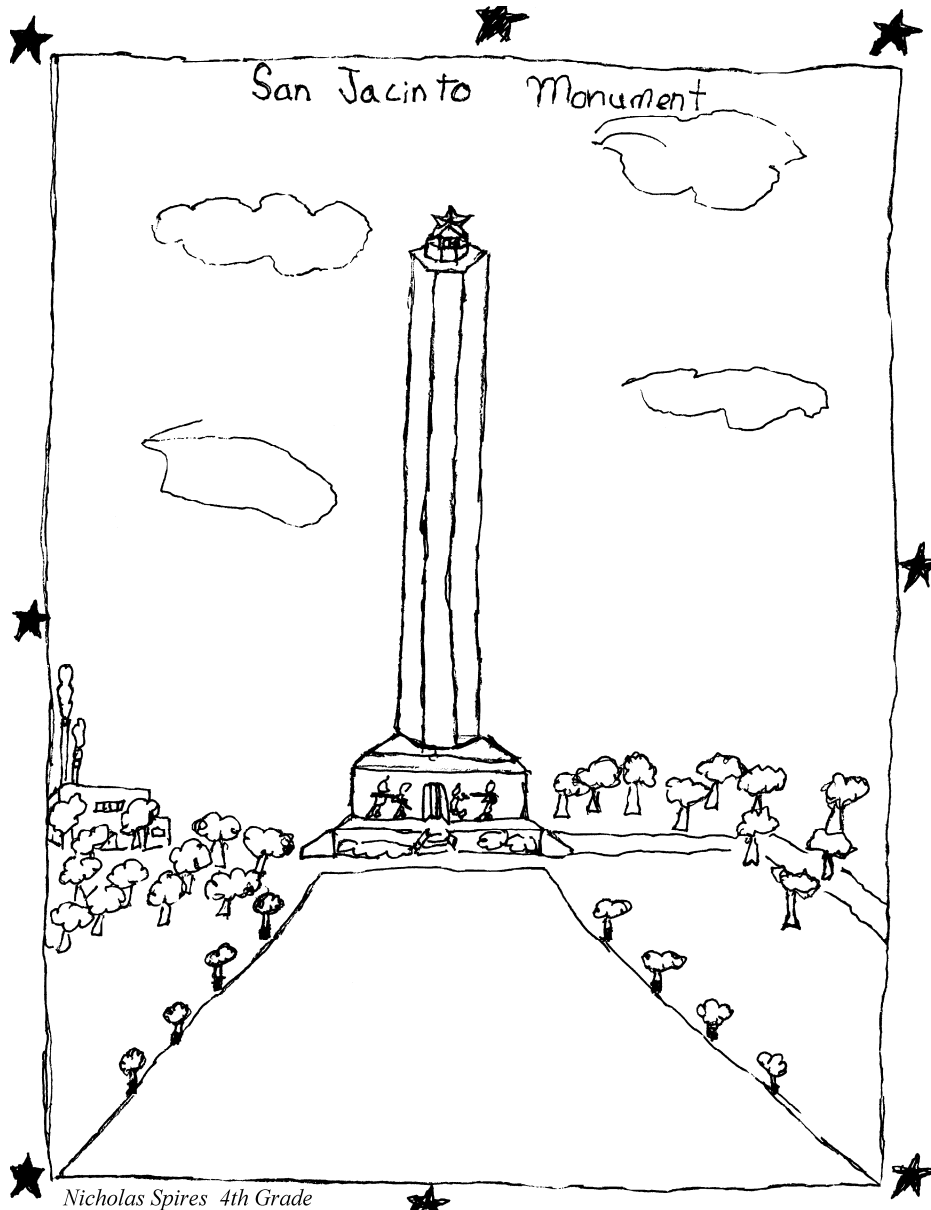

TEXAS REGISTER

Volume 34 Number 14

April 3, 2009

Pages 2201 - 2312



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

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

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THE GOVERNOR

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

Appointments

Appointments for March 16, 2009

Appointed to the Texas Southern University Board of Regents for a term to expire February 1, 2015, Dionicio "Don" Flores of El Paso (replacing E. Javier Loya of Houston whose term expired).

Appointed to the Texas Southern University Board of Regents for a term to expire February 1, 2015, Curtistene McCowan of DeSoto (Ms. McCowan is being reappointed).

Appointed to the Texas Southern University Board of Regents for a term to expire February 1, 2015, Tracye McDaniel of Houston (Ms. McDaniel is being reappointed).

Appointed to the Angelina and Neches River Authority Board of Directors for a term to expire September 5, 2013, Joseph Anderson, II of Lufkin. Mr. Anderson is replacing Tom Gann who resigned.

Appointed to the Texas Department of Housing and Community Affairs for a term to expire January 31, 2015, C. Kent Conine of Dallas (Mr. Conine is being reappointed).

Appointed to the Texas Department of Housing and Community Affairs for a term to expire January 31, 2015, Thomas H. Gann of Lufkin (replacing Sonny Flores of Houston whose term expired).

Appointments for March 17, 2009

Appointed to the Texas Racing Commission for a term to expire February 1, 2015, Vicki Smith Weinberg of Colleyville (replacing Charles Sowell of Houston whose term expired).

Appointed to the Texas Racing Commission for a term to expire February 1, 2015, Thomas R. Latham of Sunnyvale (replacing Jesse Adams of Helotes whose term expired).

Appointed to the Governor's Committee on People with Disabilities for a term to expire February 1, 2011, Alan R. Babin, Jr. of Round Rock (replacing Shane Whitehurst of Austin whose term expired).

Appointed to the Governor's Committee on People with Disabilities for a term to expire February 1, 2011, Joseph Bontke of Houston (Mr. Bontke is being reappointed).

Appointed to the Governor's Committee on People with Disabilities for a term to expire February 1, 2011, Daphne Brookins of Fort Worth (Ms. Brookins is being reappointed).

Appointed to the Governor's Committee on People with Disabilities for a term to expire February 1, 2011, David A. Fowler of Katy (Mr. Fowler is being reappointed).

Appointed to the Governor's Committee on People with Disabilities for a term to expire February 1, 2011, Bobby Z. "Robby" Holcomb, Jr. of Mount Pleasant (replacing Roland Guzman of San Antonio whose term expired).

Appointed to the Governor's Committee on People with Disabilities for a term to expire February 1, 2011, Brian D. Shannon of Lubbock (Mr. Shannon is being reappointed).

Appointments for March 18, 2009

Appointed to the Special Education Continuing Advisory Committee for a term to expire February 1, 2011, Marnie Mast of Austin (replacing Emily Bodden of Houston who resigned).

Appointed to the Special Education Continuing Advisory Committee for a term to expire February 1, 2011, Lene' Al-Rashid of Austin (replacing Margaret Christen of Austin who resigned).

Appointed to the Special Education Continuing Advisory Committee for a term to expire February 1, 2013, Julia W. Erwin of Montgomery (replacing Sharon Brown of Tyler whose term expired).

Appointed to the Special Education Continuing Advisory Committee for a term to expire February 1, 2013, Jennifer Taylor of Houston (replacing Mary Helen Haines of Dallas whose term expired).

Appointed to the Special Education Continuing Advisory Committee for a term to expire February 1, 2013, Paul J. Watson of Flower Mound (replacing Priscilla King of Jarrell whose term expired).

Appointed to the Special Education Continuing Advisory Committee for a term to expire February 1, 2013, Diana L. Taylor of Stephenville (replacing Laura Stough of Elgin whose term expired).

Appointed to the Special Education Continuing Advisory Committee for a term to expire February 1, 2013, Ismael Capelo of Pasadena (Mr. Capelo is being reappointed).

Appointed to the Special Education Continuing Advisory Committee for a term to expire February 1, 2013, Candance Leigh Hawks of Belton (Ms. Hawks is being reappointed).

Appointed to the Special Education Continuing Advisory Committee for a term to expire February 1, 2013, Rose Marie Cruz of Laredo (Ms. Cruz is being reappointed).

Appointed to the Special Education Continuing Advisory Committee for a term to expire February 1, 2013, Debra Emerson of Austin (Ms. Emerson is being reappointed).

Appointed to the Special Education Continuing Advisory Committee for a term to expire February 1, 2013, Pamela Willson of Brookesmith (Ms. Willson is being reappointed).

Designating Gary E. Wood as presiding officer of the Texas Public Finance Authority for a term at the pleasure of the Governor. Mr. Wood is replacing H.L. Bert Mijares, Jr. of El Paso as presiding officer.

Appointed to the Texas Public Finance Authority for a term to expire February 1, 2015, Rodney Keith Moore of Lufkin. Mr. Moore is replacing H.L. Bert Mijares, Jr. of El Paso whose term expired.

Appointed to the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments for a term to expire December 31, 2009, Cindy Steinbart of Round Rock (replacing Sara Ann Garza of Mission who resigned).

Appointed to the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments for a term to expire December 31,

2011, Robert J. Gebhard, Jr. of Pearland (replacing Audrey McDonald of Georgetown who resigned).

Appointed to the Credit Union Commission for a term to expire February 15, 2015, David Cibrian of San Antonio (replacing Mary Ann Grant of Houston whose term expired).

Appointed to the Credit Union Commission for a term to expire February 15, 2015, Gary L. Janacek of Belton (Mr. Janacek is being reappointed).

Appointed to the Credit Union Commission for a term to expire February 15, 2015, A. John Yoggerst, II of San Antonio (replacing Rusty Ballard of Forreton whose term expired).

Appointed to the Trinity River Authority Board of Directors for a term to expire March 15, 2015, Ronald J. Goldman of Fort Worth (Mr. Goldman is being reappointed).

Appointed to the Trinity River Authority Board of Directors for a term to expire March 15, 2015, John W. Jenkins of Hankamer (Mr. Jenkins is being reappointed).

Appointed to the Trinity River Authority Board of Directors for a term to expire March 15, 2015, Keith W. Kidd of Dallas (replacing Katrina Keyes of Dallas whose term expired).

Appointed to the Trinity River Authority Board of Directors for a term to expire March 15, 2015, Emanuel "Manny" Rachal of Livingston (Mr. Rachal is being reappointed).

Appointed to the Trinity River Authority Board of Directors for a term to expire March 15, 2015, Ronald Kevin Maxwell of Crockett (Mr. Maxwell is being reappointed).

Appointed to the Trinity River Authority Board of Directors for a term to expire March 15, 2015, Barbara Nash of Arlington (Ms. Nash is being reappointed).

Appointed to the Trinity River Authority Board of Directors for a term to expire March 15, 2015, Shirley K. Seale of Anahuac (Ms. Seale is being reappointed).

Appointed to the Trinity River Authority Board of Directors for a term to expire March 15, 2015, Kimberly Chris "K.C." Wyatt of Corsicana (Mr. Wyatt is being reappointed).

Appointed for March 19, 2009

Appointed to the Texas Council for Developmental Disabilities for a term to expire February 1, 2013, Mateo Delgado of El Paso (replacing Jan Newsom of Dallas whose term expired).

Appointed to the Texas Council for Developmental Disabilities for a term to expire February 1, 2013, John C. Morris of Leander (Mr. Morris is being reappointed).

Appointed to the Texas Council for Developmental Disabilities for a term to expire February 1, 2015, Rebecca Hunter Adkins of Lakeway (replacing Melonie Smith Caster of Bedford whose term expired).

Appointed to the Texas Council for Developmental Disabilities for a term to expire February 1, 2015, Kimberly Anne Blackmon of Fort Worth (replacing Amy Ley of Flower Mount whose term expired).

Appointed to the Texas Council for Developmental Disabilities for a term to expire February 1, 2015, Kristen L. Cox of El Paso (replacing Vickie Mitchell of Montgomery whose term expired).

Appointed to the Texas Council for Developmental Disabilities for a term to expire February 1, 2015, Diana Kern of Cedar Creek (Ms. Kern is being reappointed).

Appointed to the Texas Council for Developmental Disabilities for a term to expire February 1, 2015, Dana Smith Perry of Brownwood (Ms. Perry is being reappointed).

Appointed to the Texas Council for Developmental Disabilities for a term to expire February 1, 2015, Deneesa A. Rasmussen of Arlington (replacing Raul Trevino of Palmhurst whose term expired).

Appointed to the Texas Council for Developmental Disabilities for a term to expire February 1, 2015, Richard A. Tisch of Spring (Mr. Tisch is being reappointed).

Appointments for March 20, 2009

Designating William White as presiding officer of the Texas Finance Commission for a term at the pleasure of the Governor, Mr. White is replacing John Snider of Center as presiding officer.

Appointed to the Texas Board of Criminal Justice for a term to expire February 1, 2015, Oliver Bell of Horseshoe Bay (Mr. Bell is being reappointed).

