceptions, apply only with respect to the state 9-1-1 program under which access to 9-1-1 service is provided by the state's Regional Planning Commissions (RPCs). Health and Safety Code §771.062 authorizes Emergency Communication Districts (ECDs) to adopt any provision of Chapter 771 or any CSEC rule. Texas Government Code §2001.039 requires state agencies to review and consider for readoption each of their rules every four years from the date each rule takes effect. The rulemaking workshop is part of CSEC's statutory rule review of its Chapter 251 rules (Texas Administrative Code, Title 1, Part 12, Chapter 251). Section 251.10 was last reviewed and readopted to be effective on February 3, 2009.

WORKSHOP AGENDA

- I. Welcoming Remarks by CSEC Staff
- II. Review Written Comments
- III. Break for Lunch
- IV. Open Discussion

V. Closing

QUESTIONS FOR COMMENT

Prior to the workshop, CSEC requests written comments to the following questions:

1. Cost Recovery by Prepaid Wireless Service Providers (WSPs).

a. Does the Texas Supreme Court's decision in *Tracfone Wireless, Inc. and Virgin Mobile USA, L.P. v. Commission on State Emergency Communications*, Cause No. 11-0473, preclude cost recovery for WSPs that exclusively offer "prepaid wireless service" as defined by the Texas Comptroller of Public Accounts? (For a copy of the court's decision go to "What's New at CSEC" <http://www.csec.texas.gov/> and click on the Rulemaking Workshop link.)

b. If the answer to (a) is "Yes," how should CSEC determine reasonable cost recovery for a WSP that offers both wireless and prepaid wireless service?

2. Cost Recovery by WSPs.

a. Is it reasonable for a WSP that self-recovers any portion of its costs of providing 9-1-1 service to receive cost recovery?

b. If the answer to a. is "Yes," how should CSEC and the RPCs ensure that a WSP is not double recovering any costs? For example, should CSEC require in the rule that a WSP certify that it is not self-recovering any portion of the costs for which it seeks cost recovery?

c. Should CSEC by rule specifically identify and itemize the network facilities for which cost recovery is available?

d. If the answer to c. is "Yes," should CSEC determine and set reasonable cost recovery for each of itemized network facility?

e. For purposes of cost recovery, should WSPs be treated the same or differently depending upon whether the WSP is a Tier I, II, or III carrier?

f. Should the demonstrated ability or inability of a WSP to self-recover any portion of its costs be a factor in determining cost-recovery?

g. Assuming CSEC and the RPCs are appropriated and allocated insufficient funds with which to reimburse the reasonable costs of all requesting WSPs, is it appropriate to pay each WSP its pro-rata share of the funds available to pay cost recovery?

h. If the answer to g. is "Yes," should CSEC determine at the beginning of a fiscal biennium the amount of appropriated funds available for cost recovery or should that be determined by each RPC or not at all?

3. Wireless E9-1-1 Service Agreements (Wireless Agreements). Current §251.10 requires an RPC to have a wireless 9-1-1 service agreement with each WSP that provides service in its area.

a. Should the requirement to enter into Wireless Agreements be limited to those WSPs seeking cost recovery and/or as required by an RPC?

b. If the answer to a. is "Yes," what sections, if any, in the current model Wireless Agreement should be incorporated into either §251.10 or a CSEC Program Policy Statement (PPS)? (For a copy of CSEC's model Wireless Agreement go to "What's New at CSEC" <http://www.csec.texas.gov/> and click on the Rulemaking Workshop link.)

4. Should the Federal Communications Commission's requirements for wireless "text-to-911" be addressed in CSEC §251.10?

5. Deployment Method. Are both CAS and NCAS still appropriate for inclusion in §251.10?

6. National Emergency Number Association (NENA) Standards. CSEC PPSs 021 and 023 address in part the provisioning of wireless 9-1-1 service. These PPSs reflect NENA standards. Should CSEC include in the rule a requirement for WSPs to follow NENA standards regarding wireless 9-1-1 service implementation?

7. Next Generation 9-1-1 Service. Should GIS data requirements from WSPs for routing purposes be included in the rule?

8. Additional Comments. Commenters are encouraged to provide additional comments on any issue pertaining to §251.10 and the provisioning of wireless 9-1-1 service.

FILING COMMENTS

Comments may be filed electronically by sending them to csecinfo@csec.texas.gov, by mailing them to CSEC, c/o Patrick Tyler, 333 Guadalupe Street, Suite 2-212, Austin, Texas 78701-3942, or by faxing them to CSEC, c/o Patrick Tyler at (512) 305-6937. Please include in the subject line "Comments for Rule 251.10 Workshop". Responses to the Questions for Comment are due by the close of business on Wednesday June 19, 2013, and will be posted to CSEC's website.

REGISTRATION AND ADDITIONAL INFORMATION

No prior registration is available or required to attend the workshop. Attendees will be asked to sign in the day of the workshop. Questions concerning the workshop or this notice should be sent to Patrick Tyler at patrick.tyler@csec.texas.gov or by phone at (512) 305-6915. Hearing and speech-impaired individuals with a telecommunications device for the deaf may contact CSEC at (512) 305-6911. (Please note that CSEC will neither broadcast the workshop nor provide an audio-conference bridge to allow telephonic participation.)

TRD-201302041

Patrick Tyler

General Counsel

Commission on State Emergency Communications

Filed: May 22, 2013



Employees Retirement System of Texas

Contract Award Announcement

This contract award notice is being filed by the Employees Retirement System of Texas ("ERS"), in relation to a contract award to provide a comprehensive risk reporting service for fixed income portfolio analysis and reporting with enterprise-wide risk management capabilities.

The contractor is The Yield Book Inc., 388 Greenwich Street, 10th Floor, New York, NY 10013. ERS will pay \$337,320 for the initial term of the contract. The initial term of the contract is May 1, 2013, through April 30, 2014, with the option to renew for additional one-year terms. The contract was executed on May 3, 2013.

TRD-201302008

Paula A. Jones

General Counsel and Chief Compliance Officer

Employees Retirement System of Texas

Filed: May 21, 2013



Contract Award Announcement

This contract award notice is being filed by the Employees Retirement System of Texas in relation to a contract awarded for insurance services (ERS RFP No. 327-95352-130104). The contract was awarded

to Alliant Insurance Services, Inc., 701 B Street, 6th Floor, San Diego, California 92101.

The contract was executed on April 29, 2013. The term of the contract will be for a one-year term, subject to the terms of the contract. The total amount of the contract is determined on a commission basis (10% of the applicable policy premium).

TRD-201302016

Paula A. Jones

General Counsel and Chief Compliance Officer

Employees Retirement System of Texas

Filed: May 21, 2013



Request for Proposal

In accordance with Texas Insurance Code, Chapter 1551, the Employees Retirement System of Texas ("ERS") is issuing a Request for Proposal ("RFP") seeking a qualified Vendor to provide the following dental programs and/or services: a self-funded Dental Preferred Provider Organization Plan ("PPO") and/or a fully insured Dental Health Maintenance Organization ("DHMO"), and/or a Dental Discount Program. Services will be provided for the Texas Employees Group Benefits Program ("GBP") throughout the state of Texas beginning September 1, 2014, through an initial term ending August 31, 2018. The selected Vendor shall provide administrative services for the level of benefits required in the RFP and meet other requirements that are in the best interest of ERS, the GBP, its Participants (as defined in the GBP) and the state of Texas, and shall be required to execute a Contractual Agreement ("Contract") provided by, and satisfactory to, ERS. It is ERS's intent to provide a dental program to satisfy the needs of the GBP Participants which may or may not include a DHMO or dental discount services option.

The Vendor may offer a Proposal on any or all of the Dental plans.

A Vendor wishing to respond to this request and quote a PPO and/or DHMO program(s) shall provide the following:

1) **Onshore Operations.** The Vendor shall maintain its principal place of business and provide all products and/or services including, but not limited to: call center, billing, eligibility, and programming within the United States of America.

2) **Certificate.** The Vendor shall be licensed to do business in Texas by the Texas Department of Insurance ("TDI") at the time of Proposal submission to provide the plan services for which the Proposal is being submitted (i.e., Dental HMO, third-party administrator, etc.) and be in good standing with all agencies of the state of Texas, including TDI.

3) **Services.** The Vendor shall have been providing dental administrative services, dental benefits, and services in Texas since at least March 1, 2012.

4) **Provider Network.** The Vendor shall demonstrate that it has a dental provider network as of the due date of the Proposal response adequate throughout the entire state as follows:

4.a.) For the PPO, the Vendor shall provide access to dental care for at least 125,000 Participants and maintain a minimum of 3,500 dental facilities.

4.b.) For the DHMO, the Vendor shall provide access to dental care for at least 75,000 Participants and maintain a minimum of 500 dental facilities.

5) **Net Worth.**

5.a.) The PPO Vendor shall have a current net worth of \$5 million as demonstrated by audited financial statements as of the close of the Vendor's most recent fiscal year and a minimum of at least \$2 million of cash/cash equivalents available (on average) throughout its 2012 financial period.

5.b.) The DHMO Vendor shall have a current net worth of \$3 million as demonstrated by audited financial statements as of the close of the Vendor's most recent fiscal year and a minimum of at least \$1 million of cash/cash equivalents available (on average) throughout its 2012 financial period; and/or

5.c.) If bidding on both the PPO and DHMO, the Vendor shall have a current net worth of \$5 million as demonstrated by audited financial statements as of the close of the Vendor's most recent fiscal year and a minimum of at least \$2 million of cash/cash equivalents available (on average) throughout its 2012 financial period.

A Vendor wishing to respond to this request and quote a Dental Discount Program shall provide the following:

1) **Onshore Operations.** The Vendor shall maintain its principal place of business and provide all products and/or services including, but not limited to: call center, billing, eligibility, and programming within the United States of America.

2) **Certificate.** The Vendor shall have a current valid certificate of authority to do business in Texas with the Texas Secretary of State at the time of Proposal submission.

3) **Services.** The Vendor shall have been providing a dental discount products and services program for a minimum of three (3) years with a minimum of 100,000 participants covered.

4) **Net Worth.** The Vendor shall have a current net worth of \$1 million as demonstrated by audited financial statements as of the close of the Vendor's most recent fiscal year and a minimum of at least \$150,000 of cash/cash equivalents available (on average) throughout its 2012 financial period.

5) **Provider Network.** The Vendor shall demonstrate that it has an adequate dental provider network as of the due date of the Proposal response throughout the entire state as follows:

5.a.) For the Dental Discount Program, the Vendor shall provide access to dental care for at least 125,000 participants and maintain a minimum of 3,500 dental facilities.

While the RFP does not require the Vendor to provide DHMO services for all Texas counties, preferential consideration will be given to qualified Vendors that provide the most significant network coverage for the entire state of Texas.