Appointed to the Texas Board of Criminal Justice for a term to expire February 1, 2015, Janice Harris Lord of Arlington (Ms. Lord is being reappointed).

Appointed to the Texas Board of Criminal Justice for a term to expire February 1, 2015, Carmen Villanueva-Hiles of Palmhurst (replacing Gregory Coleman of Cedar Park whose term expired).

Appointed to the Texas Board of Professional Geoscientists for a term to expire February 1, 2015, Kelly Krenz Doe of Friendswood (Ms. Doe is being reappointed).

Appointed to the Texas Board of Professional Geoscientists for a term to expire February 1, 2015, Benjamin Harris is Plano (replacing Rene Pena of El Paso whose term expired).

Appointed to the Texas Board of Professional Geoscientists for a term to expire February 1, 2015, Charles Knobloch of Katy (replacing Gordon Ware of Corpus Christ whose term expired).

Appointed to the Governing Board of the Texas School for the Blind and Visually Impaired for a term to expire January 31, 2015, Mary K. Alexander of Valley View (replacing Jamie Wheeler of N. Richland Hills whose term expired).

Appointed to the Governing Board of the Texas School for the Blind and Visually Impaired for a term to expire January 31, 2015, Gene I. Brooks of Austin (Dr. Brooks is being reappointed).

Appointed to the Governing Board of the Texas School for the Blind and Visually Impaired for a term to expire January 31, 2015, Joseph Muniz of Harlingen (replacing Donna Clopton of Weatherford whose term expired).

Appointed to the Texas Council on Autism and Pervasive Developmental Disorders for a term to expire February 1, 2011, Anna Penn Hundley of Dallas (Ms. Hundley is being reappointed).

Appointed to the Texas Council on Autism and Pervasive Developmental Disorders for a term to expire February 1, 2011, Frank C. McCamant of Austin (Mr. McCamant is being reappointed).

Appointed to the Texas Council on Autism and Pervasive Developmental Disorders for a term to expire February 1, 2011, Manuel M. Vela of Harlingen (Mr. Vela is being reappointed).

Rick Perry, Governor

TRD-200901145



THE ATTORNEY GENERAL

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

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

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

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

Opinions

Opinion No. GA-0699

The Honorable Frank J. Corte, Jr.

Chair, Committee on Defense and Veterans' Affairs

Texas House of Representatives

Post Office Box 2910

Austin, Texas 78768-2910

Re: Local government policies that hinder enforcement of federal immigration laws (RQ-0733-GA)

S U M M A R Y

The Texas Legislature is not prohibited from adopting some form of legislation designed to compel local governments to comply with any duties they may have under federal immigration laws, so long as such legislation is not inconsistent with federal law.

Opinion No. GA-0700

The Honorable Elton R. Mathis

Waller County Criminal District Attorney

846 Sixth Street, Suite #1

Hempstead, Texas 77445

Re: Reimbursement for the court reporter of the 506th District Court (RQ-0746-GA)

S U M M A R Y

When the official court reporter of the 506th District Court performs official duties in a county other than the court reporter's county of residence, the court reporter is entitled to reimbursement by the other county for actual and necessary expenses under Government Code section 52.055, subject to statutory limits. Section 152.011 of the Local Government Code does not authorize the commissioners court to set and pay the expenses of the court reporter for a district court.

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

TRD-200901175

Stacey Napier

Deputy Attorney General

Office of the Attorney General

Filed: March 24, 2009



TEXAS ETHICS COMMISSION

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

Advisory Opinion Request

AOR-546. The Texas Ethics Commission has been asked to consider whether an officeholder may use political contributions to contribute to a trust fund for the benefit of an individual for payment of that individual's medical and other supplemental needs.

The Texas Ethics Commission is authorized by §571.091 of the Government Code to issue advisory opinions in regard to the following statutes: (1) Chapter 572, Government Code; (2) Chapter 302, Government Code; (3) Chapter 303, Government Code; (4) Chapter 305, Government Code; (5) Chapter 2004, Government Code; (6) Title 15, Election Code; (7) Chapter 159, Local Government Code; (8) Chapter 36, Penal Code; (9) Chapter 39, Penal Code; (10) Section 2152.064, Government Code; and (11) Section 2155.003, Government Code.

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

TRD-200901161
Natalia Luna Ashley
General Counsel
Texas Ethics Commission
Filed: March 24, 2009



PROPOSED RULES

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

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

TITLE 1. ADMINISTRATION

PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 354. MEDICAID HEALTH SERVICES

SUBCHAPTER A. PURCHASED HEALTH SERVICES

DIVISION 19. PSYCHOLOGISTS' SERVICES

1 TAC §354.1281

The Texas Health and Human Services Commission (HHSC) proposes to amend §354.1281, Benefits and Limitations, under Title 1, Part 15, Chapter 354, Subchapter A, Division 19, of the Texas Administrative Code, relating to services performed by a licensed psychological associate (LPA) under the direct supervision of a licensed psychologist.

Background and Justification

The Texas State Board of Examiners of Psychologists requires an LPA to work under the supervision of a licensed psychologist and does not allow an LPA to engage in independent practice. Currently, Texas Medicaid does not reimburse licensed psychologists for services provided by an LPA who works under the supervision of the psychologist and does not allow an LPA to enroll as a Medicaid provider.

Medicare allows reimbursement to clinical psychologists for services performed by an LPA under the psychologist's direct supervision. The Code of Federal Regulations (42 C.F.R. §410.71) states that services performed by an LPA are covered under Medicare if: the services are performed under the direct supervision of a licensed psychologist; the licensed psychologist is immediately available to provide assistance and direction throughout the time the service is being performed; and the LPA performing the service is an employee of either the licensed psychologist or the legal entity that employs the licensed psychologist.

The proposed new rule aligns Medicaid policy with Medicare by allowing a psychologist to be reimbursed for services performed by an LPA when the LPA is under the direct supervision of the licensed psychologist. The proposed rule also remains consistent with the Texas State Board of Examiners of Psychologists rules that prohibit an LPA from engaging in independent practice. Allowing Medicaid reimbursement for services provided by an LPA is expected to expand access to behavioral health services because it allows a new provider type to perform Medicaid reimbursable services.

Section-by-Section Summary

HHSC proposes to amend §354.1281 to allow LPA services performed under the direct supervision of a licensed psychologist as a benefit of the Texas Medicaid program when the following conditions are met:

The services are performed under the direct supervision of a licensed psychologist. The supervising psychologist must be in the same office, building, or facility when and where the service is provided and must be immediately available to furnish assistance and direction; and

The LPA performing the service is an employee of either the licensed psychologist or the legal entity that employs the licensed psychologist.

LPA services will be reimbursed to the supervising psychologist or the legal entity that employs the supervising psychologist at fees determined by HHSC. The methodology under which LPA services are reimbursed is set out in 1 TAC §355.8081, which is currently being amended to add LPA services.

Fiscal Note

Tom Suehs, Deputy Executive Commissioner for Financial Services, has determined that during the first five-year period the proposed rule amendment is in effect, there will be a fiscal impact to state government of \$1,315,297 (SFY2010); \$2,778,136 (SFY2011); \$3,747,011 (SFY2012); \$4,043,025 (SFY2013); \$4,362,424 (SFY2014) as a result of allowing a psychologist to be reimbursed for services provided by an LPA under their direct supervision. The proposed rule will not result in any fiscal implications for local health and human services agencies. Local governments will not incur additional costs.

Small and Micro-business Impact Analysis

Mr. Suehs has also determined that there will be no effect on small businesses or micro businesses that are Medicaid providers. Providers will not be required to alter their business practices as a result of the rule. There are no significant other costs to persons who are required to comply with the proposed rule. There is no anticipated negative impact on local employment.

Public Benefit

Chris Traylor, Associate Commissioner for Medicaid and CHIP, has determined that for each year of the first five years the proposed amendment is in effect, the public will benefit from the adoption of the section. The anticipated public benefit of enforcing the proposed rule will be increased access to behavioral health services.

Regulatory Analysis

HHSC has determined that this proposal is not a "major environmental rule" as defined by §2001.0225 of the Texas Government

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

Takings Impact Assessment

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

Public Comment

Written comments on the proposal may be submitted to JoAnne Talavera, Senior Policy Analyst, Medicaid/CHIP Division, Health and Human Services Commission, at P.O. Box 13247, H390, Austin, Texas 78711; by fax to (512) 249-3725; or by e-mail to joanne.talavera@hhsc.state.tx.us within 30 days of publication of this proposal in the *Texas Register*.

Public Hearing

A public hearing is scheduled for Monday, April 27, 2009 at 9:00 a.m. to 11:00 a.m. in the John H. Winters Building, Public Hearing Room 125, located at 701 W. 51st Street, Austin, Texas 78751. Persons requiring further information, special assistance, or accommodations should contact Pamela Dunn at (512) 491-1488.

Statutory Authority

The amendment is proposed under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; and Texas Government Code §531.021(b), which provides HHSC with the authority to propose and adopt rules governing the determination of Medicaid reimbursements.

The proposed amendment affects Texas Human Resources Code Chapter 32, and Texas Government Code Chapter 531. No other statutes, articles, or codes are affected by this proposal.

§354.1281. *Benefits and Limitations.*

(a) Subject to the specifications, conditions, requirements, and limitations established by the Texas Health and Human Services Commission (HHSC) or its designee, psychological counseling and services provided by a licensed psychologist are covered. ~~[if the services:]~~

~~[(1) are within the psychologist's scope of practice, as defined by state law; and]~~

~~[(2) would be covered by the Texas Medical Assistance Program when they are provided by a licensed physician (MD or DO).]~~

(b) To qualify for reimbursement the services must be provided by a:

(1) Licensed psychologist when the following conditions are met:

(A) The services are within the psychologist's scope of practice, as defined by state law; and

(B) The services would be covered by the Texas Medical Assistance Program when they are provided by a licensed physician (MD or DO).

(2) Licensed psychological associate (LPA) when the following conditions are met:

(A) The services are performed under the direct supervision of a licensed psychologist. The supervising psychologist must be in the same office, building, or facility when and where the service is provided and must be immediately available to furnish assistance and direction; and

(B) The LPA performing the service must be an employee of either the licensed psychologist or the legal entity that employs the licensed psychologist.

(c) ~~[(b)]~~ To be payable, the services must be reasonable and medically ~~[psychologically]~~ necessary as determined by HHSC ~~[or its designee].~~

~~[(e) The Texas Medical Assistance Program does not reimburse for the services of a psychological assistant working under the direction of a licensed psychologist.]~~

(d) Covered services provided by an LPA must be billed under the Texas Medical Assistance Program provider number of the supervising psychologist or the legal entity employing the supervising psychologist.

(e) ~~[(d)]~~ Licensed psychologists who are employed by or remunerated by a physician, hospital, facility, or other provider may not bill the Texas Medical Assistance Program directly for psychologists' services if that billing would result in duplicate payment for the same services. If the services are covered and reimbursable by the program, payment may be made to the physician, hospital, or other provider (if approved for participation in the Texas Medical Assistance Program) who employs or reimburses the licensed psychologist. The basis and amount of Medicaid reimbursement depends on the services actually provided, who provided the services, and the reimbursement methodology utilized by the Texas Medical Assistance Program as appropriate for the services and provider(s) involved.

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 March 18, 2009.

TRD-200901114

Steve Aragón

Chief Counsel

Texas Health and Human Services Commission

Earliest possible date of adoption: May 3, 2009

For further information, please call: (512) 424-6900

TITLE 10. COMMUNITY DEVELOPMENT

PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CHAPTER 80. MANUFACTURED HOUSING

The Manufactured Housing Division of the Texas Department of Housing and Community Affairs (the "Department") proposes to amend 10 TAC Chapter 80, §§80.2, 80.20 - 80.22, 80.25, 80.32, 80.33 and 80.100 relating to the regulation of the manufactured

housing program. The rules are revised for clarification and to comply with requirements of the Federal Installation Standards that became effective on January 1, 2009.

Section 80.2(16) - Added definition for Frost Line Zone and renumbered definitions (17) through (26).

Section 80.20(b) - Revised to indicate the section is only relating to used manufactured homes.

Section 80.20(e) - Removed subsection.

Section 80.21(a) - Added new subsection to reference installation of new homes.

Section 80.21(b) - Moved previous (a) to (b) and indicated that this section pertains to used homes.

Section 80.21(c) - Relettered (b) to (c).

Section 80.21(d) - Relettered (c) to (d).

Section 80.21(e) - Relettered (d) to (e) and revised section to differentiate site preparation responsibility for new and used homes.

Section 80.21(f) - Relettered (e) to (f).

Section 80.21(g) - Relettered (f) to (g).

Section 80.21(h) - Relettered (g) to (h) and revised section to differentiate drainage responsibility for new and used homes.

Section 80.21(i) - Added new subsection for Frost Line Zone.