The RFP will be available on or after May 30, 2013, from ERS's website and will include documents for the Vendor's review and response. To access the secured portion of the RFP website, the interested Vendor shall email its request to the attention of iVendor Mailbox at: **ivendorquestions@ers.state.tx.us**. The email request shall reflect: 1) Vendor's legal name; and 2) the full name, street address, phone and fax numbers and email address for Vendor's direct point of contact. Upon receipt of this information, a user ID and password will be issued to the requesting organization that will permit access to the secured RFP.

General questions concerning the RFP and/or ancillary bid materials should be sent to the iVendor Mailbox where the responses, if applicable, are updated frequently. The submission deadline for all RFP questions submitted to the iVendor Mailbox is June 21, 2013, at 4:00 p.m. (CT). The RFP will be discussed at the Bidders Web Conference on June 12, 2013, beginning at 2:00 p.m. (CT). The Vendors are required to register for participation in the web conference no later than

4:00 p.m. (CT) on June 7, 2013, by emailing an acknowledgement to the iVendor Mailbox as referenced above.

To be eligible for consideration, the Vendor is required to submit a total of seven (7) sets of the Proposal in accordance with instructions set forth in the RFP. All materials shall be received by ERS no later than 12:00 Noon (CT) on July 11, 2013.

ERS will base its evaluation and selection of a Vendor on factors including, but not limited to, the following, which are not necessarily listed in order of priority: compliance with the RFP, ability to meet minimum requirements, operating requirements, provider network and discounts, experience serving large group programs, past experience, administrative quality, program fees, and other relevant criteria. Each Proposal will be evaluated both individually and relative to the Proposals of other qualified Vendors. Complete specifications will be included with the RFP.

ERS reserves the right to reject any and/or all Proposals and/or call for new Proposals if deemed by ERS to be in the best interests of ERS, the GBP, its Participants, and the state of Texas. ERS also reserves the right to reject any Proposal submitted that does not fully comply with the RFP's instructions and criteria. ERS is under no legal requirement to execute a Contract on the basis of this notice or upon issuance of the RFP and will not pay any costs incurred by any entity in responding to this notice or in connection with the preparation of the RFP. ERS reserves the right to vary all provisions set forth at any time prior to execution of a Contract where ERS deems it to be in the best interest of ERS, the GBP, its Participants, and the state of Texas.

TRD-201302003

Paula A. Jones

General Counsel and Chief Compliance Officer

Employees Retirement System of Texas

Filed: May 20, 2013



Texas Commission on Environmental Quality

Agreed Orders

The Texas Commission on Environmental Quality (TCEQ, agency, 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. TWC, §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. TWC, §7.075 requires that notice of the proposed orders and the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is July 1, 2013. TWC, §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 July 1, 2013. 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, TWC, §7.075 provides that comments on the AOs shall be submitted to the commission in **writing**.

(1) COMPANY: Anne McCann and John McCann; DOCKET NUMBER: 2012-2705-MSW-E; IDENTIFIER: RN106203805; LOCATION: Lexington, Lee County; TYPE OF FACILITY: unauthorized used tire storage and processing site; RULE VIOLATED: 30 TAC §§328.59(a), 328.60(a), and 328.63(c), by failing to obtain a scrap tire storage site registration for the site prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in trailers, or in enclosed or lockable containers and by failing to obtain a registration to process scrap tires; PENALTY: \$6,750; ENFORCEMENT COORDINATOR: Thomas Greimel, (512) 239-5690; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, (512) 339-2929.

(2) COMPANY: BOLIVAR UTILITY SERVICES, L.L.C.; DOCKET NUMBER: 2013-0133-MWD-E; IDENTIFIER: RN103637807; LOCATION: Galveston, Galveston County; TYPE OF FACILITY: wastewater treatment plant and associated collection system; RULE VIOLATED: Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0014452001, Operational Requirements Number 1, and 30 TAC §305.125(1) and (5), by failing to ensure that all systems of collection, treatment, and disposal are properly operated and maintained; TPDES Permit Number WQ0014452001, Effluent Limitations and Monitoring Requirements Number 1, 30 TAC §305.125(1), and TWC, §26.121(a), by failing to comply with permitted effluent limits; TPDES Permit Number WQ0014452001, Effluent Limitations and Monitoring Requirements Numbers 1, 2, and 3, 30 TAC §305.125(1), and TWC, §26.121(a), by failing to comply with permitted effluent limits; TPDES Permit Number WQ0014452001, Monitoring and Reporting Requirements Numbers 1 and 2.a., and 30 TAC §319.11(c), by failing to utilize a United States Environmental Protection Agency-approved method for effluent analysis and by failing to properly conduct the total chlorine residual analysis; and TPDES Permit Number WQ0014452001, Permit Conditions Number 2.g., 30 TAC §305.125(4) and (5), and TWC, §26.121(a), by failing to prevent the unauthorized discharge of wastewater from the collection system; PENALTY: \$20,001; ENFORCEMENT COORDINATOR: Jorge Ibarra, P.E., (817) 588-5890; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(3) COMPANY: CELANESE LTD.; DOCKET NUMBER: 2013-0421-AIR-E; IDENTIFIER: RN100227016; LOCATION: Pasadena, Harris County; TYPE OF FACILITY: chemical manufacturing; RULE VIOLATED: 30 TAC §122.143(4) and §122.146(2), Federal Operating Permit Number O1893, General Terms and Conditions, and Texas Health and Safety Code, §382.085(b), by failing to submit a permit compliance certification within 30 days after the end of the certification period; PENALTY: \$3,863; ENFORCEMENT COORDINATOR: Jessica Schildwachter, (512) 239-2617; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(4) COMPANY: Circle Bar Truck Corral, Incorporated; DOCKET NUMBER: 2013-0292-MWD-E; IDENTIFIER: RN102844669; LOCATION: Ozona, Crockett County; TYPE OF FACILITY: wastewater treatment plant; RULE VIOLATED: 30 TAC §305.125(1), TCEQ Permit Number WQ0014240001, Special Provisions Number 15, and AO Docket Number 2009-1772-MWD-E, Ordering Provision Number 2.b, by failing to furnish certification by a Texas Licensed Professional Engineer that the completed pond lining meets the appropriate criteria prior to utilization of the facilities; PENALTY:

\$1,550; ENFORCEMENT COORDINATOR: Steve Villatoro, (512) 239-4930; REGIONAL OFFICE: 622 South Oakes, Suite K, San Angelo, Texas 76903-7013, (325) 655-9479.

(5) COMPANY: City of Burleson and McClendon Construction Company, Incorporated; DOCKET NUMBER: 2013-0151-WQ-E; IDENTIFIER: RN106528854; LOCATION: Burleson, Johnson County; TYPE OF FACILITY: municipal public water supply with associated water lines; RULE VIOLATED: TWC, §26.121(a)(2), by failing to prevent the unauthorized discharge of a pollutant into or adjacent to water in the state; PENALTY: \$4,875; ENFORCEMENT COORDINATOR: JR Cao, (512) 239-2543; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(6) COMPANY: City of Eagle Lake; DOCKET NUMBER: 2013-0118-MWD-E; IDENTIFIER: RN102181195; LOCATION: Eagle Lake, Colorado County; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: TWC, §26.121(a)(1), 30 TAC §305.125(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0010505001, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limits; PENALTY: \$23,562; ENFORCEMENT COORDINATOR: Nick Nevid, (512) 239-2612; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(7) COMPANY: City of Richmond; DOCKET NUMBER: 2013-0366-MWD-E; IDENTIFIER: RN105307557; LOCATION: Richmond, Fort Bend County; TYPE OF FACILITY: wastewater treatment plant; RULE VIOLATED: TWC, §26.121(a)(1), 30 TAC §305.125(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0010258004, Effluent Limitations and Monitoring Requirements Numbers 1 and 2, by failing to comply with the permitted effluent limitations; PENALTY: \$4,001; ENFORCEMENT COORDINATOR: Jennifer Graves, (956) 430-6023; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(8) COMPANY: Dana L. Miller dba Hawkins System; DOCKET NUMBER: 2012-2473-PWS-E; IDENTIFIER: RN103915120; LOCATION: Denton, Denton County; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.110(e)(4)(A) and (f)(3), by failing to submit a Disinfectant Level Quarterly Operating Report to the executive director each quarter by the tenth day of the month following the end of the quarter; 30 TAC §290.271(b) and §290.274(a) and (c), by failing to mail or directly deliver one copy of the Consumer Confidence Report (CCR) to each bill paying customer by July 1 of each year and by failing to submit to the executive director by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the facility and that the information in the CCR is correct and consistent with compliance monitoring data; 30 TAC §290.109(c)(4)(B) and §290.122(c)(2)(A), by failing to collect at least one raw groundwater source *Escherichia coli* sample from the one active source within 24 hours of being notified of a distribution total coliform-positive result and by failing to provide public notice of the failure to collect a raw groundwater source *Escherichia coli* sample from each active source with 24 hours of being notified of a distribution total coliform-positive result; 30 TAC §290.106(e), 290.107(e), and 290.108(e), by failing to provide the results of triennial metals, mineral, volatile organic chemical, and radionuclide sampling to the executive director; 30 TAC §290.109(f)(3) and §290.122(b)(2)(A) and Texas Health and Safety Code, §341.031(a), by failing to comply with the maximum contaminant level (MCL) for total coliform and by failing to provide public notification regarding the MCL exceedance; and 30 TAC §290.122(c)(2)(A), by failing to provide public notice of the failure to collect five distribution samples for the month of September 2011;

PENALTY: \$4,225; ENFORCEMENT COORDINATOR: Epifanio Villarreal, (361) 825-3425; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(9) COMPANY: Denton County; DOCKET NUMBER: 2012-2410-PST-E; IDENTIFIER: RN102467867; LOCATION: Denton, Denton County; TYPE OF FACILITY: fleet refueling; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and (2) and TWC, §26.3475(a) and (c)(1), by failing to monitor the underground storage tanks (USTs) for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) and by failing to provide release detection for the piping associated with the USTs; PENALTY: \$2,813; Supplemental Environmental Project offset amount of \$2,251 applied to Texas Association of Resource Conservation and Development Areas, Incorporated - Household Hazardous Waste Clean-Up; ENFORCEMENT COORDINATOR: Had Darling, (512) 239-2570; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(10) COMPANY: EOG Resources, Incorporated; DOCKET NUMBER: 2013-0205-AIR-E; IDENTIFIER: RN106529811; LOCATION: Hillsboro, Hill County; TYPE OF FACILITY: salt water disposal; RULE VIOLATED: 30 TAC §116.110(a) and Texas Health and Safety Code, §382.0518(a) and §382.085(b), by failing to satisfy the conditions of a permit by rule; PENALTY: \$938; ENFORCEMENT COORDINATOR: Jessica Schildwachter, (512) 239-2617; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(11) COMPANY: FLYING STAR TRANSPORT, L.L.C.; DOCKET NUMBER: 2013-0240-PST-E; IDENTIFIER: RN105156608; LOCATION: Amarillo, Potter County; TYPE OF FACILITY: fuel distributor; RULE VIOLATED: 30 TAC §334.5(b)(1)(A), by failing to verify that the owner or operator of an underground storage tank (UST) system possessed a valid, current TCEQ delivery certificate prior to depositing a regulated substance into the UST system; PENALTY: \$5,796; ENFORCEMENT COORDINATOR: Keith Frank, (512) 239-1203; REGIONAL OFFICE: 3918 Canyon Drive, Amarillo, Texas 79109-4933, (806) 353-9251.

(12) COMPANY: Grace Kim dba Graces One Stop; DOCKET NUMBER: 2012-2734-PST-E; IDENTIFIER: RN101443877; LOCATION: Trinity, Trinity County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); PENALTY: \$3,750; ENFORCEMENT COORDINATOR: Thomas Greimel, (512) 239-5690; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(13) COMPANY: Harpreet Rall dba Preet Foods; DOCKET NUMBER: 2012-2505-PST-E; IDENTIFIER: RN102060092; LOCATION: Conroe, Montgomery County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks for releases at a frequency of at least once a month (not to exceed 35 days between each monitoring); PENALTY: \$3,750; ENFORCEMENT COORDINATOR: Cheryl Thompson, (817) 588-5886; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(14) COMPANY: Jorge E. Rodriguez dba Speedy Stop 13; DOCKET NUMBER: 2013-0185-PST-E; IDENTIFIER: RN102230133; LOCATION: Richmond, Fort Bend County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks (USTs) for releases at a frequency of at

least once every month (not to exceed 35 days between each monitoring); and 30 TAC §37.815(a) and (b), by failing to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs; PENALTY: \$7,592; ENFORCEMENT COORDINATOR: Mike Pace, (817) 588-5933; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(15) COMPANY: Lone Star NGL Mont Belvieu LP; DOCKET NUMBER: 2013-0586-AIR-E; IDENTIFIER: RN105231831; LOCATION: Crosby, Harris County; TYPE OF FACILITY: petroleum storage and distribution plant; RULE VIOLATED: 30 TAC §122.143(4) and §122.146(2), Federal Operating Permit Number O3416, General Terms and Conditions, and Texas Health and Safety Code, §382.085(b), by failing to submit a permit compliance certification within 30 days after the end of the certification period; PENALTY: \$4,350; ENFORCEMENT COORDINATOR: Jessica Schildwachter, (512) 239-2617; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(16) COMPANY: MCALLEN PETROLEUM, INCORPORATED dba Kwik Stop Gasoline Station; DOCKET NUMBER: 2012-1988-PST-E; IDENTIFIER: RN102220530; LOCATION: Harlingen, Cameron County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.8(c)(5)(A)(iii), by failing to ensure that a valid, current TCEQ delivery certificate was posted in a location where it is clearly visible at all times; 30 TAC §37.815(a) and (b), by failing to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks (USTs); 30 TAC §334.50(b)(1)(A) and (2) and TWC, §26.3475(a) and (c)(1), by failing to monitor the USTs for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring) and by failing to provide proper release detection for the piping associated with the USTs; 30 TAC §334.51(b)(2) and TWC, §26.3475(c)(2), by failing to equip the UST system with spill containment and overflow prevention equipment; and 30 TAC §334.10(b), by failing to maintain all UST records and making them immediately available for inspection upon request by agency personnel; PENALTY: \$11,553; ENFORCEMENT COORDINATOR: Danielle Porras, (713) 767-3682; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(17) COMPANY: Mohammad Latifur Rahman dba Food Heaven; DOCKET NUMBER: 2012-2587-PST-E; IDENTIFIER: RN101434926; LOCATION: Fort Worth, Tarrant County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); PENALTY: \$3,375; ENFORCEMENT COORDINATOR: Steve Villatoro, (512) 239-4930; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(18) COMPANY: Mountain Breeze, L.L.C.; DOCKET NUMBER: 2012-1545-PWS-E; IDENTIFIER: RN101202505; LOCATION: New Braunfels, Comal County; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.110(c)(4)(A) and (d)(1)(C)(ii), by failing to monitor the disinfectant residual throughout the distribution system at least once every seven days using a test kit that employs a diethyl-p-phenyldiamine colorimetric method or colorimeter, spectrophotometer, or color comparator test kit; 30 TAC §290.46(f)(2), (3)(A)(i)(III) and (D)(i), by failing to make water works operation

and maintenance records available for review by commission personnel during the investigation; 30 TAC §290.45(c)(1)(B)(i) and Texas Health and Safety Code (THSC), §341.0315(c), by failing to provide a well capacity of 0.6 gallons per minute per unit; 30 TAC §290.45(c)(1)(B)(iv) and THSC, §341.0315(c), by failing to provide a pressure tank capacity of 10 gallons per unit; 30 TAC §290.46(n)(2), by failing to provide an accurate and up-to-date map of the distribution system so that valves and mains can be easily located during emergencies; 30 TAC §290.121(a) and (b), by failing to compile an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the facility will use to comply with the monitoring requirements; 30 TAC §290.42(l), by failing to maintain a thorough and up-to-date plant operations manual for operator review and reference; 30 TAC §290.46(m)(1)(A), by failing to inspect the ground storage tank annually; and 30 TAC §290.46(m)(1)(B), by failing to inspect the pressure tanks annually; PENALTY: \$1,543; ENFORCEMENT COORDINATOR: Jim Fisher, (512) 239-2537; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(19) COMPANY: Panama, Incorporated dba Adams Plaza and Afzal Shekhani dba Adams Plaza; DOCKET NUMBER: 2012-2696-PST-E; IDENTIFIER: RN101283448; LOCATION: Houston, Harris County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.49(a)(1) and TWC, §26.3475(d), by failing to provide proper corrosion protection for the underground storage tank system; PENALTY: \$4,125; ENFORCEMENT COORDINATOR: David Carney, (512) 239-2583; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(20) COMPANY: Piertsje Deboer Vanderlei and Kornelis Wilt Vanderlei dba 5 Star Dairy; DOCKET NUMBER: 2013-0221-OSS-E; IDENTIFIER: RN101516631; LOCATION: Amherst, Lamb County; TYPE OF FACILITY: concentrated animal feeding operation with on-site sewage facilities (OSSFs); RULE VIOLATED: 30 TAC §285.3(b) and Texas Health and Safety Code, §366.051(a), by failing to obtain authorization to construct an OSSF; PENALTY: \$825; ENFORCEMENT COORDINATOR: Jennifer Graves, (956) 430-6023; REGIONAL OFFICE: 5012 50th Street, Suite 100, Lubbock, Texas 79414-3421, (806) 796-7092.

(21) COMPANY: PK INTERNATIONAL LLC dba Super Shop 2; DOCKET NUMBER: 2012-2502-PST-E; IDENTIFIER: RN101771319; LOCATION: Crockett, Houston County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and (2) and TWC, §26.3475(a) and (c)(1), by failing to monitor the underground storage tanks (USTs) for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) and by failing to provide release detection for the pressurized piping associated with the UST system; PENALTY: \$3,880; ENFORCEMENT COORDINATOR: Keith Frank, (512) 239-1203; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(22) COMPANY: PVR East Texas Gas Processing, LLC; DOCKET NUMBER: 2013-0296-AIR-E; IDENTIFIER: RN105295505; LOCATION: Crossroads, Harrison County; TYPE OF FACILITY: natural gas plant; RULE VIOLATED: 30 TAC §116.615(2) and §122.143(4), Standard Permit Registration Number 82440, Maximum Emissions Rate Table, Federal Operating Permit Number O2980/General Operating Permit Number 514, Site-Wide Requirements (b)(8)(F)(ii), and Texas Health and Safety Code, §385.085(b), by failing to comply with the permitted emissions rate of 0.3 tons per year of nitrogen oxides from the Mole Sieve Regen Heater, Emissions Point Number HT-1; PENALTY: \$7,500; ENFORCEMENT COORDINATOR: Kimberly

Morales, (713) 422-8938; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(23) COMPANY: Quadvest, L.P.; DOCKET NUMBER: 2013-0193-MWD-E; IDENTIFIER: RN101529352; LOCATION: Conroe, Montgomery County; TYPE OF FACILITY: domestic wastewater treatment plant; RULE VIOLATED: TWC, §26.121(a), 30 TAC §305.125(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0014029001, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limits; PENALTY: \$2,250; ENFORCEMENT COORDINATOR: Jeremy Escobar, (361) 825-3422; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(24) COMPANY: Staley Steel, Incorporated; DOCKET NUMBER: 2013-0249-AIR-E; IDENTIFIER: RN104912654; LOCATION: Pilot Point, Denton County; TYPE OF FACILITY: structural steel fabrication site; RULE VIOLATED: 30 TAC §116.110(a) and Texas Health and Safety Code, §382.0518(a) and §382.085(b), by failing to obtain authorization prior to constructing and operating a surface coating site; PENALTY: \$1,250; ENFORCEMENT COORDINATOR: Katie Hargrove, (512) 239-2569; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(25) COMPANY: Starr County; DOCKET NUMBER: 2013-0134-MSW-E; IDENTIFIER: RN102119120; LOCATION: Rio Grande City, Starr County; TYPE OF FACILITY: Type 1 arid-exempt municipal solid waste (MSW) landfill; RULE VIOLATED: 30 TAC §330.457(f)(4), by failing to complete closure activities for a MSW landfill within 180 days following the initiation of closure activities; 30 TAC §330.165(g), by failing to repair erosion of final or intermediate cover within five days of detection; 30 TAC §330.125(a), by failing to have the permit, site development plan, final closure plan, post closure maintenance plan, landfill gas management plan, financial assurance plan, and training record documentation onsite for review for the agency personnel; and TCEQ AO Docket Number 2006-1216-MSW-E, Ordering Provision Number 4.b.iii., and 30 TAC §330.131, by failing to control public access to the facility by means of artificial/natural barriers, appropriate to protect human health and safety and the environment; PENALTY: \$6,000; ENFORCEMENT COORDINATOR: Clinton Sims, (512) 239-6933; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(26) COMPANY: SUPREME SAVERS FOOD MART, INCORPORATED dba Super Food Mart 16; DOCKET NUMBER: 2012-2418-PST-E; IDENTIFIER: RN102467172; LOCATION: Flint, Smith County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); PENALTY: \$3,750; ENFORCEMENT COORDINATOR: JR Cao, (512) 239-2543; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(27) COMPANY: Tenet Frisco, Ltd. dba Centennial Medical Center; DOCKET NUMBER: 2012-2296-PST-E; IDENTIFIER: RN104209119; LOCATION: Frisco, Collin County; TYPE OF FACILITY: fleet refueling; RULE VIOLATED: 30 TAC §334.8(c)(4)(A)(vii) and (5)(B)(ii), by failing to renew a previously issued underground storage tank (UST) delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date; and 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;