Section 80.22(a) - Clarified that this section only pertains to used homes.

Section 80.25(i)(1) - Clarified that last sentence of paragraph only relates to used homes.

Section 80.32(g) - Clarified in last sentence of subsection that the installer of a new home is responsible for the required site preparation.

Section 80.33(k)(1) - Clarified that the site preparation notice is only for used homes.

Section 80.33(k)(3) - Referenced §1201.255 of the Standards Act as requirement to promulgate disclosure form.

Section 80.100(a)(12) - Revised name of form to clarify it is for used homes.

Section 80.100(a)(33) - Revised name of form to clarify it is for used homes.

Section 80.100(a)(45) and (46) - Added new form number (45) and (46) to the list of forms.

Figure: 10 TAC §80.100(b)(8) - Revised the site preparation section in the Consumer Disclosure Statement.

Figure: 10 TAC §80.100(b)(10) - Updated the Retail Monitoring Checklist to include additional requirements and removed the Wind Zone Notice and Insulation Disclosure that are no longer required.

Figure: 10 TAC §80.100(b)(12) - Updated the form to clarify it only pertains to used homes.

Figure: 10 TAC §80.100(b)(16) - Updated to clarify installation requirements of new and used homes.

Figure: 10 TAC §80.100(b)(17) - Updated the Installation Checklist to clarify the reference to the site preparation notice is only for used homes.

Figure: 10 TAC §80.100(b)(33) - Updated to clarify the site preparation notice is only for used homes.

Figure: 10 TAC §80.100(b)(38) - Updated to clarify installation requirements of new and used homes.

Figure: 10 TAC §80.100(b)(45) - New Spanish version of the Consumer Disclosure Statement.

Figure: 10 TAC §80.100(b)(46) - New HUD required installation program disclosure.

Joe A. Garcia, Executive Director of the Manufactured Housing Division of the Texas Department of Housing and Community Affairs, has determined that for the first five-year period that the proposed rules are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering these sections.

There will be an effect on small or micro-businesses because of the proposed amendments relating to installing homes in the Frost Line Zone, 10 TAC §80.21(i). The costs of a singlewide home installed in the Frost Line Zone will increase approximately \$900 and a doublewide home will increase approximately \$1,400. This increase applies only to the 42 counties designated in the Frost Line Zone. There will be approximately 439 homes installed annually in the Frost Line Zone. We anticipate that the cost will be passed on to the consumer.

Except for the above, there are no other proposed amendments expected to have material economic costs to persons/businesses that are required to comply with the proposed rules.

Mr. Garcia also has determined that for each year of the first five years that the proposed rules are in effect the public benefit as a result of enforcing the amendments will be to provide clarification of procedures and compliance with the Federal Installation Standards.

Mr. Garcia has also determined that for each year of the first five years the proposed rules are in effect there should be no adverse effect on a local economy, and therefore no local employment impact statement is required under Administrative Procedure Act (APA), Texas Government Code §2001.022.

If requested, the Department will conduct a public hearing on this rulemaking, pursuant to the Administrative Procedure Act, Texas Government Code §2001.029. The request for a public hearing must be received by the Department within 15 days after publication.

Comments may be submitted to Mr. Joe A. Garcia, Executive Director of the Manufactured Housing Division of the Texas Department of Housing and Community Affairs, P.O. Box 12489, Austin, Texas 78711-2489 or by e-mail at the following address joe.garcia@tdhca.state.tx.us. The deadline for comments is no later than 30 days from the date that these proposed rules are published in the *Texas Register*.

SUBCHAPTER A. CODES, STANDARDS, TERMS, FEES AND ADMINISTRATION

10 TAC §80.2

The amended section is proposed under the Texas Manufactured Housing Standards Act, Occupations Code, Chapter 1201, §1201.052, which provides the Department with authority to amend, add, and repeal rules governing the Manufactured Housing Division of the Department and under Texas Government Code, Chapter 2306, §2306.6014 and §2306.6020,

which authorizes the board to adopt rules as necessary and the director to administer and enforce the manufactured housing program through the Manufactured Housing Division.

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

§80.2. *Definitions.*

Terms used herein that are defined in the Code and the Standards Act have the meanings ascribed to them therein. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) - (15) (No change.)

(16) Frost Line Zone--An area in Texas designated by the Department, as having a frost line depth to consider when conforming with federal rules.

(17) [(16)] Independent testing laboratory--An agency or firm that tests products for conformance to standards and employs at least one engineer or architect licensed in at least one state.

(18) [(17)] Inventory Lender--A person that is involved in extending credit for inventory financing secured by manufactured housing.

(19) [(18)] IPIA--The Production Inspection Primary Inspection Agency which evaluates the ability of manufactured home manufacturing plants to follow approved quality control procedures and/or provides ongoing surveillance of the manufacturing process.

(20) [(19)] Long-Term Lease--For the purpose of determining whether or not the owner of a manufactured home may elect to treat the home as real property, is a lease on land to which the manufactured home has been attached and which:

(A) has been approved by each lienholder for the manufactured home by placing on file with the Department written consent to have the home treated as real property; or

(B) is for at least five years if the home is not financed.

(21) [(20)] Main frame--A chassis or structure serving a similar purpose.

(22) [(21)] Manufactured home identification numbers--HUD label number, serial number, or Texas seal number. For the purpose of maintaining ownership and location records, including the perfection of liens, the numbers shall include the HUD label number(s) and the serial number(s) imprinted or stamped on the home in accordance with HUD departmental regulations. For homes manufactured prior to June 15, 1976, the Texas seal number, as issued by the Department, shall be used instead of the HUD label number. If a home manufactured prior to June 15, 1976, does not have a Texas seal, or if a home manufactured after June 15, 1976, does not have a HUD label, a Texas seal shall be purchased from the Department and attached to the home in upper left corner on the end opposite the tongue end and used for identification in lieu of the HUD label number.

(23) [(22)] Manufactured home site--That area of a lot or tract of land on which a manufactured home is or will be installed.

(24) [(23)] Permanent foundation--A foundation which meets the requirements of §80.21 of this chapter (relating to Requirements for the Installation of Manufactured Homes) and was constructed according to drawings, as required by that section, which state that the foundation is a permanent foundation for a manufactured home.

(25) [(24)] Promptly--Means within the time prescribed by the Standards Act, these Rules, and any administrative order (including

any properly granted extension) or, in the case of a matter that constitutes an imminent threat to health or safety, as quickly as reasonably possible.

(26) [(25)] Stabilization systems--A combination of the anchoring and support system. It includes, but is not limited to the following components:

(A) Anchoring components--Any component which is attached to the manufactured home and is designed to resist the horizontal and vertical forces imposed on the manufactured home as a result of wind loading. These components include, but are not limited to auger anchors, rock anchors, slab anchors, ground anchors, stabilizing devices, connection bolts, j-hooks, buckles, and split bolts.

(B) Anchoring equipment--Straps, cables, turnbuckles, tubes, and chains, including tensioning devices, which are used with ties to secure a manufactured home to anchoring components or other devices.

(C) Anchoring systems--Combination of ties, anchoring components, and anchoring equipment that will resist overturning and lateral movement of the manufactured home from wind forces.

(D) Diagonal tie--A tie intended to primarily resist horizontal forces, but which may also be used to resist vertical forces.

(E) Footing--That portion of the support system that transmits loads directly to the soil.

(F) Ground anchor--Any device at the manufactured home site designed to transfer manufactured home anchoring loads to the ground.

(G) Longitudinal ties--Designed to prevent lateral movement along the length of the home.

(H) Shim--A wedge-shaped piece of hardwood or other registered component not to exceed one (1) inch vertical (actual) height.

(I) Stabilizing components--All components of the anchoring and support system such as piers, footings, ties, anchoring equipment, ground anchors and any other equipment, which supports the manufactured home and secures it to the ground.

(J) Support system--A combination of footings, piers, caps and shims that support the manufactured home.

(K) Vertical tie--A tie intended primarily to resist the uplifting and overturning forces.

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 March 20, 2009.

TRD-200901139

Joe A. Garcia

Executive Director, Manufactured Housing Division

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: May 3, 2009

For further information, please call: (512) 475-2206



SUBCHAPTER B. INSTALLATION STANDARDS AND DEVICE APPROVALS

10 TAC §§80.20 - 80.22, 80.25

The amended sections are proposed under the Texas Manufactured Housing Standards Act, Occupations Code, Chapter 1201, §1201.052, which provides the Department with authority to amend, add, and repeal rules governing the Manufactured Housing Division of the Department and under Texas Government Code, Chapter 2306, §2306.6014 and §2306.6020, which authorizes the board to adopt rules as necessary and the director to administer and enforce the manufactured housing program through the Manufactured Housing Division.

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

§80.20. Requirements for Manufacturer's Designs and Installation Instructions.

(a) (No change.)

(b) For used manufactured homes, if [H] a manufacturer determines that one or more of its homes requires a deviation from the generic standards to protect the structural integrity of the home, the manufacturer must include instructions for the necessary deviation in the manufacturer's DAPIA-approved installation instructions and provide a list of all homes affected. The manufacturer must provide a copy to the Department along with a letter informing the Department of the required deviation included in the instructions and giving the Department permission to reproduce and release copies of such instructions upon request. On the Department's website, the Department will maintain a current list of all required deviations from generic standards and will provide a copy to anyone who requests it.

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

~~{(e) If the Department finds that the manufacturer's instructions do not address all matters necessary to enable the Department to inspect an installation, the Department will advise the manufacturer that the State Generic Instructions will be used for matters not addressed and request that the manufacturer amend its DAPIA approved instructions within thirty days (30) of notification. The Executive Director may grant a limited number of extensions as needed.}~~

§80.21. Requirements for the Installation of Manufactured Homes.

(a) All new manufactured homes shall be installed by a licensed installer and in accordance with the home manufacturer's DAPIA-approved installation instructions.

(b) ~~[(a)] All used [When they are installed, all] manufactured homes shall be installed by a licensed installer to resist overturning and lateral movement of the home, and the installation must be completed in accordance with instructions appropriate for the Wind Zone where the home is to be installed as per one of the following:~~

(1) the home manufacturer's DAPIA-approved installation instructions;

(2) the state's generic standards set forth in §§80.22, 80.23, 80.24, and 80.25 of this subchapter (relating to Installation Standards and Device Approvals) ~~[chapter];~~

(3) the instructions for a stabilization system registered with the Department in accordance with §80.26 of this chapter (relating to Registration of Stabilizing Components and Systems); or

(4) the instructions for a special stabilization system which:

(A) may or may not be a permanent foundation;

(B) is for a particular manufactured home or an identified class of manufactured homes to be installed at a particular area with similar soil properties according to county soil survey or other geotechnical reports; and

(C) is either:

(i) a pre-existing foundation for which a professional engineer or architect licensed in Texas has issued written approval for the installation of a particular home, and the written approval shall be submitted to the Department with the installation report; or

(ii) installed in accordance with a custom designed stabilization system drawing that is stamped by a Texas licensed professional engineer or architect. A copy of the stabilization system drawing must be forwarded to the Department along with the installation report.

(c) ~~[(b)]~~ When a home is installed on a stabilization system registered with the Department or a special stabilization system, the installer must follow the home manufacturer's DAPIA-approved installation instructions for any aspect of the installation that is not covered by the system's installation instructions or drawings.

(d) ~~[(c)]~~ The installer must use stabilizing components that have the required capacity and install them according to the anchor or stabilizing component manufacturer's current installation instructions. All stabilizing components must be resistant to all effects of weathering including that encountered along the Texas gulf coast. Anchors must be made resistant to corrosion. Nonconcrete stabilizing components and systems for use within 1500 feet of the coastline shall be specifically certified for this use. Preservative treated (PT) wood components shall conform to the applicable standards issued by the American Wood Preserver's Association and referenced by the latest edition of the International Residential Code. The use of re-conditioned equipment (i.e. anchor, strap, and clip) or any anchoring component by licensed installer on the new installations is not permitted. Homeowners are exempt from this requirement provided the integrity of the component is acceptable and approved by the state and the original product number, vendor name, and/or patent number must be legible on the product.

(e) ~~[(d)]~~ Site Preparation Responsibilities and Requirements:

(1) The responsible installer of a new manufactured home is responsible for the proper preparation of the site where the manufactured home will be installed.

(2) ~~[(4)]~~ A consumer acquiring a used manufactured home to be installed ~~[, new or used,]~~ is responsible for the proper preparation of the site where the manufactured home will be installed except as set forth in §80.22 of this chapter (relating to Generic Standards for Moisture and Ground Vapor Controls).

(3) ~~[(2)]~~ Whenever a licensed retailer intends to sell a used manufactured home, regardless of where it is located or is to be located, the retailer is required to give the consumer the Site Preparation Notice, for signature by the consumer, in the form set forth in Subchapter I of this chapter (relating to Forms) PRIOR to the execution of any binding sales agreement.

(4) ~~[(3)]~~ Whenever a licensed installer proposes to move a used manufactured home, the installer is required to give the consumer the Site Preparation Notice, for signature by the consumer, in the form set forth in Subchapter I of this chapter PRIOR to entering into a binding agreement to move that home.

(f) ~~[(e)]~~ If at the time of installation or within 90 days thereafter as stated on the contract, the retailer or installer provides the materials for skirting or contracts for the installation of skirting, the retailer or installer is responsible for installing any required moisture and ground vapor control measures in accordance with the home installation instructions, specifications of a registered stabilization system, or the generic standards and shall provide for the proper cross ventilation of the crawl space. If the consumer contracts with a person other than

the retailer or installer for the skirting, the consumer is responsible for installing the moisture and ground vapor control measures and for providing for the proper cross ventilation of the crawl space.

(g) [(f)] Clearance: If the manufactured home is installed according to the state's generic standards, a minimum clearance of 18 inches between the ground and the bottom of the floor joists must be maintained. In addition, the installer shall be responsible for installing the home with sufficient clearance between the I-Beams and the ground so that after the crossover duct prescribed by the manufacturer is properly installed it will not be in contact with the ground. Refer to §80.25 of this chapter (relating to Generic Standards for Multi-Section Connections Standards) for additional requirements for utility connections. The Installer must remove all debris, sod, tree stumps and other organic materials from all areas where footings are to be located.

(h) [(g)] Drainage: The Installer is responsible for proper site drainage where a new manufactured home is to be installed unless the home is installed in a rental community. The consumer is responsible for proper site drainage where a used [the] manufactured home [(new or used)] is to be installed unless the home is installed in a rental community. Drainage prevents water build-up under the home. Water build-up may cause shifting or settling of the foundation, dampness in the home, damage to siding and bottom board, buckling of walls and floors, delamination of floor decking and problems with the operation of windows and doors.

(i) Frost Line Zone.

(1) The following Texas counties have a 12 inch frost line depth to consider for the installation of a new manufactured home: Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Crosby, Dallam, Deaf Smith, Dickens, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, King, Knox, Lamb, Lipscomb, Lubbock, Moore, Motley, Ochilree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, and Wilbarger.

(2) For a new home to be installed in a Frost Line Zone county, footings placed in freezing climates must be designed using methods and practices that prevent the effects of frost heave by one of the following methods:

(A) Conventional footings. Conventional footings must be placed below the frost line depth for the site unless an insulated foundation or monolithic slab is used (refer to 24 CFR §3285.312(b)(2) and 24 CFR §3285.312(b)(3)).

(B) This is not subject to the provisions in 24 CFR §3285.2(c) that also require review by the manufacturer and approval by its DAPIA for any variations to the manufacturer's installation instructions for support and anchoring.

(C) Monolithic slab systems. A monolithic slab is permitted above the frost line when all relevant site-specific conditions, including soil characteristics, site preparation, ventilation, and insulative properties of the under floor enclosure, are considered and anchorage requirements are accommodated as set out in 24 CFR §3285.401. The monolithic slab system must be designed by a registered professional engineer or registered architect:

(i) In accordance with acceptable engineering practice to prevent the effects of frost heave; or

(ii) In accordance with SEI/ASCE 32-01 as defined in 24 CFR §3285.4.

(D) Insulated foundations. An insulated foundation is permitted above the frost line, when all relevant site-specific conditions, including soil characteristics, site preparation, ventilation, and

insulative properties of the under floor enclosure, are considered, and the foundation is designed by a registered professional engineer or registered architect:

(i) In accordance with acceptable engineering practice to prevent the effects of frost heave; or

(ii) In accordance with SEI/ASCE 32-01 as defined in 24 CFR §3285.4.

§80.22. *Generic Standards for Moisture and Ground Vapor Controls.*

(a) If the used manufactured home is installed according to the state's generic standards and the space under the home is to be enclosed with skirting and/or other materials provided by the retailer and/or installer, the enclosure must meet the following requirements:

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

(b) (No change.)

§80.25. *Generic Standards for Multi-Section Connections Standards.*

(a) - (h) (No change.)

(i) Drain, Waste and Vent System (DWV):

(1) Portions of the DWV system which are below the floor may not have been installed, to prevent damage to the piping during transport. Typically, the DWV layout is designed to terminate at a single connection point to connect to the on-site sewer system. For a used [new] home where on-site DWV connections are not assembled per the manufacturer's instructions, the DWV system must be assembled in accordance with Part 3280 of the FMHCSS.

Figure: 10 TAC §80.25(i)(1) (No change.)

(2) (No change.)

(j) - (k) (No change.)

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

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Joe A. Garcia

Executive Director, Manufactured Housing Division

Texas Department of Housing and Community Affairs

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For further information, please call: (512) 475-2206

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SUBCHAPTER C. LICENSEES' RESPONSIBILITIES AND REQUIREMENTS

10 TAC §80.32, §80.33

The amended sections are proposed under the Texas Manufactured Housing Standards Act, Occupations Code, Chapter 1201, §1201.052, which provides the Department with authority to amend, add, and repeal rules governing the Manufactured Housing Division of the Department and under Texas Government Code, Chapter 2306, §2306.6014 and §2306.6020, which authorizes the board to adopt rules as necessary and the director to administer and enforce the manufactured housing program through the Manufactured Housing Division.

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

§80.32. *Retailers' Responsibilities and Requirements.*

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

(g) On a new manufactured home and on any used manufactured home where the sale, exchange or lease-purchase includes installation, the retailer must specify in the applicable contract or an accompanying written disclosure the intended date by which installation will be complete and a designated person to contact for the current status as to the intended date for completion of installation. For new manufactured homes, the retailer is responsible for ensuring that a licensed installer warrants the proper installation of the home and performs the required site preparation.

(h) - (v) (No change.)

§80.33. *Installers' Responsibilities and Requirements.*

(a) - (j) (No change.)

(k) Each installer shall maintain the following books and records for each installation:

(1) verification that the required site preparation notice for a used home was signed by the consumer and timely delivered to a consumer by the licensee;

(2) (No change.)

(3) if the home is to be installed on a site that has evidence of ponding, run-off, or uncompacted soil, a signed form from the consumer, acknowledging the condition and accepting the risks, such form to be as set forth in Subchapter I of this chapter (relating to Forms) and §1201.255 of the Standards Act;

(4) - (8) (No change.)

(l) (No change.)

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

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Joe A. Garcia

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Texas Department of Housing and Community Affairs

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For further information, please call: (512) 475-2206



SUBCHAPTER I. FORMS

10 TAC §80.100

The amended section is proposed under the Texas Manufactured Housing Standards Act, Occupations Code, Chapter 1201, §1201.052, which provides the Department with authority to amend, add, and repeal rules governing the Manufactured Housing Division of the Department and under Texas Government Code, Chapter 2306, §2306.6014 and §2306.6020, which authorizes the board to adopt rules as necessary and the director to administer and enforce the manufactured housing program through the Manufactured Housing Division.

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

§80.100. *List of Forms.*

(a) The following list is in numerical order with the forms located in subsection (b) of this section.

(1) - (11) (No change.)

(12) Notice and Informed Consent to the Installation of a Used Manufactured Home on an Improperly Prepared Site.

(13) - (32) (No change.)

(33) Site Preparation Notice for Used Homes Form.

(34) - (44) (No change.)

(45) Consumer Disclosure Statement (Spanish Version).

(46) HUD Required Installation Program Disclosure to Consumer.

(b) Forms.

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

(8) Consumer Disclosure Statement.

Figure: 10 TAC §80.100(b)(8)

(9) (No change.)

(10) Retail Monitoring Checklist.

Figure: 10 TAC §80.100(b)(10)

(11) (No change.)

(12) Notice and Informed Consent to the Installation of a Used Manufactured Home on an Improperly Prepared Site.

Figure: 10 TAC §80.100(b)(12)

(13) - (15) (No change.)

(16) Notice of Installation (Form T).

Figure: 10 TAC §80.100(b)(16)

(17) Installation Checklist.

Figure: 10 TAC §80.100(b)(17)

(18) - (32) (No change.)

(33) Site Preparation Notice for Used Homes Form.

Figure: 10 TAC §80.100(b)(33)

(34) - (37) (No change.)

(38) Probationary Notice of Installation (Form T).

Figure: 10 TAC §80.100(b)(38)

(39) - (44) (No change.)

(45) Consumer Disclosure Statement (Spanish Version).

Figure: 10 TAC §80.100(b)(45)

(46) HUD Required Installation Program Disclosure to Consumer.

Figure: 10 TAC §80.100(b)(46)

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

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Joe A. Garcia

Executive Director, Manufactured Housing Division

Texas Department of Housing and Community Affairs

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For further information, please call: (512) 475-2206



TITLE 28. INSURANCE

PART 1. TEXAS DEPARTMENT OF INSURANCE

CHAPTER 21. TRADE PRACTICES

The Texas Department of Insurance (Department) proposes amendments to §§21.3502, 21.3510 - 21.3513, 21.3515 - 21.3518, 21.3540, and 21.3543, concerning exclusion of certain state-mandated health benefits in consumer choice health benefit plans, and new §§21.4401 - 21.4404, concerning mandated health benefit plan coverage for autism spectrum disorder coverage. The proposed amendments and new sections implement (i) House Bill (HB) 1919, 80th Legislature, Regular Session, effective January 1, 2008, relating to required autism spectrum disorder coverage for certain children; (ii) HB 1485, 79th Legislature, Regular Session, effective September 1, 2005, relating to the state-mandated-offer-of or the state-mandated-coverage-of serious mental illness in consumer choice health benefit plans; and (iii) HB 1030, 79th Legislature, Regular Session, effective September 1, 2005, relating to an insured's coinsurance amount applicable to payment to a non-preferred provider. The proposed amendments are necessary to: (i) update existing rules relating to the exclusion of certain state-mandated health benefits in consumer choice health benefit plans; (ii) update obsolete statutory citations to the Insurance Code as a result of the enactment of the non-substantive revision of the Insurance Code; and (iii) correct citation style errors. Proposed new Subchapter JJ, consisting of §§21.4401 - 21.4404, is necessary to implement §1355.015 of the Insurance Code, which requires that health benefit plans provide autism spectrum disorder coverage for certain children.

HB 1919, relating to required autism spectrum disorder coverage for certain children. HB 1919 amends Insurance Code Chapter 1355, which regulates benefits for certain mental disorders. HB 1919 enacts §1355.015 to include, as a state-mandated benefit, coverage for all generally recognized services prescribed in relation to autism spectrum disorder by an insured's primary care physician in the treatment plan recommended by that physician. Therefore, as a result of the enactment of HB 1919, the Department is proposing new Subchapter JJ, consisting of §§21.4401 - 21.4404, to implement §1355.015. Pursuant to §1355.015(e), Chapter 1507 consumer choice health benefit plans are not required to provide the state-mandated coverage of autism spectrum disorder as required by the Insurance Code Chapter 1355, Subchapter A. It is, therefore, necessary to amend existing rules regulating consumer choice health benefit plans to provide that the state-mandated coverage of autism spectrum disorder as required by the Insurance Code Chapter 1355, Subchapter A, is not required to be offered or provided by these consumer choice health benefit plans.

Proposed new Subchapter JJ consisting of §§21.4401 - 21.4404 is necessary to implement §1355.015 of the Insurance Code. Section 1355.015 requires that health benefit plans provide autism spectrum disorder coverage for certain children. The proposed new sections simply set forth statutory provisions and provide necessary interpretations of those provisions. The proposed new sections do not impose any new or additional requirements to those in the statute. Proposed new §21.4401 addresses the purpose and applicability of Subchapter JJ. Proposed new §21.4401(a) states that the subchapter implements those provisions of the Insurance Code Chapter 1355, Subchapter A, that relate to autism spectrum disorder coverage. The general purpose of the proposed new subchapter

is to ensure health benefit plan coverage for the early intervention, treatment, and services for certain child enrollees diagnosed with autism spectrum disorder in accordance with the Insurance Code Chapter 1355, Subchapter A. Proposed new §21.4401(b)(1) and (2) addresses the applicability of the subchapter, specifying the types of health benefit plans to which Subchapter JJ does and does not apply.

Proposed new §21.4402 provides definitions of terms used in Subchapter JJ. The terms defined in the section include: "applied behavior analysis," "autism spectrum disorder," "enrollee," "generally recognized services," "health care practitioner," "neurobiological disorder," and "primary care physician."