PENALTY: \$1,501; ENFORCEMENT COORDINATOR: Clinton Sims, (512) 239-6933; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(28) COMPANY: Weatherford U.S., L.P.; DOCKET NUMBER: 2012-2354-IWD-E; IDENTIFIER: RN102586088; LOCATION: Houston, Harris County; TYPE OF FACILITY: research and development facility with an associated wastewater treatment plant; RULE VIOLATED: Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0004760000, Effluent Limitations and Monitoring Requirements Numbers 1, 2, and 3, 30 TAC §305.125(1), and TWC, §26.121(a), by failing to comply with permitted effluent limits for Outfall Number 001; TPDES Permit Number WQ0004760000, Permit Conditions Number 4.d., and 30 TAC §305.125(1), by failing to submit a notice of change and to obtain a permit amendment when a significant change in the quantity and/or quality of the existing discharge occurs; TPDES Permit Number WQ0004760000, Effluent Limitations and Monitoring Requirements Number 2, and 30 TAC §305.125(1), by failing to provide at least 20 minutes (based on peak flow) of detention time in the chlorine contact chamber; TPDES Permit Number WQ0004760000, Operational Requirements Number 5, and 30 TAC §305.125(1) and §319.11(d), by failing to install the flow measurement device in accordance with the Water Measurement Manual, United States Department of the Interior Bureau of Reclamation; TPDES Permit Number WQ0004760000, Monitoring and Reporting Requirements Number 1, and 30 TAC §305.125(1) and §319.4, by failing to accurately complete the discharge monitoring reports (DMRs); TPDES Permit Number WQ0004760000, Monitoring and Reporting Requirements Number 7.c., and 30 TAC §305.125(1), by failing to submit noncompliance notifications for any effluent violation which deviates from the permitted effluent limitation by greater than 40% in writing to the Regional Office and the Enforcement Division within five working days of becoming aware of the noncompliance; TPDES Permit Number WQ0004760000, Other Requirements (OR) Number 6, and 30 TAC §305.125(1), by failing to take remedial actions to ensure effluent quality would meet total copper limits prior to the final effluent limitations becoming effective; TPDES Permit Number WQ0004760000, Monitoring and Reporting Requirements Number 1, and 30 TAC §305.125(1) and §319.7(d), by failing to timely submit the monthly DMRs by the 20th day of the following month for the months of July and August 2012; and TPDES Permit Number WQ0004760000, OR Number 8, and 30 TAC §305.125(1) and TWC, §26.121(a), by failing to obtain authorization to discharge wastewater into water in the state; PENALTY: \$49,302; ENFORCEMENT COORDINATOR: Jorge Ibarra, P.E., (817) 588-5890; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(29) COMPANY: WEST TEXAS BOYS RANCH; DOCKET NUMBER: 2013-0357-PWS-E; IDENTIFIER: RN101283141; LOCATION: San Angelo, Tom Green County; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.43(d)(3), by failing to equip the air injection line between the air compressor and the 1,020 gallon pressure tank with a filter or other device to prevent compressor lubricants and other contaminants from entering the pressure tank; 30 TAC §290.46(e)(4)(A) and Texas Health and Safety Code, §341.033(a), by failing to operate the facility under the direct supervision of a water works operator who holds a minimum of a Class D or higher license; 30 TAC §290.46(f)(2) and (3)(D)(ii), by failing to provide facility records to commission personnel at the time of the investigation; and 30 TAC §290.46(s)(2)(C)(i), by failing to verify the accuracy of the manual disinfectant residual analyzers at least once every 90 days using chlorine solutions of known concentrations; PENALTY: \$833; ENFORCEMENT COORDINATOR: Epifanio

Villarreal, (361) 825-3425; REGIONAL OFFICE: 622 South Oakes, Suite K, San Angelo, Texas 76903-7013, (325) 655-9479.

TRD-201302007

Kathleen C. Decker

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: May 21, 2013



Enforcement Orders

An agreed order was entered regarding Sky Business, Inc. dba Bryan Drive In, Docket No. 2011-1925-PST-E on May 17, 2013 assessing \$3,510 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Anna M. 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 Park Abrams Enterprises LLC dba Flash Mart Abrams, Docket No. 2011-2171-PST-E on May 17, 2013 assessing \$7,169 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 KHODLE, INC, Docket No. 2012-0563-PST-E on May 17, 2013 assessing \$2,500 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rebecca M. Combs, 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 NSRS ENTERPRISE, INC. dba DON'S FOOD MART, Docket No. 2012-0755-PST-E on May 17, 2013 assessing \$4,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rebecca M. Combs, 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 J & K Group, Incorporated dba USA RV Park 2, Docket No. 2012-1026-MLM-E on May 17, 2013 assessing \$1,935 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Kari L. Gilbreth, 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 Hamidi Food Mart Inc, Docket No. 2012-1354-PST-E on May 17, 2013 assessing \$3,881 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Jacquelyn Boutwell, 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 ASMA C-STORES, INC. dba Huntsville Exxon, Docket No. 2012-1374-PST-E on May 17, 2013 assessing \$1,500 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rebecca M. Combs, 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 AFRIN C-STORE, INC. dba PAPA KEITH'S GROCERY, Docket No. 2012-1375-PST-E on May 17, 2013 assessing \$7,500 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David A. Terry, 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 Gordon R. Morris and Leslie L. Morris dba Space Estates Mobile Home Park, Docket No. 2012-1491-PWS-E on May 17, 2013 assessing \$1,525 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Peipey Tang, 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 AMPM ENTERPRISES, INC. dba Super Food Mart, Docket No. 2012-1493-PST-E on May 17, 2013 assessing \$6,380 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Mike 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 ASPRI INVESTMENTS, LLC dba Citgo Express, Docket No. 2012-1843-PST-E on May 17, 2013 assessing \$2,637 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David A. Terry, 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 Tyson & Co. Inc., Docket No. 2012-1844-PST-E on May 17, 2013 assessing \$3,522 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Joel Cordero, 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 Johnny L. Hernandez, Docket No. 2012-1854-LII-E on May 17, 2013 assessing \$1,186 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David A. Terry, 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 PROTON REALTY CO. dba C Store 104, Docket No. 2012-1889-PST-E on May 17, 2013 assessing \$6,840 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 Karcher Oil Co. Limited Liability Company, Docket No. 2012-2184-PST-E on May 17, 2013 assessing \$4,256 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Mike 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 MIKE'S CONVENIENCE STORE, INC., Docket No. 2012-2238-PST-E on May 17, 2013 assessing \$3,884 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Joel Cordero, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-201302026

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: May 22, 2013



Notice of District Petition

Notices issued May 13 and May 15, 2013.

TCEQ Internal Control No. D-01312013-023; Cimarron Hills Development, L.L.C. and Stanley M. Jensen and Carol R. Jensen Family Trust ("Petitioners") filed a petition for creation of Williamson County Municipal Utility District No. 26 (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, Section 59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states the following: (1) the Petitioners are the owners of a majority in value of the land to be included in the proposed District; (2) there is one lienholder, Lightning Ranch Holding Company, L.L.C., on the land to be included in the proposed District and Lightning Ranch Holding Company, L.L.C. has consented to the petition; (3) the proposed District will contain approximately 376.12 acres located in Williamson County, Texas; and (4) the proposed District is wholly within the extraterritorial jurisdiction of the City of Georgetown, Texas, and no portion of land within the proposed District is within the corporate limits or extraterritorial jurisdiction of any other city, town or village in Texas. By Resolution No. 111312-G, effective November 13, 2012, the City of Georgetown, Texas, gave its consent to the creation of the proposed District, pursuant to Texas Water Code §54.016 and authorized the Petitioner to initiate proceedings to create this political subdivision within its jurisdiction. The petition further states that the proposed District will construct, purchase, acquire, maintain, own and operate such facilities and services for residential and related development for the purposes of providing water, wastewater, and drainage facilities and services; park and recreation facilities and services; and road improvement, for the land within the boundaries of the proposed District. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the petitioner, from the information available at this time, that the cost of said project will be approximately \$30,610,000.

TCEQ Internal Control No. D-04262013-033; Howard Barkley Wedemeyer (the "Petitioner") filed a petition for creation of Leander Municipal Utility District No. 1 of Williamson County (the "District") with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, Section 59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states the following: (1) the Petitioner is the owner of a majority in value of the land to be included in the proposed

District; (2) there are no lien holders on the property to be included in the proposed District; (3) the proposed District will contain approximately 269.58 acres located in Williamson County, Texas; and (4) the proposed District is within the extraterritorial jurisdiction of the City of Leander, Texas. By Resolution No. 09-004-00, effective February 5, 2009, the City of Leander, Texas, gave its consent to the creation of the proposed District. The petition further states that the proposed District will (1) purchase, construct, acquire, maintain, and operate a water and wastewater system for residential and commercial purposes; (2) purchase, construct, acquire, maintain, and operate a drainage system for residential and commercial purposes; (3) purchase, construct, acquire, maintain, and operate recreational facilities for residential and commercial purposes; and (4) purchase, construct, and acquire road facilities. According to the petition, the Petitioner has conducted a preliminary investigation to determine the cost of the project and from the information available at the time, the cost of the project is estimated to be approximately \$23,925,000.

TCEQ Internal Control No. D-04262013-034; Howard Barkley Wedemeyer (the "Petitioner") filed a petition for creation of Leander Municipal Utility District No. 2 of Williamson County (the "District") with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, Section 59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states the following: (1) the Petitioner is the owner of a majority in value of the land to be included in the proposed District; (2) there are no lien holders on the property to be included in the proposed District; (3) the proposed District will contain approximately 226.46 acres located in Williamson County, Texas; and (4) the proposed District is within the extraterritorial jurisdiction of the City of Leander, Texas. By Resolution No. 09-004-00, effective February 5, 2009, the City of Leander, Texas, gave its consent to the creation of the proposed District. The petition further states that the proposed District will (1) purchase, construct, acquire, maintain, and operate a water and wastewater system for residential and commercial purposes; (2) purchase, construct, acquire, maintain, and operate a drainage system for residential and commercial purposes; (3) purchase, construct, acquire, maintain, and operate recreational facilities for residential and commercial purposes; and (4) purchase, construct, and acquire road facilities. According to the petition, the Petitioner has conducted a preliminary investigation to determine the cost of the project and from the information available at the time, the cost of the project is estimated to be approximately \$25,920,000.