Proposed new §21.4403 addresses required coverage for autism spectrum disorder. Proposed new §21.4403(a) specifies the ages of the children covered under the plan who must be provided the required coverage. Section 1355.015(a) of the Insurance Code provides that, at a minimum, a health benefit plan must provide coverage as required by §1355.015 to a child covered under the plan who is "older than two years of age and younger than six years of age" who is diagnosed with autism spectrum disorder. The Department is proposing new §21.4403(a)(1) to clarify this statutory provision to ensure that all covered children of the requisite statutorily specified age are provided the required coverage consistent with the intent of §1355.015 of the Insurance Code. This clarification is necessary because the Insurance Code §1355.015 does not define what is meant by "older than two years of age." This lack of a definition of what is meant by "older than two years" of age could result in some children of a certain age (for example, two years eight months old) not having coverage under their health benefit plan while other children of that exact same age have coverage under a different health benefit plan. The Department's interpretation is that the phrase "older than two years of age" in §1355.015 applies to children who are "three years of age or older." This interpretation is consistent with both common law and Texas case law. Under both common law and Texas case law, a person is aged a specific year until that person reaches the age of the next year, e.g., a person is two years of age until the person reaches the third anniversary of his or her birth. Under this interpretation, at a minimum, a health benefit plan must provide coverage as required by §1355.015 to an enrollee three years of age or older and younger than six years of age who is diagnosed with autism spectrum disorder. Consistent with §1355.015(a) of the Insurance Code, proposed new §21.4403(a)(2) provides that if an enrollee who is being treated for autism spectrum disorder becomes six years of age or older and continues to need treatment, the health benefit plan is not precluded from providing coverage of treatment and services described by §1355.015(b) of the Insurance Code. There is no statutory prohibition precluding a health benefit plan from providing coverage of treatment and services described by §1355.015(b) of the Insurance Code for enrollees of other ages. Accordingly, proposed new §21.4403(b) clarifies that a health benefit plan is not precluded from providing coverage of treatment and services described by §1355.015(b) of the Insurance Code for enrollees of other ages. Proposed new §21.4403(c) specifies that in accordance with the Insurance Code §1355.002 and §1355.015(b), a health benefit plan issuer must provide coverage as a medical and surgical benefit under the health benefit plan for all generally recognized services prescribed in relation to autism spectrum disorder by the enrollee's primary care physician in the treatment plan recommended by that physician. Proposed new §21.4403(d) specifies that

pursuant to the Insurance Code §1355.015(d), coverage under the section may be subject to annual deductibles, copayments, and coinsurance that are consistent with annual deductibles, copayments, and coinsurance required for other coverage under the health benefit plan.

Proposed new §21.4404 addresses health care practitioners. Proposed new §21.4404(a) specifies that, pursuant to the Insurance Code §1355.015(b), a health care practitioner providing treatment for autism spectrum disorder under Chapter 1355, Subchapter A, of the Insurance Code and proposed new Subchapter JJ must meet one of the following requirements: (i) be licensed, certified, or registered by an appropriate agency of this state; (ii) have professional credentials that are recognized and accepted by an appropriate agency of the United States; or (iii) be certified as a provider under the TRICARE military health system. Proposed new §21.4404(b) specifies that a health benefit plan issuer may not deny coverage for services for autism spectrum disorder on the basis that a health care practitioner providing applied behavior analysis does not hold a license issued by an agency of this state, as long the health care practitioner otherwise meets one of the requirements of the Insurance Code §1355.015(b).

Existing §§21.3510 - 21.3513 and 21.3515 - 21.3518 specify state-mandated health benefits that are not required to be included in specific types of consumer choice benefit plans that may be provided under Insurance Code Chapter 1507. The proposed amendments to these sections are necessary to update existing rules relating to the exclusion of certain state-mandated health benefits in consumer choice health benefit plans. The proposed amendments simply reflect statutory provisions and do not impose any new or additional requirements to those in the statute. The Insurance Code in Chapter 1507, which regulates consumer choice health benefit plans, specifies those health benefit plans that are not required to offer or provide state-mandated health benefits, including individual indemnity policies, group association indemnity policies, small employer indemnity policies, large employer indemnity policies, individual HMO plans, group HMO plans, small employer HMO plans, and large employer HMO plans. Pursuant to §1507.001 and §1507.051, Chapter 1507 was enacted in recognition of the need for individuals, employers, and other purchasers of coverage in this state to have the opportunity to choose health insurance plans and health maintenance organization plans that are more affordable and flexible than policies offering accident and sickness insurance coverage and health care plans offered by health maintenance organizations available in the existing market. The purpose of Chapter 1507, therefore, is to increase the availability of health insurance coverage by allowing authorized insurers and health maintenance organizations to issue health plans that, in whole or in part, do not offer or provide state-mandated health benefits. Because of the §1355.015(e) provision that the statutorily mandated coverage of autism spectrum disorder does not apply to a standard health benefit plan provided under Chapter 1507, it is necessary to amend certain existing rules for consistency with §1355.015(e). The Insurance Code Chapter 1355, Subchapter A, applies to group health benefit plans. There are six types of consumer choice group health benefit plans. However, pursuant to §1355.015(e), no consumer choice health benefit plans are required to include coverage of autism spectrum disorder as required by the Insurance Code Chapter 1355, Subchapter A. As a result, the following amendments are proposed to reflect this statutory exemption: (i) §21.3511(23) is proposed to reflect

the exemption for group association indemnity consumer choice health benefit plans; (ii) §21.3512(16) is proposed to reflect the exemption for small employer group indemnity consumer choice health benefit plans; (iii) §21.3513(23) is proposed to reflect the exemption for large employer group indemnity consumer choice health benefit plans; (iv) §21.3516(27) is proposed to reflect the exemption for non-employer group HMO consumer choice health benefit plans; (v) §21.3517(20) is proposed to reflect the exemption for small employer group HMO consumer choice health benefit plans; and (vi) §21.3518(27) is proposed to reflect the exemption for large employer group HMO consumer choice health benefit plans.

HB 1485, relating to the state-mandated-offer-of or the state-mandated-coverage-of serious mental illness in consumer choice health benefit plans. The proposed amendments are also necessary to implement HB 1485, enacted by the 79th Legislature to amend former Insurance Code Articles 3.80 §3 and 20A.09N(d). As part of the non-substantive revised Insurance Code by the Texas Legislature, Article 3.80 §3 was adopted without substantive change as the Insurance Code §1507.003 in HB 2018 in the same legislative session in which HB 1485 was enacted. The HB 1485 amendment to Article 3.80 §3 redefined the term "state mandated benefits," as used in the article, to include "coverage for serious mental illness under Subchapter A, Chapter 1355." The amendment also deleted a qualifying phrase that resulted in the definition only applying if the standard health benefit were issued to a large employer. The result of this amendment is: (i) a small employer group indemnity consumer choice health benefit plan must include the offer of serious mental illness under Subchapter A, Chapter 1355; and (ii) a standard health benefit plan issued as part of a group association indemnity policy must include serious mental illness under Subchapter A, Chapter 1355. Also as part of the non-substantive revised Insurance Code, Article 20A.09N(d) was adopted without substantive change as the Insurance Code §1507.053 in HB 2018 in the same legislative session in which HB 1485 was enacted. The HB 1485 amendment to Article 20A.09N(d) redefined the term "state mandated benefits," as used in the section, to include "coverage for serious mental health illness under Subchapter A, Chapter 1355, Insurance Code." The amendment deleted a qualifying phrase that resulted in the definition only applying if the standard health benefit were issued to a large employer. The result of this amendment is: (i) a small employer group Health Maintenance Organization (HMO) consumer choice health benefit plan must include the offer of serious mental illness under Subchapter A, Chapter 1355; and (ii) a non-employer group HMO consumer choice health benefit plan must include serious mental illness under Subchapter A, Chapter 1355.

Prior to the enactment of HB 1485 and pursuant to Articles 3.80 §3 and 20A.09N(d), four types of consumer choice health benefit plans were not required to include either the state-mandated-offer-of or the state-mandated-coverage-of serious mental illness as required by the Insurance Code Article 3.51-14 (now Chapter 1355, Subchapter A, of the Insurance Code). As a result, these exemptions are reflected in the following four provisions of the existing rules: (i) §21.3511(9) provides that state-mandated health coverage of serious mental illness is not required to be included in a group association indemnity consumer choice health benefit plan; (ii) §21.3512(9) provides that the state-mandated offer of health coverage for serious mental illness is not required to be included in a small employer group indemnity consumer choice health benefit plan; (iii) §21.3516(13) provides that

state-mandated health coverage of serious mental illness is not required to be included in a non-employer group HMO consumer choice health benefit plan; and (iv) §21.3517(13) provides that state-mandated offer of health coverage for serious mental illness is not required to be included in a small employer group HMO consumer choice health benefit plan. All four of these exemptions are proposed to be deleted because the exemptions are no longer statutorily authorized. When these state-mandated exemption rules were originally adopted in 2004, the exclusions in §21.3511(9) and §21.3512(9) were consistent with the Insurance Code Article 3.80 §3(b) (now §1507.003 of the Insurance Code). Article 3.80 §3(b) provided: "For purposes of this article, 'state-mandated health benefits' does not include benefits that are mandated by federal law or standard provisions or rights required under this code or other laws of this state to be provided in an individual, blanket, or group policy for accident and health insurance that are unrelated to specific health illnesses, injuries, or conditions of an insured, including provisions related to . . . (7) coverage for serious mental illness under Article 3.51-14 of this code if the standard health benefit plan is issued to a large employer as defined by Article 26.02 of this code. . . ." (emphasis added.) When these state-mandated exemptions were originally adopted in 2004, the exclusions in §21.3516(13) and §21.3517(13) were consistent with the Insurance Code Article 20A.09N(d) (now §1507.053 of the Insurance Code). Article 20A.09N(d) provided: "For purposes of this section, 'state-mandated health benefits' does not include benefits that are mandated by federal law or standard provisions or rights required under the Insurance Code or other laws of this state to be provided in an evidence of coverage that are unrelated to specific health illnesses, injuries, or conditions of an insured, including provisions related to . . . (6) coverage for serious mental health illness under Article 3.51-14, Insurance Code, if the standard health benefit plan is issued to a large employer as defined in Article 26.02, Insurance Code. . . ." (emphasis added.) Under Article 3.80 §3(b)(7) and Article 20A.09N(d)(6), state-mandated health benefits did not include coverage for serious mental illness under Article 3.51-14 (now Chapter 1355, Subchapter A, of the Insurance Code) in a standard health benefit plan issued to a large employer. However, state-mandated health benefits for serious mental illness under Article 3.51-14 did include: (i) the offer of coverage for serious mental illness in a standard health benefit plan that was issued to a small employer; (ii) coverage for serious mental illness in a standard health benefit plan that was issued as part of a group association indemnity policy; (iii) the offer of coverage for serious mental illness in a small employer group HMO consumer choice health benefit plan; and (iv) coverage for serious mental illness in a standard health benefit plan that was issued as part of a non-employer group HMO consumer choice health benefit plan. Pursuant to the Insurance Code Article 3.80 §3(b) (now §1507.003 of the Insurance Code), group association indemnity consumer choice health benefit plans and small employer group indemnity consumer choice health benefit plans were not required to provide the state-mandated-offer-of or the state-mandated-coverage-for serious mental illness under Article 3.51-14. As previously stated, existing §21.3511(9) and §21.3512(9) reflect these exemptions for group association indemnity consumer choice health benefit plans and small employer group indemnity consumer choice health benefit plans, respectively. Pursuant to Article 20A.09N(d) (now §1507.053 of the Insurance Code), non-employer group HMO consumer choice health benefit plans and small employer group HMO consumer choice health benefit plans were not required to provide the state-mandated-offer-of or the state-mandated-coverage-for

serious mental illness under Article 3.51-14 (now Chapter 1355, Subchapter A, of the Insurance Code). As previously stated, existing §21.3516(13) and §21.3517(13) reflect these exemptions for non-employer group HMO consumer choice health benefit plans and small employer group HMO consumer choice health benefit plans, respectively. However, as a result of the deletion of the qualifying phrase "if the standard health benefit plan is issued to a large employer" by HB 1485 in the Insurance Code Article 3.80 §3(b)(7), a standard health benefit plan issued to a small employer is required to include the offer of serious mental illness coverage and a standard health benefit plan that is issued as part of a group association indemnity policy is required to include coverage for serious mental illness as required by Chapter 1355, Subchapter A, of the Insurance Code. Also, as a result of the deletion of the same qualifying phrase by HB 1485 in the Insurance Code Article 20A.09N(d) (now §1507.053 of the Insurance Code), a small employer group HMO consumer choice health benefit plan is required to include the offer of serious mental illness coverage and a standard health benefit plan that is issued as part of a non-employer group HMO consumer choice health benefit plan is required to include coverage for serious mental illness as required Chapter 1355, Subchapter A, of the Insurance Code. Therefore, existing §§21.3511(9), 21.3512(9), 21.3516(13) and 21.3517(13) are proposed for deletion. The proposed amendments simply reflect statutory provisions and do not impose any new or additional requirements to those in the statute.