TCEQ Internal Control No. D-04262013-035; Howard Barkley Wedemeyer (the "Petitioner") filed a petition for creation of Leander Municipal Utility District No. 3 of Williamson County (the "District") with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, Section 59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states the following: (1) the Petitioner is the owner of a majority in value of the land to be included in the proposed District; (2) there are no lien holders on the property to be included in the proposed District; (3) the proposed District will contain approximately 174.76 acres located in Williamson County, Texas; and (4) the proposed District is within the extraterritorial jurisdiction of the City of Leander, Texas. By Resolution No. 09-004-00, effective February 5, 2009, the City of Leander, Texas, gave its consent to the creation of the proposed District. The petition further states that the proposed District will (1) purchase, construct, acquire, maintain, and operate a water and wastewater system for residential and commercial purposes; (2) purchase, construct, acquire, maintain, and operate a drainage system for residential and commercial purposes; (3) purchase, construct,

acquire, maintain, and operate recreational facilities for residential and commercial purposes; and (4) purchase, construct, and acquire road facilities. According to the petition, the Petitioner has conducted a preliminary investigation to determine the cost of the project and from the information available at the time, the cost of the project is estimated to be approximately \$21,655,000.

INFORMATION SECTION

To view the complete issued notice, view the notice on our web site at www.tceq.texas.gov/comm_exec/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the web site, type in the issued date range shown at the top of this document to obtain search results.

The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our web site at www.tceq.texas.gov.

TRD-201302025

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: May 22, 2013



Notice of Water Quality Applications

The following notices were issued on May 10, 2013 through May 17, 2013.

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

METTON AMERICA INC which operates Metton America La Porte Plant, has applied for a renewal with minor amendment of Texas Pollutant Discharge Elimination System (TPDES) Permit No.

WQ0002406000 to authorize the removal of Outfalls 003 and 004 from the permit. The existing permit authorizes the discharge of treated process wastewater, non-process wastewater, and stormwater at a daily average flow not to exceed 10,000 gallons per day via Outfall 001, and stormwater runoff at an intermittent and flow variable rate via Outfalls 003 and 004. The facility is located at 2727 Miller Cut-Off Road in the City of La Porte, Harris County, Texas 77571.

MERISOL USA LLC which operates the Merisol Greens Bayou Plant, a petro-chemical manufacturing facility, has applied for a renewal of TPDES Permit No. WQ0000485000, which authorizes the discharge of stormwater, impounded process area stormwater, and previously monitored effluents (PMEs) [utility wastewater (boiler blowdown and cooling tower blowdown)] on an intermittent and flow variable basis via Outfall 001, stormwater and impounded process area stormwater on an intermittent and flow variable basis via Outfalls 002, 003, 004, and 005. The facility is located at 1914 Haden Road on the east side of Greens Bayou, Houston, in Harris County, Texas 77015.

MARTIN OPERATING PARTNERSHIP LP which operates the Neches Terminal, a manufacturing and commercial operation that includes a storage and shipping terminal, an ammonium thiosulfate plant, a sulfur prilling and sulfur prill loading and unloading facility, has applied for a major amendment to the TPDES Permit No. WQ0001202000 to add steam condensate to the authorized discharges at Outfalls 002, 003, 005, 006, 007 and 008; and to add scrubber blowdown from the CSR-575 (remelter) to the authorized discharge at Outfall 008. The existing permit authorizes the discharge of stormwater and contact stormwater on an intermittent and flow variable basis via Outfalls 002, 005, 006, and 007; stormwater, condensate, boiler blowdown, filter wash water, cooling tower blowdown, and raw water clarifier blowdown on an intermittent flow variable basis via Outfall 003; utility wastewater (raw water clarifier blowdown, filter wash water, and boiler blowdown), condensate, and stormwater at a daily average dry weather flow not to exceed 220,000 gallons per day via Outfall 004; and priller process wastewater from the Devco and Prillmax processes, washdown water for dust control of the sulfur prills, and equipment washdown water, stormwater, and groundwater seepage at a daily average dry weather flow not to exceed 115,000 gallons per day via Outfall 008. The facility is located at 1 Gulf States Road on the west bank of the Neches River, approximately three miles east of the intersection of U.S. Highway 90 and State Highway 380, and southeast of the City of Beaumont, Jefferson County, Texas 77704.

GULF COAST MACHINE AND SUPPLY COMPANY which operates the GULFCO facility, a forging and industrial machine shop, has applied for a renewal of TPDES Permit No. WQ0001203000, which authorizes the discharge of process wastewater, previously monitored effluent (treated domestic wastewater via Outfall 101), and stormwater on an intermittent and flow-variable basis via Outfall 001. The facility is located at 6817 Industrial Road, approximately 800 feet east of the intersection of Interstate Highway 10 and Smith Road, and 7 miles southwest of the City of Beaumont, Jefferson County, Texas 77705.

INTERCONTINENTAL TERMINALS COMPANY LLC which operates Intercontinental Terminals Company Deer Park Terminal, has applied for a major amendment to TPDES Permit No. WQ0001984000 to authorize for the removal of Outfalls 007 and 009; new Outfall 010 which will authorize the discharge of hydrostatic test water, non-contact stormwater, steam condensate, firefighting system test water, and potable utility line flushing water at an intermittent and flow variable basis; remove Ammonia, Phenols, Total Organic Nitrogen, and Total Purgeable Halocarbon monitoring requirements from Outfalls 001, 003, 004, 005, 006, and 008; reduce the monitoring frequency at Outfall 002 for multiple parameters; and add steam condensate, firefighting system test water, and potable water utility line to Outfalls

001, 003, 004, 005, 006, and 008. The current permit authorizes the discharge of hydrostatic test waters from cleaned chemical tank systems and stormwater from tank farm areas on an intermittent and flow variable basis via Outfalls 001, 003, 004, 005, 006, 008, and 009, centralized waste treatment wastewater (includes, but is not limited to, on-site process wastewater, domestic wastewater, process area stormwater, off-site (third party) wastewater, contaminated ballast water, sludge dewatering wastewater, and cooling tower blowdown) via Outfall 002 at a daily average flow not to exceed 273,000 gallons a day; ballast water at a daily average flow not to exceed 50,000 gallons a day; and domestic wastewater via Outfall 102. The facility is located at 1943 Independence Parkway, just north of the intersection of Miller Cutoff Road and State Highway 134, in the City of La Porte, Harris County, Texas 77571. The TCEQ Executive Director has reviewed this action for consistency with the Texas Coastal Management Program goals and policies in accordance with the regulations of the General Land Office, and has determined that the action is consistent with the applicable CMP goals and policies.

EXPLORER PIPELINE COMPANY which operates Port Arthur Station, a petroleum products pipeline tank farm, has applied for a renewal of TPDES Permit No. WQ0002399000 to authorize the discharge stormwater runoff on an intermittent and flow variable basis via Outfall 001; and stormwater runoff, tank water drainage, and wash-down water from the launcher slab and the receiver slab on an intermittent and flow variable basis via Outfall 002. The facility is located at 6300 Port Arthur Road, one mile north-northwest of the intersection of State Highway 73 and State Highway 823 in the City of Port Arthur, Jefferson County, Texas 77640.

FORMOSA UTILITY VENTURE LTD AND FORMOSA PLASTICS CORPORATION TEXAS which operates the Point Comfort Plant, a plastics and organic and inorganic chemicals manufacturing facility, has applied for a major amendment to TPDES Permit No. WQ0002436000 to establish minimum analytical levels for oil and grease, biochemical oxygen demand (5-day), free available chlorine, and titanium; reduce Lavaca Bay monitoring from quarterly each year to quarterly triannually based on 15 years of no impacts; increase the temperature limit at Outfall 001 from 95 °F to 100 °F; authorize the discharge of non-process area storm water, hydrostatic test water, fire water, non-contact steam condensate, non-contact wash water, potable water, air conditioner unit condensate, and ash truck wash water on an intermittent and flow variable basis via Outfall 013; increase the effluent limitations for total copper at Outfall 001; authorize the discharge of fire water via Outfalls 001, 101, and 201; and authorize the discharge of potable water and air conditioner unit condensate on an intermittent and flow variable basis via Outfalls 001, 101, 201, 002, 003, 004, 005, 006, 007, 008, 009, 010, 011, and 012. The current permit authorizes the discharge of remediated groundwater and treated previously monitored effluents (via Outfalls 101 and 201) at a daily average flow not to exceed 9,700,000 gallons per day via Outfall 001; treated process wastewater, equipment/facility washdown, storm water, and utility wastewaters at a daily average flow not to exceed 4,400,000 gallons per day via Outfall 101; treated and combined Ion Exchange Membrane (IEM) wastewater streams, utility wastewaters, equipment/facility washdown, storm water, and water treatment wastewaters on a continuous and flow variable basis via Outfall 201; non-process area storm water, hydrostatic test water, fire water, non-contact steam condensate, and non-contact wash water on an intermittent and flow variable basis via Outfalls 002, 003, 004, and 005; and non-process area storm water, hydrostatic test water, fire water, non-contact steam condensate, and non-contact wash water on an intermittent and flow variable basis via Outfalls 006, 007, 008, 009, 010, 011, and 012. The facility is located at 201 Formosa Drive, one-mile north of the intersection of State Highway

35 and Farm-to-Market Road 1593, northeast of the City of Point Comfort, Calhoun County, Texas 77978. The Executive Director has reviewed this action for consistency with the goals and policies of the Texas Coastal Management Program (CMP) in accordance with the regulations of the Coastal Coordination Council (CCC) and has determined that the action is consistent with the applicable CMP goals and policies.

BASF CORPORATION which operates BASF Corporation Freeport Harbor Terminal, an anhydrous ammonia storage terminal, has for a renewal of TPDES Permit No. WQ0002656000, which authorizes the discharge of stormwater, hydrostatic test water, fire protection water, and stormwater from construction activities at an intermittent and flow variable rate via Outfall 001. The facility is located at 1451 Navigation Boulevard, east of Farm-to-Market (FM) Road 1495 and approximately 1000 feet south of the intersection of FM Road 1495 and State Highway 288 in the City of Freeport, Brazoria County, Texas 77541.

PURINA ANIMAL NUTRITION LLC which operates Land O'Lakes Purina Feed, has for a renewal of TCEQ Permit No. WQ0002932000, which authorizes the disposal of washwaters from cleaning process equipment and process areas and contaminated stormwater at a daily average flow not exceed 18,000 gallons per day via irrigation of 4.3 acres. This permit will not authorize a discharge of pollutants into water in the State. The facility and land application site are located at 825 (State) Highway 36 North, adjacent to State Highway 36, and approximately 1.5 miles west-northwest of the City of Rosenberg, Fort Bend County, Texas 77471.

GUADALUPE BLANCO RIVER AUTHORITY has applied for a renewal of TCEQ Permit No. WQ0004438000, which authorizes the land application of sewage sludge for beneficial use. The current permit authorizes land application of sewage sludge for beneficial use on 47.914 acres. This permit will not authorize a discharge of pollutants into waters in the State. TCEQ received this application on December 19, 2012. The sewage sludge land application site is located at 976 Gerdes Road, one mile west of the City of Marion on Gerdes Road, approximately 0.8 mile north of the intersection of Gerdes Road and Santa Clara Road, in Guadalupe County, Texas 78124.

COTTON BAYOU MANOR MOBILE HOME PARK INC has applied for a renewal of TPDES Permit No. WQ0011109001, 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 0.8 mile northeast of the intersection of Farm-to-Market Road 3180 and Farm-to-Market Road 565, and 1.6 miles south-southeast of the intersection of Farm-to-Market Road 3180 and Interstate Highway 10 in Chambers County, Texas 77520.

LAVACA NAVIDAD RIVER AUTHORITY has applied for a renewal of TPDES Permit No. WQ0012084001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 50,000 gallons per day. The facility is located at the Brackenridge Plantation Campgrounds, 891 Brackenridge Parkway, Edna in Jackson County, Texas 77957.

BELLE OAKS WATER AND SEWER CO Inc. has applied for a renewal of TPDES Permit No. WQ0013565001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 14,000 gallons per day. The facility is located approximately 1.5 miles north of the intersection of State Highway 73 and Country Club Road, and approximately 2.9 miles northeast from the intersection of State Highway 73 and La Belle Road in Jefferson County, Texas 77705.

UNITED DEVELOPMENT FUNDING LP has applied for a renewal of TPDES Permit No. WQ0014570001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed

500,000 gallons per day. The facility will be located adjacent to Gum Bayou, approximately 2.14 miles east of State Highway 3 and 600 feet north of Farm-to-Market Road 517 in Galveston County, Texas 77539.

SOUTH CENTRAL WATER COMPANY has applied for a new permit, proposed TPDES Permit No. WQ0015069001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 300,000 gallons per day. The facility will be located 3,300 feet west-northwest of the intersection of South Farm-to-Market Road 818 and Interstate Highway 20 in Howard County, Texas 77720.

The following do not require publication in a newspaper. Written comments or requests for a public meeting may be submitted to the Office of the Chief Clerk, at the address provided in the information section above, WITHIN (30) DAYS OF THE ISSUED DATE OF THE NOTICE.

U S STEEL TUBULAR PRODUCTS INC which operates Bellville Operations Division, a low carbon-steel tubing and mechanical line-pipe manufacturing plant, has applied for a minor amendment to TPDES Permit No. WQ0003716000 to authorize the removal of equipment wash rack wash water as an authorized waste stream from Outfall 004 and removal of the effluent limitations and monitoring requirements for associated with wash rack wastewater [biochemical oxygen demand (5-day), ammonia-nitrogen, and dissolved oxygen]. The existing permit authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 8,000 gallons per day via Outfall 001, and cooling tower blowdown, equipment wash rack wash water, and storm water at a daily average flow not to exceed 7,000 gallons per day via Outfall 004. The facility is located approximately 3.0 miles southeast of the intersection of State Highway 36 and Farm-to-Market Road 2429 and adjacent to the intersection of State Highway 36 and Miller Road, approximately 5.2 miles southeast of the City of Bellville, Austin County, Texas 77418.

TRD-201302023

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: May 22, 2013



Revised Notice of Receipt of Application and Intent to Obtain Municipal Solid Waste Limited Scope Permit Major Amendment Proposed Permit No. 1749B

APPLICATION. Lewisville Landfill TX, LP, 801 E. College Street, Lewisville, Denton County, Texas 75057, has applied to the Texas Commission on Environmental Quality (TCEQ) for a Type IV Municipal Solid Waste Limited Scope Permit Major Amendment to obtain authorization to permit two additional alternative liner systems for Sectors 2B, 3, 4, and 5 at the landfill. The facility is located at the address listed above. The TCEQ received the application on April 1, 2013. The permit application is available for viewing and copying at the Lewisville Public Library, 1197 West Main Street, Lewisville, Denton County, Texas 75067 and may be viewed online at <http://www.ftwweaverboos.com>. The following link to an electronic map of the site or facility's general location is provided as a public courtesy and is not part of the application or notice: <http://www.tceq.texas.gov/assets/public/hb610/index.html?lat=33.051666&lng=-96.976666&zoom=13&type=r>. For exact location, refer to application.

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 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. 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 public comments and requests must be submitted either electronically at www.tceq.texas.gov/about/comments.html or in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk,

MC-105, P.O. Box 13087, Austin, Texas 78711-3087. If you choose to communicate with the TCEQ electronically, please be aware that your email address, like your physical mailing address, will become part of the agency's public record. For more information about this permit application or the permitting process, please call the TCEQ's Public Education Program, Toll Free, at 1-800-687-4040. Si desea información en español, puede llamar al 1-800-687-4040. Further information may also be obtained from Lewisville Landfill TX, LP at the address stated above or by calling Mr. Levi Plumley, Environmental Manager, at (972) 434-2015.

TRD-201302024
Bridget C. Bohac
Chief Clerk
Texas Commission on Environmental Quality
Filed: May 22, 2013

Texas Ethics Commission

List of Late Filers

Listed below is the name of a filer from the Texas Ethics Commission who did not file the report or failed to pay penalty fine for the late report in reference to the listed filing deadline. If you have any questions, you may contact Robbie Douglas at (512) 463-5780.

Deadline: Lobby Activities Report due February 11, 2013

Ben W. Sebree, 1611 West Avenue, Suite 300, Austin, Texas 78701
TRD-201301987
David A. Reisman
Executive Director
Texas Ethics Commission
Filed: May 16, 2013

Texas Facilities Commission

Request for Proposals #303-4-20359-A

The Texas Facilities Commission (TFC), on behalf of the Health and Human Services Commission (HHSC), the Department of Family and Protective Services (DFPS), and the Department of Aging and Disability Services (DADS) - Regional Administrative Offices, announces the issuance of Request for Proposals (RFP) #303-4-20359-A. TFC seeks a five (5) or ten (10) year, lease of approximately 25,006 square feet of office space in Beaumont, Texas.

The deadline for questions is June 10, 2013, and the deadline for proposals is June 17, 2013, at 3:00 p.m. The target award date is July 18, 2013. 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 Jon Conant at (512) 463-3160. 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=105923.

TRD-201302005
Kay Molina
General Counsel
Texas Facilities Commission
Filed: May 20, 2013

Texas Health and Human Services Commission

Public Notice

The Texas Health and Human Services Commission is submitting to the Centers for Medicare and Medicaid Services a request for an amendment to the Community Living Assistance and Support Services (CLASS) Medicaid waiver, which is a waiver program under section 1915(c) of the Social Security Act. The Community Living Assistance and Support Services waiver program is currently approved for the five-year period beginning September 1, 2009 and ending August 31, 2014.

The Community Living Assistance and Support Services waiver provides services and supports to individuals living in their own or their families' homes and who meet the requirements for admission to an intermediate care facility for individuals with intellectual disabilities. Individuals also must meet financial eligibility requirements. Services include case management, pre-vocational services, habilitation, respite, supported employment, adaptive aids and medical supplies, dental services, occupational therapy, physical therapy, prescriptions, nursing services, speech, hearing, and language services, financial management services, support consultation, behavioral support, continued family services, minor home modifications, specialized therapies, support family services, and transition assistance services.

Changes in the waiver will include the addition of the consumer-directed services option for supported employment and a revision to the service definition of supported employment to clarify assistance available and specify integrated, competitive employment. Point-in-time limits will be added based on the number of individuals that can be served in the waiver at a specific point in time. Service limits implemented December 1, 2011 will be removed.

The Health and Human Services Commission is requesting that the waiver amendment be approved for the period beginning September 1, 2013 through August 31, 2014. This amendment maintains cost neutrality for waiver years 2013 through 2014.

To obtain copies of the proposed waiver amendment, interested parties may contact Meisha Scott by mail at Texas Health and Human Services Commission, P.O. Box 13247, Mail Code H-370, Austin, Texas 78711-3247, phone (512) 462-6293, fax (512) 730-7472 or by email at TX_Medicaid_Waivers@hhsc.state.tx.us.

TRD-201301988
Steve Aragon
Chief Counsel
Texas Health and Human Services Commission
Filed: May 16, 2013

Texas Department of Insurance

Correction of Error

The Texas Department of Insurance (TDI) adopted amendments to 28 TAC §§7.201 - 7.205, 7.209, and 7.210 and new §§7.211 - 7.214, concerning insurance holding company systems, in the May 17, 2013, issue of the *Texas Register* (38 TexReg 3033). TDI also adopted the repeal of 28 TAC §§7.211 - 7.213, concerning Forms, in the May 17, 2013, issue of the *Texas Register* (38 TexReg 3054). The rule adoptions as submitted included the following errors.

On page 3035, first column, first line of the first full paragraph, "a effort" should be "an effort". The sentence should read as follows:

"In response to comment, and in an effort to be consistent with the NAIC model regulations and other jurisdictions, the department deletes...."

On page 3039, first column, last paragraph, the citation "843.051(g)" was omitted from the Statutory Authority. It should appear before "36.001". The corrected sentence reads as follows:

"STATUTORY AUTHORITY. The amendments and new sections are adopted in accord with Insurance Code §§823.012(a), 823.052(b), 823.052(c)(13), 823.054(d), 823.055(c), 823.059(c), 823.101(b-1), 823.103(a)(4), 823.154(a)(3), 843.051(g), 36.001, and 36.004...."

On page 3043, §7.203(j)(2), a closed parenthesis was omitted after the word "title". The paragraph should read as follows:

"(2) Whether the filing insurer is the principal insurer in the insurance holding company system is a question of fact. An insurer filing a registration statement (or report in lieu of the information specified in §7.210 of this title) on behalf of an affiliated insurer must set forth a simple statement of facts which will substantiate the filing insurer's claim that it is the principal insurer in the insurance holding company system."

On page 3045, §7.204(a)(2)(F), the word "and" was inadvertently included at the end of the subparagraph. The subparagraph should read as follows:

"(F) transactions with affiliated financial institutions, other than fully insured deposits;"

On page 3045, §7.204(d)(3), a section symbol was omitted before "823.107". The paragraph should read as follows:

"(3) Notwithstanding any other provision of law, an insurer may declare an extraordinary dividend or distribution under the conditions specified in the Act, §823.107."

On page 3046, §7.205(m), an extra "l" was inadvertently included in the first instance of the word "willfully". The subsection should read as follows:

"(m) Additional violations. Each director or officer of an insurance company subject to these sections, or of an insurance holding company system subject to these sections, who knowingly and willfully violates...."

Page 3052, §7.212(c)(3), the words "Insurance Code" were omitted from the statutory citation. The paragraph should read as follows:

"(3) a statement of how the transaction complies with Insurance Code §823.101;"

Page 3053, §7.213, the lowercase term "insurer" should replace "Insurer" in subsections (b)(7)(B), (b)(7)(D), (b)(7)(E), (b)(8), (c)(3)(F), (c)(6), (c)(8), and (c)(9).