HB 1030, relating to an insured's coinsurance amount applicable to payment to a non-preferred provider. The proposed amendments are also necessary to implement HB 1030 that added §1301.0046 to the Insurance Code. Section 1301.0046 provides that an insured's coinsurance amount applicable to payment to a non-preferred provider may not exceed 50 percent of the total covered amount applicable to the medical or health care services. The §1301.0046 coinsurance limitation is applicable to all preferred provider plans, including those that qualify as consumer choice health benefit plans. The §1301.0046 coinsurance limitation supersedes the Department's rule in §3.3704(a)(6), relating to Freedom of Choice, Availability of Preferred Providers. Section 3.3704(a)(6) specifies the basic level of coverage that is required in order for a preferred provider benefit plan to not be considered unjust or unfair discrimination under the Insurance Code. An exclusion from the §3.3704(a)(6) requirement is currently in several provisions of the existing consumer choice health benefit plan rules. These exclusions are proposed to be deleted in this proposal.

Prior to the passage of HB 1030, the Insurance Code did not set a specific percentage limit by which an insured's coinsurance amount applicable to payment to a non-preferred provider could exceed the total covered amount applicable to the medical or health care services. Therefore, pursuant to the Insurance Code Article 3.42(i)(2) (now §1701.055(a)(2)), the Department adopted a limit by rule in §3.3704(a)(6). The Department also adopted exemptions to §3.3704(a)(6) for certain consumer choice health benefit plans in the rules regulating those types of plans. These exemptions are reflected in the following four provisions of the consumer choice health benefit plan rules: (i) §21.3510(5) provides the exemption for individual indemnity consumer choice health benefit plans; (ii) §21.3511(5) provides the exemption for group association indemnity consumer choice health benefit plans; (iii) §21.3512(5) provides the exemption for small employer group indemnity consumer choice health benefit plans; (iv) §21.3513(5) provides the exemption for large

employer group indemnity consumer choice health benefit plans. All four of these exemptions are proposed to be deleted because the exemptions are no longer statutorily authorized. Section 3.3704(a)(6) provides that: "A preferred provider benefit plan shall not be considered unjust under the Insurance Code Article 3.42, or unfair discrimination under the Insurance Code Articles 21.21-6 or 21.21-8, or to violate Articles 3.70-2(B) or 21.52 of the Insurance Code provided that . . . (6) the basic level of coverage, excluding a reasonable difference in deductibles, is not more than 30% less than the higher level of coverage. A reasonable difference in deductibles shall be determined considering the benefits of each individual policy;" As previously noted, Chapter 1507 of the Insurance Code regulates consumer choice health benefit plans. Section 1507.001 states the purpose of the chapter: "The legislature recognizes the need for individuals, employers, and other purchasers of coverage in this state to have the opportunity to choose health insurance plans that are more affordable and flexible than existing market policies offering accident and sickness insurance coverage. The legislature, therefore, seeks to increase the availability of health insurance coverage by allowing insurers authorized to engage in the business of insurance in this state to issue accident and sickness policies that, in whole or in part, do not offer or provide state-mandated health benefits." The exclusion in §§21.3510(5), 21.3511(5), 21.3512(5), and 21.3513(5) from the 3.3704(a)(6) requirement was based on the legislative purpose stated in §1507.001 of the Insurance Code. However, with the enactment of HB 1030, an insured's coinsurance amount applicable to payment to a non-preferred provider may not exceed 50 percent of the total covered amount applicable to the medical or health care services. As previously noted, the §1301.0046 coinsurance limitation is applicable to all health benefit plans, including consumer choice health benefit plans. Also, as previously noted, the §1301.0046 coinsurance limitation supersedes the §3.3704(a)(6) requirement. According to the Senate Research Center bill analysis for HB 1030, the purpose of the legislation is to provide more options for employers and individuals looking for affordable health insurance. (SENATE RESEARCH CENTER, BILL ANALYSIS (ENGROSSED), HB 1030, 79th Legislature, Regular Session, effective September 1, 2005.) This purpose is consistent with the purpose of the Insurance Code Chapter 1507 as stated in §1507.001. Therefore, existing §§21.3510(5), 21.3511(5), 21.3512(5), and 21.3513(5), relating to exclusion from the 3.3704(a)(6) requirement, are proposed for deletion.

Update of obsolete statutory citations. Proposed amendments are also necessary to update obsolete statutory citations to the Insurance Code as a result of the enactment of the non-substantive revision of the Insurance Code. This will result in easier use and readability of the rules. Amendments are proposed to the following to update statutory citations to conform with the non-substantive revised Insurance Code: §21.3502(3), (7), (10)(A)(ii) and (B); §21.3510(1) - (4); renumbered §21.3510(5) - (8), (11), and (13); §21.3511(1) - (4); renumbered §21.3511(5) - (7), (8) - (20), and (22); §21.3512(1) - (4); renumbered §21.3512(5) - (7), (8) - (13), and (15); §21.3513(1) - (4); renumbered §21.3513(5) - (20) and (22); §21.3515(1) - (7), (10) - (14), and (16); §21.3516(1) - (7) and (10) - (12); renumbered §21.3516(13) - (24) and (26); §21.3517(1) - (7) and (10) - (12); renumbered §21.3517(13) - (17) and (19); §21.3518(1) - (7), (10) - (24), and (26); §21.3540; and §21.3543(1)(A) and (B).

Proposed amendments are also necessary throughout the proposed amended sections to change references to "Insurance

Code" to "the Insurance Code" to conform to current Department citation style.

FISCAL NOTE. Debra Diaz-Lara, Deputy Commissioner, Health and Workers' Compensation Network Certification and Quality Assurance Division (HWCN), has determined that for each year of the first five years the proposed amendments and new sections will be in effect, there will be no fiscal impact to state and local governments as a result of the enforcement or administration of the proposal. There will be no measurable effect on local employment or the local economy as a result of the proposal.

PUBLIC BENEFIT/COST NOTE. Ms. Diaz-Lara also has determined that for each year of the first five years the proposed amendments and new sections are in effect, there will be several public benefits anticipated as a result of the proposal. These benefits include (i) rules that implement the Insurance Code Chapter 1355 as amended by HB 1919, 80th Legislature, and provide guidance to health benefit plans on coverage of autism spectrum disorder as required by the Insurance Code §1355.015; (ii) rules that implement former Insurance Code Articles 3.80 §3(b) and 20A.09N(d) as amended by HB 1485, 79th Legislature, and adopted by the Texas Legislature without substantive change as the Insurance Code §1507.003(b) and §1507.053(b), respectively, relating to the state-mandated-offer-of or the state-mandated-coverage-of serious mental illness in consumer choice health benefit plans; (iii) rules that accurately reflect the applicability of the Insurance Code §1301.0046 as added by HB 1030, 79th Legislature, which provides that an insured's coinsurance amount applicable to payment to a non-preferred provider may not exceed 50 percent of the total covered amount applicable to the medical or health care services; and (iv) rules with updated statutory citations that reflect the non-substantive revised Insurance Code which will result in easier use and readability of the rules.

The Department does not anticipate any additional cost to persons required to comply with the proposed amendments and new sections. Any costs to such persons for each year of the first five years the proposed amendments and new sections will be in effect are the result of the legislative enactment of HB 1919, HB 1485, and HB 1030 and not the result of the adoption, enforcement, or administration of the proposed amendments. The proposed new sections in Subchapter JJ simply set forth statutory provisions and necessary interpretations of those provisions; the proposed new sections do not impose any new or additional requirements to those in the statute.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO BUSINESSES. In accordance with the Government Code §2006.002(c), the Department has determined that this proposal will not have an adverse economic effect on small business or micro business health benefit plans that are required to comply with the proposal. Because the proposal does not impose any new requirements or costs with which businesses, regardless of size, must comply, any costs to persons required to comply with these proposed amendments and new sections are the result of the enactment of HB 1919, HB 1485, and HB 1030, and not the result of the adoption, enforcement, or administration of the proposed amendments and new sections. In accordance with the Government Code §2006.002(c), the Department has therefore determined that a regulatory flexibility analysis is not required because the proposal will not have an adverse impact on small or micro businesses.

TAKINGS IMPACT ASSESSMENT. The Department has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking or require a takings impact assessment under the Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. To be considered, written comments on the proposal must be submitted no later than 5:00 p.m. on May 4, 2009 to Gene C. Jarmon, General Counsel and Chief Clerk, Mail Code 113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. An additional copy of the comments must be simultaneously submitted to Debra Diaz-Lara, Deputy Commissioner, HWCN Division, Mail Code 103-6A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. Any request for a public hearing on the proposal should be submitted separately to the Office of the Chief Clerk before the close of the public comment period. If a hearing is held, written and oral comments presented at the hearing will be considered.

SUBCHAPTER AA. CONSUMER CHOICE HEALTH BENEFIT PLANS

DIVISION 1. GENERAL PROVISIONS

28 TAC §21.3502

STATUTORY AUTHORITY. The amendments are proposed pursuant to the Insurance Code §§1355.015, 1507.009, 1507.059, and 36.001. Section 1355.015 establishes the requirement that health benefit plans provide autism spectrum disorder coverage for certain children. Section 1507.009 provides that the Commissioner shall adopt rules as necessary to implement Chapter 1507, Subchapter A, related to Consumer Choice of Benefits Health Insurance Plans. Section 1507.059 provides that the Commissioner shall adopt rules as necessary to implement Chapter 1507, Subchapter B, related to Consumer Choice of Benefits Health Maintenance Organization Plans. Section 36.001 provides that the Commissioner of Insurance may adopt any rules necessary and appropriate to implement the powers and duties of the Texas Department of Insurance under the Insurance Code and other laws of this state.

CROSS REFERENCE TO STATUTE. The following statutes are affected by this proposal: Insurance Code §§1507.004, 1507.009, 1271.101, 1701.051, 1355.015, 1355.001 and 1355.015.

§21.3502. Definitions.

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

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

(3) Consumer choice health benefit plan--A group or individual accident or sickness insurance policy, or evidence of coverage that, in whole or in part, does not offer or provide state-mandated health benefits, but that provides creditable coverage as defined by the Insurance Code §1205.004(a) or §1501.102(a) [Article 26.035(a) or Article 3-70-1].

(4) - (6) (No change.)

(7) Health carrier--Any entity authorized under the Insurance Code or another insurance law of this state that provides health benefits in this state, including an insurance company, a group hospi-

tal service corporation under the Insurance Code Chapter 842, a health maintenance organization under the Insurance Code [Article 20A and] Chapter 843, and a stipulated premium company under the Insurance Code Chapter 884.

(8) - (9) (No change.)

(10) State-mandated health benefits--

(A) Coverage required under the Insurance Code, this code, or other law of this state to be provided in an individual, blanket, or group policy for accident and health insurance, a contract for coverage of a health-related condition, or an evidence of coverage that:

(i) (No change.)

(ii) places limitations or restrictions on deductibles, coinsurance, copayments, or any annual or lifetime maximum benefit amounts, including limitations provided in the Insurance Code §1271.151 [Article 20A.09(f) (as added by Section 7, Chapter 1026, Acts of the 75th Legislature, Regular Session, 1997)]; or

(iii) (No change.)

(B) Do not include benefits or coverage mandated by federal law, or standard provisions or rights required under the Insurance Code, this code, or other law of this state, to be provided in an individual, blanket, or group policy for accident and health insurance, a contract for coverage of a health-related condition, or an evidence of coverage unrelated to specific health illnesses, injuries, or conditions of an insured or enrollee, including those benefits or coverages enumerated in the Insurance Code §1507.003(b) and §1507.053(b) [Articles 3-80, §3(b) and 20A.09N(d)].

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 March 17, 2009.

TRD-200901105

Gene C. Jarmon

General Counsel and Chief Clerk

Texas Department of Insurance

Earliest possible date of adoption: May 3, 2009

For further information, please call: (512) 463-6327



DIVISION 2. STATE-MANDATED HEALTH BENEFITS

28 TAC §§21.3510 - 21.3513, 21.3515 - 21.3518

STATUTORY AUTHORITY. The amendments are proposed pursuant to the Insurance Code §§1355.015, 1507.009, 1507.059, and 36.001. Section 1355.015 establishes the requirement that health benefit plans provide autism spectrum disorder coverage for certain children. Section 1507.009 provides that the Commissioner shall adopt rules as necessary to implement Chapter 1507, Subchapter A, related to Consumer Choice of Benefits Health Insurance Plans. Section 1507.059 provides that the Commissioner shall adopt rules as necessary to implement Chapter 1507, Subchapter B, related to Consumer Choice of Benefits Health Maintenance Organization Plans. Section 36.001 provides that the Commissioner of Insurance may adopt any rules necessary and appropriate to implement the powers and duties of the Texas Department of Insurance under the Insurance Code and other laws of this state.

CROSS REFERENCE TO STATUTE. The following statutes are affected by this proposal: Insurance Code §§1507.004, 1507.009, 1271.101, 1701.051, 1355.015, 1355.001, and 1355.015.

§21.3510. *State-mandated Health Benefits in Individual Indemnity Policies.*

The following enumerated items are state-mandated health benefits a health insurer does not have to include in an individual indemnity consumer choice health benefit plan:

(1) coverage of contraceptive drugs and devices as required by the Insurance Code Chapter 1369, Subchapter C [Article 21.52E] and §21.404(3) of this title (relating to Underwriting);

(2) coverage of a minimum stay for maternity as required by the Insurance Code Chapter 1366, Subchapter B [Article 21.53F];

(3) coverage of reconstructive surgery incident to mastectomy as required by the Insurance Code Chapter 1357, Subchapter A [Article 21.53H];

(4) coverage of acquired brain injury treatment/services as required by the Insurance Code Chapter 1352 [Article 21.53Q];

~~[(5) limitations or restrictions on coinsurance imposed by §3.3704(a)(6) of this title (relating to Freedom of Choice: Availability of Preferred Providers);]~~

(5) ~~[(6)]~~ coverage of a minimum stay for mastectomy treatment/services as required by the Insurance Code Chapter 1357, Subchapter B [Article 21.52G];

(6) ~~[(7)]~~ coverage of diabetes care as required by the Insurance Code Chapter 1358, Subchapter A [Article 21.53D];

(7) ~~[(8)]~~ coverage of telehealth and telemedicine as required by the Insurance Code Chapter 1455 [Article 21.53F];

(8) ~~[(9)]~~ coverage of off-label drugs as required by the Insurance Code Chapter 1369, Subchapter A [Article 21.53M];

(9) ~~[(10)]~~ coverage of mental/nervous disorders with demonstrable organic disease as required by §3.3057(d) of this title (relating to Standards for Exceptions, Exclusions, and Reductions Provision);

(10) ~~[(11)]~~ coverage of transplant donor coverage as required by §3.3040(h) of this title (relating to Prohibited Policy Provisions);

(11) ~~[(12)]~~ offer of coverage for therapies for children with developmental delays as required by the Insurance Code Chapter 1367, Subchapter E [Article 21.53F];

(12) ~~[(13)]~~ entitlement to care under the Insurance Code Article 21.52B relating to pharmaceutical services; and

(13) ~~[(14)]~~ the requirements of the Insurance Code Chapter 1451, Subchapter D [Article 21.52D] regarding the use of optometrists and ophthalmologists by managed care plans, that exceed the entitlement to select a practitioner under the Insurance Code Chapter 1451 [Article 21.52 and Article 3.70-2].

§21.3511. *State-mandated Health Benefits in Group Association Indemnity Policies.*

The following enumerated items are state-mandated health benefits that a health insurer does not have to include in a group association indemnity consumer choice health benefit plan:

(1) coverage of contraceptive drugs and devices as required by the Insurance Code Chapter 1369, Subchapter C [Article 21.52E] and §21.404(3) of this title (relating to Underwriting);

(2) coverage of a minimum stay for maternity as required by the Insurance Code Chapter 1366, Subchapter B [Article 21.53F];

(3) coverage of reconstructive surgery incident to mastectomy as required by the Insurance Code Chapter 1357, Subchapter A [Article 21.53H];

(4) coverage of acquired brain injury treatment/services as required by the Insurance Code Chapter 1352 [Article 21.53Q];

~~[(5) limitations or restrictions on coinsurance imposed by §3.3704(a)(6) of this title (relating to Freedom of Choice: Availability of Preferred Providers);]~~

(5) ~~[(6)]~~ the offer of in vitro fertilization coverage as required by the Insurance Code Chapter 1366, Subchapter A [Article 3.51-6, §3A];

(6) ~~[(7)]~~ coverage of HIV, AIDS, or HIV-related illnesses as required by the Insurance Code Chapter 1364 [Article 3.51-6, §3C];

(7) ~~[(8)]~~ coverage of chemical dependency and stays in a chemical dependency treatment facility as required by the Insurance Code Chapter 1368 [Article 3.51-9];

~~[(9) coverage of serious mental illness as required by Insurance Code Article 3.51-14;]~~

(8) ~~[(10)]~~ the offer of mental or emotional illness coverage as required by the Insurance Code Chapter 1355, Subchapter C [Article 3.70-2(F)];

(9) ~~[(11)]~~ coverage of inpatient mental health and stays in a psychiatric day treatment facility as required by the Insurance Code Chapter 1355, Subchapter C [Article 3.70-2(F)];

(10) ~~[(12)]~~ the offer of speech and hearing coverage as required by the Insurance Code Chapter 1365 [Article 3.70-2(G)];

(11) ~~[(13)]~~ the offer of home health care coverage as required by the Insurance Code Chapter 1351 [Article 3.70-3B];

(12) ~~[(14)]~~ coverage of stays in a crisis stabilization unit and/or residential treatment center for children and adolescents as required by the Insurance Code Chapter 1355, Subchapter B [Article 3.72];

(13) ~~[(15)]~~ coverage of a minimum stay for mastectomy treatment/services as required by the Insurance Code Chapter 1357, Subchapter B [Article 21.52G];

(14) ~~[(16)]~~ continuation of coverage of certain drugs under a drug formulary as required by the Insurance Code Chapter 1369, Subchapter B [Article 21.52J];

(15) ~~[(17)]~~ coverage of diagnosis and treatment affecting temporomandibular joint and treatment for a person unable to undergo dental treatment in an office setting or under local anesthesia as required by the Insurance Code Chapter 1360 [Article 21.53A];

(16) ~~[(18)]~~ coverage of bone mass measurement for osteoporosis as required by the Insurance Code Chapter 1361 [Article 21.53C];

(17) ~~[(19)]~~ coverage of diabetes care as required by the Insurance Code Chapter 1358, Subchapter A [Article 21.53D];

(18) ~~[(20)]~~ coverage of telehealth and telemedicine as required by the Insurance Code Chapter 1455 [Article 21.53F];

(19) ~~[(21)]~~ coverage of off-label drugs as required by the Insurance Code Chapter 1369, Subchapter A [Article 21.53M];

(20) [(22)] offer of coverage for therapies for children with developmental delays as required by the Insurance Code Chapter 1367, Subchapter E [Article 21.53F];

(21) [(23)] entitlement to care under the Insurance Code Article 21.52B relating to pharmaceutical services; [and]

(22) [(24)] the requirements of the Insurance Code Chapter 1451, Subchapter D [Article 21.52D] regarding the use of optometrists and ophthalmologists by managed care plans, that exceed the entitlement to select a practitioner under the Insurance Code Chapter 1451; and [Article 21.52 and Article 3.70-2.]

(23) coverage of autism spectrum disorder as required by the Insurance Code Chapter 1355, Subchapter A.

§21.3512. *State-mandated Health Benefits in Small Employer Indemnity Policies.*

The following enumerated items are state-mandated health benefits that a health insurer does not have to include in a small employer group indemnity consumer choice health benefit plan:

(1) coverage of contraceptive drugs and devices as required by the Insurance Code Chapter 1369, Subchapter C [Article 21.52L] and §21.404(3) of this title (relating to Underwriting);

(2) coverage of a minimum stay for maternity as required by the Insurance Code Chapter 1366, Subchapter B [Article 21.53F];

(3) coverage of reconstructive surgery incident to mastectomy as required by the Insurance Code Chapter 1357, Subchapter A [Article 21.53H];

(4) coverage of acquired brain injury treatment/services as required by the Insurance Code Chapter 1352 [Article 21.53Q];

[(5) limitations or restrictions on coinsurance imposed by §3.3704(a)(6) of this title (relating to Freedom of Choice: Availability of Preferred Providers);]

(5) [(6)] the offer of in vitro fertilization coverage as required by the Insurance Code Chapter 1366, Subchapter A [Article 3.51-6, §3A];

(6) [(7)] coverage of HIV, AIDS, or HIV-related illnesses as required by the Insurance Code Chapter 1364 [Article 3.51-6, §3C];

(7) [(8)] coverage of chemical dependency and stays in a chemical dependency treatment facility as required by the Insurance Code Chapter 1368 [Article 3.51-9];

[(9) the offer of serious mental illness coverage as required by Insurance Code Article 3.51-14;]

(8) [(10)] the offer of mental or emotional illness coverage as required by the Insurance Code Chapter 1355, Subchapter C [Article 3.70-2(F)];

(9) [(11)] coverage of inpatient mental health and stays in a psychiatric day treatment facility as required by the Insurance Code Chapter 1355, Subchapter C [Article 3.70-2(F)];

(10) [(12)] the offer of speech and hearing coverage as required by the Insurance Code Chapter 1365 [Article 3.70-2(G)];

(11) [(13)] the offer of home health care coverage as required by the Insurance Code Chapter 1351 [Article 3.70-3B];

(12) [(14)] coverage of stays in a crisis stabilization unit and/or residential treatment center for children and adolescents as required by the Insurance Code §1271.005 and Chapter 1355, Subchapter B [Article 3.72];

(13) [(15)] coverage of bone mass measurement for osteoporosis as required by the Insurance Code Chapter 1361 [Article 21.53C];

(14) [(16)] entitlement to care under the Insurance Code Article 21.52B relating to pharmaceutical services; [and]

(15) [(17)] the requirements of the Insurance Code Chapter 1451, Subchapter D [Article 21.52D] regarding the use of optometrists and ophthalmologists by managed care plans, that exceed the entitlement to select a practitioner under the Insurance Code Chapter 1451; and [Article 21.52 and Article 3.70-2.]

(16) coverage of autism spectrum disorder as required by the Insurance Code Chapter 1355, Subchapter A.

§21.3513. *State-mandated Health Benefits in Large Employer Indemnity Policies.*

The following enumerated items are state-mandated health benefits that a health insurer does not have to include in a large employer group indemnity consumer choice health benefit plan:

(1) coverage of contraceptive drugs and devices as required by the Insurance Code Chapter 1369, Subchapter C [Article 21.52L] and §21.404(3) of this title (relating to Underwriting);

(2) coverage of a minimum stay for maternity as required by the Insurance Code Chapter 1366, Subchapter B [Article 21.53F];

(3) coverage of reconstructive surgery incident to mastectomy as required by the Insurance Code Chapter 1357, Subchapter A [Article 21.53H];

(4) coverage of acquired brain injury treatment/services as required by the Insurance Code Chapter 1352 [Article 21.53Q];

[(5) limitations or restrictions on coinsurance imposed by §3.3704(a)(6) of this title (relating to Freedom of Choice: Availability of Preferred Providers);]

(5) [(6)] the offer of in vitro fertilization coverage as required by the Insurance Code Chapter 1366, Subchapter A [Article 3.51-6, §3A];

(6) [(7)] coverage of HIV, AIDS, or HIV-related illnesses as required by the Insurance Code Chapter 1364 [Article 3.51-6, §3C];

(7) [(8)] coverage of chemical dependency and stays in a chemical dependency treatment facility as required by the Insurance Code Chapter 1368 [Article 3.51-9];

(8) [(9)] the offer of mental or emotional illness coverage as required by the Insurance Code Chapter 1355, Subchapter C [Article 3.70-2(F)];

(9) [(10)] coverage of inpatient mental health and stays in a psychiatric day treatment facility as required by the Insurance Code Chapter 1355, Subchapter C [Article 3.70-2(F)];

(10) [(11)] the offer of speech and hearing coverage as required by the Insurance Code Chapter 1365 [Article 3.70-2(G)];

(11) [(12)] the offer of home health care coverage as required by the Insurance Code Chapter 1351 [Article 3.70-3B];

(12) [(13)] coverage of stays in a crisis stabilization unit and/or residential treatment center for children and adolescents as required by the Insurance Code Chapter 1355, Subchapter B [Article 3.72];

(13) [(14)] coverage of a minimum stay for mastectomy treatment/services as required by the Insurance Code Chapter 1357, Subchapter B [Article 21.52G];

(14) [(45)] continuation of coverage of certain drugs under a drug formulary as required by the Insurance Code Chapter 1369, Subchapter B [Article 21.52J];

(15) [(46)] coverage of diagnosis and treatment affecting temporomandibular joint and treatment for a person unable to undergo dental treatment in an office setting or under local anesthesia as required by the Insurance Code Chapter 1360 [Article 21.53A];

(16) [(47)] coverage of bone mass measurement for osteoporosis as required by the Insurance Code Chapter 1361 [Article 21.53C];

(17) [(48)] coverage of diabetes care as required by the Insurance Code Chapter 1358, Subchapter A [Article 21.53D];

(18) [(49)] coverage of telehealth and telemedicine as required by the Insurance Code Chapter 1455 [Article 21.53F];

(19) [(20)] coverage of off-label drugs as required by the Insurance Code Chapter 1369, Subchapter A [Article 21.53M];

(20) [(21)] offer of coverage for therapies for children with developmental delays as required by the Insurance Code Chapter 1367, Subchapter E [Article 21.53F];

(21) [(22)] entitlement to care under the Insurance Code Article 21.52B relating to pharmaceutical services; ~~and~~

(22) [(23)] the requirements of the Insurance Code Chapter 1451, Subchapter D [Article 21.52D] regarding the use of optometrists and ophthalmologists by managed care plans, that exceed the entitlement to select a practitioner under the Insurance Code Chapter 1451; and [Article 21.52 and Article 3.70-2]

(23) coverage of autism spectrum disorder as required by the Insurance Code Chapter 1355, Subchapter A.