On page 3054, second column, last sentence of the Reasoned Justification paragraph, the term "§§7.11 - 7.213" should be §§7.211 - 7.213." The corrected sentence reads as follows:

"In conjunction with the adopted repeal, the adoption of new §§7.211 - 7.213 is also published in this issue of the *Texas Register*...."

On page 3055, first column, third paragraph, the citation "843.051(g)" was omitted from the Statutory Authority. It should appear before "36.001". The corrected sentence reads as follows:

"STATUTORY AUTHORITY. The repeal is adopted pursuant to Insurance Code §§823.012(a), 823.055(c), 823.059(c), 823.101(b-1), 823.103(a)(4), 823.154(a)(3), 843.051(g), 36.001, and 36.004."

TRD-201302029

Texas Lottery Commission

Instant Game Number 1520 "\$1,000,000 Jackpot"

1.0 Name and Style of Game.

A. The name of Instant Game No. 1520 is "\$1,000,000 JACKPOT". The play style is "multiple games".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 1520 shall be \$20.00 per Ticket.

1.2 Definitions in Instant Game No. 1520.

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, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 2X SYMBOL, 5X SYMBOL, \$20.00, \$25.00, \$40.00, \$50.00, \$100, \$200, \$500, \$1,000, \$5,000, \$10,000, \$ONEMILL, CHECK SYMBOL, CHEST SYMBOL, STACK OF COINS SYMBOL, COMPASS SYMBOL, CROWN SYMBOL, DIAMOND SYMBOL, EMERALD SYMBOL, POT OF GOLD SYMBOL, GOLD BAR SYMBOL, DOLLAR BILL SYMBOL, MONEY BAG SYMBOL, NECKLACE SYMBOL, PIGGY BANK SYMBOL, SAFE SYMBOL, RING SYMBOL, ROLL OF BILLS SYMBOL, SILVER BAR SYMBOL, TROPHY SYMBOL, WALLET SYMBOL, STAR SYMBOL AND WIN ALL SYMBOL.

D. Play Symbols 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. 1520 - 1.2D

PLAY SYMBOL	CAPTION
1	ONE
3	THR
4	FOR
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
2X SYMBOL	WINX2
5X SYMBOL	WINX5
\$20.00	TWENTY
\$25.00	TWY FIV
\$40.00	FORTY
\$50.00	FIFTY
\$100	ONE HUND
\$200	TWO HUND
\$500	FIV HUND
\$1,000	ONE THOU
\$5,000	FIV THOU
\$10,000	10 THOU
\$ONEMILL	ONE MIL
CHECK SYMBOL	CHECK
CHEST SYMBOL	CHEST
STACK OF COINS SYMBOL	COINS
COMPASS SYMBOL	COMPAS
CROWN SYMBOL	CROWN
DIAMOND SYMBOL	DMND
EMERALD SYMBOL	EMERALD
POT OF GOLD SYMBOL	PTGOLD
GOLD BAR SYMBOL	GOLD
DOLLAR BILL SYMBOL	MONEY
MONEY BAG SYMBOL	MBAG
NECKLACE SYMBOL	NCKLACE
PIGGY BANK SYMBOL	PIGBNK

SAFE SYMBOL	SAFE
RING SYMBOL	RING
ROLL OF BILLS SYMBOL	ROLL
SILVER BAR SYMBOL	SILVBR
TROPHY SYMBOL	TROPHY
WALLET SYMBOL	WALLET
STAR SYMBOL	STAR
WIN ALL SYMBOL	WINALL

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 for validation purposes and cannot be used to play the game. The format will be: 00000000000000.

F. Low-Tier Prize - A prize of \$20.00.

G. Mid-Tier Prize - A prize of \$25.00, \$50.00, \$100, \$200 or \$500.

H. High-Tier Prize - A prize of \$1,000, \$5,000, \$10,000 or \$1,000,000.

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 (1520), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 025 within each Pack. The format will be: 1520-0000001-001.

K. Pack - A Pack of "\$1,000,000 JACKPOT" Instant Game Tickets contains 025 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 025 while the other fold will show the back of Ticket 001 and front of 025.

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 "\$1,000,000 JACKPOT" Instant Game No. 1520 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, 16 TAC §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 "\$1,000,000 JACKPOT" Instant Game is determined once the latex on the Ticket is scratched off to expose 50 (fifty) Play Symbols. GAME 1: 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 "2X" Play Symbol, the player wins 2 TIMES the prize for that symbol. If a player reveals a "5X" Play Symbol, the player wins

5 TIMES the prize for that symbol. GAME 2: If a player matches any of YOUR SYMBOLS Play Symbols to any of the WINNING SYMBOLS Play Symbols, the player wins the prize for that symbol. If a player reveals a "STAR" Play Symbol, the player wins the prize for that symbol instantly. If a player reveals a "WIN ALL" Play Symbol, the player WINS ALL 10 PRIZES in this game! 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 50 (fifty) 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 50 (fifty) 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 50 (fifty) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;
17. Each of the 50 (fifty) 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 more than four identical, non-winning Prize Symbols on a Ticket.
- C. The top Prize Symbol will appear at least once on every Ticket unless restricted by other parameters, play action or prize structure.
- D. KEY NUMBER MATCH GAME: No duplicate WINNING NUMBERS Play Symbols on a Ticket.
- E. KEY NUMBER MATCH GAME: No duplicate, non-winning YOUR NUMBERS Play Symbols on a Ticket.
- F. KEY NUMBER MATCH GAME: No more than two identical, non-winning Prize Symbols in this Game.
- G. KEY NUMBER MATCH GAME: A non-winning Prize Symbol will never be the same as a winning Prize Symbol in this Game.
- H. KEY NUMBER MATCH GAME: No prize amount in a non-winning spot will correspond with the YOUR NUMBERS Play Symbol (i.e., 20 and \$20).
- I. KEY NUMBER MATCH GAME: The "2X" (win x 2) and "5X" (win x 5) Play Symbols will only appear as dictated by the prize structure.
- J. KEY SYMBOL MATCH GAME: No duplicate WINNING SYMBOLS Play Symbols on a Ticket.
- K. KEY SYMBOL MATCH GAME: No duplicate, non-winning YOUR SYMBOLS Play Symbols on a Ticket.

L. KEY SYMBOL MATCH GAME: No more than two identical, non-winning Prize Symbols in this Game.

M. KEY SYMBOL MATCH GAME: A non-winning Prize Symbol will never be the same as a winning Prize Symbol in this Game.

N. KEY SYMBOL MATCH GAME: The "STAR" (auto win) Play Symbol will never appear more than once on a Ticket.

O. KEY SYMBOL MATCH GAME: When the "WIN ALL" (win all 10 prizes) Play Symbol appears, there will be no occurrence of any of YOUR SYMBOLS Play Symbols matching to any WINNING SYMBOLS Play Symbol.

P. KEY SYMBOL MATCH GAME: When the "WIN ALL" (win all 10 prizes) Play Symbol appears, there will be no occurrence of the "STAR" (auto win) Play Symbol.

Q. KEY SYMBOL MATCH GAME: The "WIN ALL" (win all 10 prizes) Play Symbol will only appear on intended winning Tickets as dictated by the prize structure.

2.3 Procedure for Claiming Prizes.

A. To claim a "\$1,000,000 JACKPOT" Instant Game prize of \$20.00, \$25.00, \$50.00, \$100, \$200 or \$500, a claimant shall sign the back of the Ticket in the space designated on the Ticket and present the winning Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, 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 \$25.00, \$50.00, \$100, \$200 or \$500 Ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "\$1,000,000 JACKPOT" Instant Game prize of \$1,000, \$5,000, \$10,000 or \$1,000,000, 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 "\$1,000,000 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 Texas Lottery is not responsible for Tickets lost in the mail. 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:

1. A sufficient amount from the winnings of a prize winner who has been finally determined to be:

a. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Texas Government Code §403.055;

b. in default on a loan made under Chapter 52, Education Code; or

c. in default on a loan guaranteed under Chapter 57, Education Code; and

2. delinquent child support payments from the winnings of a prize winner in the amount of the delinquency as determined by a court or a Title IV-D agency under Chapter 231, Family 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 under \$600 from the "\$1,000,000 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 \$600 or more from the "\$1,000,000 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 personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is 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. 1520. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 1520 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in**
\$20	960,000	6.25
\$25	240,000	25.00
\$50	720,000	8.33
\$100	135,000	44.44
\$200	18,500	324.32
\$500	9,780	613.50
\$1,000	550	10,909.09
\$5,000	400	15,000.00
\$10,000	20	300,000.00
\$1,000,000	4	1,500,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 2.88. 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. 1520 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 will be made in accordance with the Instant Game closing procedures and the Instant Game Rules. See 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. 1520, 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-201301980
Bob Biard
General Counsel
Texas Lottery Commission
Filed: May 15, 2013

North Central Texas Council of Governments

Request for Information for Auto Occupancy Verification Technology Demonstrations

The North Central Texas Council of Governments (NCTCOG), in partnership with local transportation agencies, is seeking letters of interest and product information on advancements in technology to automatically capture vehicle occupancy detection and verification. Respondents may be requested to demonstrate proposed products by way of a technology demonstration assessment. A Request for Information (RFI) was previously issued in May 2012 regarding automatic vehicle

occupancy detection and/or dynamic tracking of vehicle speed. The purpose of this RFI is to obtain updated information related to advancements in technology for vehicle occupancy detection and verification. This RFI is issued solely for information and planning purposes; it does not constitute a Request for Proposal (RFP) or a promise to issue an RFP in the future. This RFI does not commit NCTCOG to contract for any supply or service whatsoever. Costs associated with preparing a response to this request are at the respondent's own expense and will not be reimbursed by NCTCOG. Not responding to this RFI does not preclude participation in any future RFP, if any is issued.

Release and Due Date

The RFI was issued and made available on NCTCOG's website on May 31, 2013. Responses to the RFI must be received no later than 5:00 p.m., on Friday, June 21, 2013, via mail or hand-delivery, to Natalie Bettger, Senior Program Manager, North Central Texas Council of Governments, P.O. Box 5888, Arlington, Texas 76005-5888 (mail) or 616 Six Flags Drive, Arlington, Texas 76011 (hand-delivery). Copies of the RFI are available at <http://www.nctcog.org/trans/admin/rfp>.

NCTCOG encourages participation by disadvantaged business enterprises and does not discriminate on the basis of age, race, color, religion, sex, national origin, or disability.

TRD-201302038
R. Michael Eastland
Executive Director
North Central Texas Council of Governments
Filed: May 22, 2013

Permian Basin Regional Planning Commission

Request for Proposals

The Permian Basin Regional Planning Commission is seeking proposals for Single Audit Services for the fiscal year ending September 30, 2013, from qualified firms of certified public accountants. Proposers will be required to perform audit in accordance with generally accepted auditing standards set forth by the Single Audit Act of 1996; OMB Circular A-133, State of Texas Uniform Grant Management Standards adopted June, 2004, to include the State Single Audit Attachment and GASB 34.

For more information or to request a proposal package, contact Cheryl Keith at Permian Basin Regional Planning Commission, P.O. Box 60660 Midland, Texas 79711, (432) 563-1061. Bid proposals should be received no later than 5:00 p.m., Friday, June 21, 2013.

TRD-201302006

Cheryl Keith

Director of Administrative Services

Permian Basin Regional Planning Commission

Filed: May 20, 2013



Public Utility Commission of Texas

Notice of Application for a Service Provider Certificate of Operating Authority

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on May 15, 2013, for a service provider certificate of operating authority (SPCOA), pursuant to §§54.151 - 54.156 of the Public Utility Regulatory Act (PURA).

Docket Title and Number: Application of Lubbock Emergency Communication District for a Service Provider Certificate of Operating Authority, Docket Number 41495.

Applicant intends to provide 9-1-1 database services.

Applicant proposes to provide service within certain rate centers served by Valor Telecommunications of Texas, LLC d/b/a Windstream Communications Southwest, South Plains Telephone Cooperative, Inc., and Southwestern Bell Telephone Company d/b/a AT&T Texas.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326 or by phone at (512) 936-7120 or toll-free at (888) 782-8477 no later than June 7, 2013. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or toll-free at (800) 735-2989. All comments should reference Docket Number 41495.

TRD-201301994

Adriana A. Gonzales

Rules Coordinator

Public Utility Commission of Texas

Filed: May 17, 2013



Notice of Application for Limited Code of Conduct Waiver

Notice is given to the public of an application filed with the Public Utility Commission of Texas (commission) on May 17, 2013, for a limited code of conduct waiver.

Docket Style and Number: Application of Lone Star Transmission, LLC for a Limited Code of Conduct Waiver, Docket Number 41503.

The Application: Lone Star Transmission, LLC (Lone Star), a transmission service provider, seeks permission to continue obtaining certain Engineering and Construction (E&C) related support services from

the NextEra Energy, Inc. (NextEra) E&C group staffed by personnel employed by Lone Star's affiliates, Florida Power & Light Company (FPL) and NextEra Energy Resources, LLC (NEER).

Lone Star explained that the commission approved a limited code of conduct waiver in Docket Number 36890 which allowed Lone Star to rely on the NextEra Energy E&C group staffed by personnel employed by Lone Star's affiliates, FPL and NEER, to provide Lone Star with various engineering and construction services. However, it is not clear whether Lone Star may continue to utilize this expertise and depth on a going-forward basis to address interconnection requests and fulfill transmission planning requirements for this and any future projects. Therefore, Lone Star requests a limited waiver to its code of conduct in order to continue to use affiliated E&C personnel (FPL and NEER employees) for ongoing engineering and construction needs.

Persons who wish to intervene in the proceeding or comment upon the action sought should contact the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326 or call the commission's Office of Customer Protection at (512) 936-7120 or (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or use Relay Texas (toll-free) 1-800-735-2989. All correspondence should refer to Docket Number 41503.

TRD-201302015

Adriana A. Gonzales

Rules Coordinator

Public Utility Commission of Texas

Filed: May 21, 2013



Notice of Application for Retail Electric Provider Certification

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on May 15, 2013, for retail electric provider (REP) certification, pursuant to §39.352 of the Public Utility Regulatory Act (PURA).

Docket Title and Number: Application of Electranet Power, LLC for Retail Electric Provider Certification, Pursuant to Substantive Rule §25.107, Docket Number 41494.

Applicant's requested service area by geography includes the entire State of Texas.

Persons wishing to comment upon the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326 or by phone at (512) 936-7120 or toll-free at (888) 782-8477 no later than July 1, 2013. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or toll-free at (800) 735-2989. All comments should reference Docket Number 41494.

TRD-201301993

Adriana A. Gonzales

Rules Coordinator

Public Utility Commission of Texas

Filed: May 17, 2013



Notice of Application for Retail Electric Provider Certification

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on May 21, 2013, for retail electric provider (REP) certification, pursuant to §39.352 of the Public Utility Regulatory Act (PURA).

Docket Title and Number: Application of Bose Energy, LLC for Retail Electric Provider Certification, Pursuant to Substantive Rule §25.107, Docket Number 41507.

Applicant's requested service area by geography includes the entire State of Texas.

Persons wishing to comment upon the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326 or by phone at (512) 936-7120 or toll-free at (888) 782-8477 no later than July 20, 2013. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or toll-free at (800) 735-2989. All comments should reference Docket Number 41507.

TRD-201302037

Adriana A. Gonzales

Rules Coordinator

Public Utility Commission of Texas

Filed: May 22, 2013



Notice of Filing to Withdraw Services Pursuant to P.U.C. Substantive Rule §26.208(h)

Notice is given to the public of an application filed with the Public Utility Commission of Texas (commission) to withdraw services pursuant to P.U.C. Substantive Rule §26.208(h).

Docket Title and Number: Application of Central Texas Telephone Cooperative, Inc. to Withdraw a Service, Pursuant to P.U.C. Substantive Rule §26.208(h) - Docket Number 41453.

The Application: On May 2, 2013, pursuant to P.U.C. Substantive Rule §26.208(h), Central Texas Telephone Cooperative, Inc. filed an application with the commission to withdraw the Do Not Disturb, special calling feature rate and service description from the tariff sheets in Section 12, Sheets 28, 30, 35 and 37. There are no current customers subscribing to this service. The proceeding was docketed and suspended on May 3, 2013, to allow adequate time for review and intervention.

Persons wishing to comment on this application should contact the commission by July 1, 2013. Requests to intervene should be filed with the commission's Filing Clerk at P.O. Box 13326, Austin, Texas 78711-3326 or you may call the commission at (512) 936-7120 or toll-free 1-800-735-2989. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Docket Number 41453.

TRD-201302014

Adriana A. Gonzales

Rules Coordinator

Public Utility Commission of Texas

Filed: May 21, 2013



Notice of Intent to Implement a Minor Rate Change Pursuant to P.U.C. Substantive Rule §26.171

Notice is given to the public of an application filed with the Public Utility Commission of Texas (commission) on May 14, 2013, to implement a minor rate change pursuant to P.U.C. Substantive Rule §26.171.

Tariff Control Title and Number: Notice of Ganado Telephone Company, Inc. for Approval of a Minor Rate Change Pursuant to Substantive Rule §26.171 and Public Utility Regulatory Act §53, Subchapter G, Tariff Control Number 41490.

The Application: Ganado Telephone Company, Inc. (Ganado) filed an application with the commission for revisions to its local exchange service tariffs. Ganado proposed an effective date of June 1, 2013. The estimated revenue increase to be recognized by Ganado is \$33,814 in gross annual intrastate revenues. The applicant has 2,442 access lines in service in the state of Texas.

If the commission receives a complaint(s) relating to this application signed by 5% of the affected local service customers to which this application applies by May 31, 2013, the application will be docketed. The 5% limitation will be calculated based upon the total number of customers of record as of the calendar month preceding the commission's receipt of the complaint(s).

Persons wishing to comment on this application should contact the Public Utility Commission of Texas by May 31, 2013. Requests to intervene should be filed with the commission's Filing Clerk at P.O. Box 13326, Austin, Texas 78711-3326 or you may call the commission at (512) 936-7120 or toll-free 1-800-735-2989. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. All correspondence should refer to Tariff Control Number 41490.

TRD-201301992

Adriana A. Gonzales

Rules Coordinator

Public Utility Commission of Texas

Filed: May 17, 2013



Texas Department of Transportation

Aviation Division - Request for Qualifications for Professional Architectural/Engineering Services

Scurry County, through its agent the Texas Department of Transportation (TxDOT), intends to engage an aviation professional engineering firm for services pursuant to Government Code, Chapter 2254, Subchapter A. TxDOT Aviation Division will solicit and receive qualifications for professional aviation engineering design services described below.

The following is a listing of proposed projects at Winston Field during the course of the next five years through multiple grants.

Current Project: Scurry County. TxDOT CSJ No.: 13HGSNYDR. Scope: Provide engineering/design for hangar.

1. Construct county owned hangar, hangar automobile access road and hangar access TXWY

The DBE/HUB goal for the current project is 11 percent. TxDOT Project Manager is Paul Slusser.

Future scope work items for engineering/design services within the next five years may include the following: rehabilitate and mark RW17-35 and RW8-26; rehabilitate and mark hangar access TXWYs; rehabilitate and mark parallel and connecting TXWYs; rehabilitate terminal and agriculture aprons and construct automobile parking at County owned hangar.

Scurry County reserves the right to determine which of the above scope of services may or may not be awarded to the successful firm and to initiate additional procurement action for any of the services above.

To assist in your qualification statement preparation the criteria, 5010 drawing, project diagram, and most recent Airport Layout Plan are available online at

<http://www.txdot.gov/inside-txdot/division/aviation/projects.html> by selecting "Winston Field." The qualification statement should address a technical approach for the current scope only. Firms shall use page 4, Recent Airport Experience, to list relevant past projects for both current and future scope.

Interested firms shall utilize the latest version of Form AVN-550, titled "Qualifications for Aviation Architectural/Engineering Services." The form may be requested from TxDOT, Aviation Division, 125 E. 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/inside-txdot/division/aviation/projects.html>.

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. Qualifications shall not exceed the number of pages in the AVN-550 template. The AVN-550 consists of eight and one half by eleven inch pages of data plus one optional illustration page. The optional illustration page shall be no larger than eleven by seventeen inches and may be folded to an eight and one half by eleven inch size. A prime provider may only submit one AVN-550. If a prime provider submits more than one AVN-550, that provider will be disqualified. AVN-550s shall be stapled but not bound or folded in any other fashion. AVN-550s 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:

Seven completed copies of Form AVN-550 **must be received** by TxDOT, Aviation Division at 150 East Riverside Drive, 5th Floor, South Tower, Austin, Texas 78704 no later than June 25, 2013, 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 Kelle Chancey.

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 AVN-550s. The committee will review all AVN-550s and rate and rank each. The Evaluation Criteria for Engineering Qualifications can be found at

<http://www.txdot.gov/inside-txdot/division/aviation/projects.html> under the Notice to Consultants link. 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.

Please contact TxDOT Aviation for any technical or procedural questions at 1-800-68-PILOT (74568). For procedural questions, please contact Kelle Chancey, Grant Manager. For technical questions, please contact Paul Slusser, Project Manager.

TRD-201302034

Joanne Wright

Deputy General Counsel

Texas Department of Transportation

Filed: May 22, 2013



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)