§21.3515. State-mandated Health Benefits in Individual HMO Plans.

The following enumerated items are state-mandated health benefits that an HMO does not have to include in an individual HMO consumer choice health benefit plan:

(1) coverage of contraceptive drugs and devices as required by the Insurance Code Chapter 1369, Subchapter C [Article 21.52L] and §21.404(3) of this title (relating to Underwriting);

(2) coverage of childhood immunizations as required by the Insurance Code §1367.053 [Article 20A.09F];

(3) coverage of a minimum stay for maternity as required by the Insurance Code Chapter 1366, Subchapter B [Article 21.53F];

(4) coverage of reconstructive surgery incident to mastectomy as required by the Insurance Code Chapter 1357, Subchapter A [Article 21.53H];

(5) coverage of acquired brain injury treatment/services as required by the Insurance Code Chapter 1352 [Article 21.53Q];

(6) treatment by a non-primary care specialist as a primary care provider as required by the Insurance Code §1271.201 [Article 20A.09(a)(3)(D)];

(7) coverage of rehabilitation therapies as required by the Insurance Code §1271.156 [Article 20A.09(a)(4)];

(8) limitations or restrictions on copayments imposed by §11.506(2)(A) of this title (relating to Mandatory Contractual Provisions: Group, Individual and Conversion Agreement and Group Certificate);

(9) limitations or restrictions on deductibles imposed by §11.506(2)(B) of this title;

(10) coverage of a minimum stay for mastectomy treatment/services as required by the Insurance Code Chapter 1357, Subchapter B [Article 21.52G];

(11) coverage of diabetes care as required by the Insurance Code Chapter 1358, Subchapter A [Article 21.53D];

(12) coverage of telehealth and telemedicine as required by the Insurance Code Chapter 1455 [Article 21.53F];

(13) coverage of off-label drugs as required by the Insurance Code Chapter 1369, Subchapter A [Article 21.53M];

(14) offer of coverage for therapies for children with developmental delays as required by the Insurance Code Chapter 1367, Subchapter E [Article 21.53F];

(15) entitlement to care under the Insurance Code Article 21.52B relating to pharmaceutical services; and

(16) the requirements of the Insurance Code Chapter 1451, Subchapter D [Article 21.52D] regarding the use of optometrists and ophthalmologists by managed care plans, that exceed the entitlement to select a practitioner under the Insurance Code Chapter 1451 [Article 21.52 and Article 3.70-2].

§21.3516. State-mandated Health Benefits in Group HMO Plans.

The following enumerated items are state-mandated health benefits that an HMO does not have to include in a non-employer group HMO consumer choice health benefit plan:

(1) coverage of contraceptive drugs and devices as required by the Insurance Code Chapter 1369, Subchapter C [Article 21.52L] and §21.404(3) of this title (relating to Underwriting);

(2) coverage of childhood immunizations as required by the Insurance Code §1367.053 [Article 20A.09F];

(3) coverage of a minimum stay for maternity as required by the Insurance Code Chapter 1366, Subchapter B [Article 21.53F];

(4) coverage of reconstructive surgery incident to mastectomy as required by the Insurance Code Chapter 1357, Subchapter A [Article 21.53H];

(5) coverage of acquired brain injury treatment/services as required by the Insurance Code Chapter 1352 [Article 21.53Q];

(6) treatment by a non-primary care specialist as a primary care provider as required by the Insurance Code §1271.201 [Article 20A.09(a)(3)(D)];

(7) coverage of rehabilitation therapies as required by the Insurance Code §1271.156 [Article 20A.09(a)(4)];

(8) limitations or restrictions on copayments imposed by §11.506(2)(A) of this title (relating to Mandatory Contractual Provisions: Group, Individual and Conversion Agreement and Group Certificate);

(9) limitations or restrictions on deductibles imposed by §11.506(2)(B) of this title;

(10) the offer of in vitro fertilization coverage as required by the Insurance Code Chapter 1366, Subchapter A [Article 3.51-6, §3A];

(11) coverage of HIV, AIDS, or HIV-related illnesses as required by the Insurance Code Chapter 1364 [Article 3.51-6, §3C];

(12) coverage of chemical dependency and stays in a chemical dependency treatment facility as required by the Insurance Code Chapter 1368 [Article 3.51-9];

~~(13)~~ coverage of serious mental illness as required by Insurance Code Article 3.51-14;

~~(13)~~ [(14)] the offer of mental or emotional illness coverage as required by the Insurance Code §1271.005 and Chapter 1355, Subchapter C [Article 3.70-2(F)];

~~(14)~~ [(15)] coverage of inpatient mental health and stays in a psychiatric day treatment facility as required by the Insurance Code §1271.005 and Chapter 1355, Subchapter C [Article 3.70-2(F)];

~~(15)~~ [(16)] the offer of speech and hearing coverage as required by the Insurance Code Chapter 1365 [Article 3.70-2(G)];

~~(16)~~ [(17)] coverage of stays in a crisis stabilization unit and/or residential treatment center for children and adolescents as required by the Insurance Code §1271.005 and Chapter 1355, Subchapter B [Article 3.72];

~~(17)~~ [(18)] coverage of a minimum stay for mastectomy treatment/services as required by the Insurance Code Chapter 1357, Subchapter B [Article 21.52G];

~~(18)~~ [(19)] continuation of coverage of certain drugs under a drug formulary as required by the Insurance Code Chapter 1369, Subchapter B [Article 21.52J];

~~(19)~~ [(20)] coverage of diagnosis and treatment affecting temporomandibular joint and treatment for a person unable to undergo dental treatment in an office setting or under local anesthesia as required by the Insurance Code Chapter 1360 [Article 21.53A];

~~(20)~~ [(21)] coverage of bone mass measurement for osteoporosis as required by the Insurance Code Chapter 1361 [Article 21.53C];

~~(21)~~ [(22)] coverage of diabetes care as required by the Insurance Code Chapter 1358, Subchapter A [Article 21.53D];

~~(22)~~ [(23)] coverage of telehealth and telemedicine as required by the Insurance Code Chapter 1455 [Article 21.53F];

~~(23)~~ [(24)] coverage of off-label drugs as required by the Insurance Code Chapter 1369, Subchapter A [Article 21.53M];

~~(24)~~ [(25)] offer of coverage for therapies for children with developmental delays as required by the Insurance Code Chapter 1367, Subchapter E [Article 21.53F];

~~(25)~~ [(26)] entitlement to care under the Insurance Code Article 21.52B relating to pharmaceutical services; ~~and~~

~~(26)~~ [(27)] the requirements of the Insurance Code Chapter 1451, Subchapter D [Article 21.52D] regarding the use of optometrists and ophthalmologists by managed care plans, that exceed the entitlement to select a practitioner under the Insurance Code Chapter 1451; and [Article 21.52 and Article 3.70-2.]

~~(27)~~ coverage of autism spectrum disorder as required by the Insurance Code Chapter 1355, Subchapter A.

§21.3517. *State-mandated Health Benefits in Small Employer HMO Plans.*

The following enumerated items are state-mandated health benefits that an HMO does not have to include in a small employer group HMO consumer choice health benefit plan:

(1) coverage of contraceptive drugs and devices as required by the Insurance Code Chapter 1369, Subchapter C [Article 21.52L] and §21.404(3) of this title (relating to Underwriting);

(2) coverage of childhood immunizations as required by the Insurance Code §1367.053 [Article 20A.09F];

(3) coverage of a minimum stay for maternity as required by the Insurance Code Chapter 1366, Subchapter B [Article 21.53F];

(4) coverage of reconstructive surgery incident to mastectomy as required by the Insurance Code Chapter 1357, Subchapter A [Article 21.53I];

(5) coverage of acquired brain injury treatment/services as required by the Insurance Code Chapter 1352 [Article 21.53Q];

(6) treatment by a non-primary care specialist as a primary care provider as required by the Insurance Code §1271.201 [Article 20A.09(a)(3)(D)];

(7) coverage of rehabilitation therapies as required by the Insurance Code §1271.156 [Article 20A.09(a)(4)];

(8) limitations or restrictions on copayments imposed by §11.506(2)(A) of this title (relating to Mandatory Contractual Provisions: Group, Individual and Conversion Agreement and Group Certificate);

(9) limitations or restrictions on deductibles imposed by §11.506(2)(B) of this title;

(10) the offer of in vitro fertilization coverage as required by the Insurance Code Chapter 1366, Subchapter A [Article 3.51-6, §3A];

(11) coverage of HIV, AIDS, or HIV-related illnesses as required by the Insurance Code Chapter 1364 [Article 3.51-6, §3C];

(12) coverage of chemical dependency and stays in a chemical dependency treatment facility as required by the Insurance Code Chapter 1368 [Article 3.51-9];

~~(13)~~ the offer of serious mental illness coverage as required by Insurance Code Article 3.51-14;

~~(13)~~ [(14)] the offer of mental or emotional illness coverage as required by the Insurance Code §1271.005 and Chapter 1355, Subchapter C [Article 3.70-2(F)];

~~(14)~~ [(15)] coverage of inpatient mental health and stays in a psychiatric day treatment facility as required by the Insurance Code §1271.005 and Chapter 1355, Subchapter C [Article 3.70-2(F)];

~~(15)~~ [(16)] the offer of speech and hearing coverage as required by the Insurance Code Chapter 1365 [Article 3.70-2(G)];

~~(16)~~ [(17)] coverage of stays in a crisis stabilization unit and/or residential treatment center for children and adolescents as required by the Insurance Code §1271.005 and Chapter 1355, Subchapter B [Article 3.72];

~~(17)~~ [(18)] coverage of bone mass measurement for osteoporosis as required by the Insurance Code Chapter 1361 [Article 21.53C];

~~(18)~~ [(19)] entitlement to care under the Insurance Code Article 21.52B relating to pharmaceutical services; ~~and~~

~~(19)~~ [(20)] the requirements of the Insurance Code Chapter 1451, Subchapter D [Article 21.52D] regarding the use of optometrists and ophthalmologists by managed care plans, that exceed the entitlement to select a practitioner under the Insurance Code Chapter 1451; and [Article 21.52 and Article 3.70-2.]

~~(20)~~ coverage of autism spectrum disorder as required by the Insurance Code Chapter 1355, Subchapter A.

§21.3518. *State-mandated Health Benefits in Large Employer HMO Plans.*

The following enumerated items are state-mandated health benefits that an HMO does not have to include in a large employer group HMO consumer choice health benefit plan:

(1) coverage of contraceptive drugs and devices as required by the Insurance Code Chapter 1369, Subchapter C [Article 21.52L] and §21.404(3) of this title (relating to Underwriting);

(2) coverage of childhood immunizations as required by the Insurance Code §1367.053 [Article 20A.09F];

(3) coverage of a minimum stay for maternity as required by the Insurance Code Chapter 1366, Subchapter B [Article 21.53F];

(4) coverage of reconstructive surgery incident to mastectomy as required by the Insurance Code Chapter 1357, Subchapter A [Article 21.53I];

(5) coverage of acquired brain injury treatment/services as required by the Insurance Code Chapter 1352 [Article 21.53Q];

(6) treatment by a non-primary care specialist as a primary care provider as required by the Insurance Code §1271.201 [Article 20A.09(a)(3)(D)];

(7) coverage of rehabilitation therapies as required by the Insurance Code §1271.156 [Article 20A.09(a)(4)];

(8) limitations or restrictions on copayments imposed by §11.506(2)(A) of this title (relating to Mandatory Contractual Provisions: Group, Individual and Conversion Agreement and Group Certificate);

(9) limitations or restrictions on deductibles imposed by §11.506(2)(B) of this title;

(10) the offer of in vitro fertilization coverage as required by the Insurance Code Chapter 1366, Subchapter A [Article 3.51-6, §3A];

(11) coverage of HIV, AIDS, or HIV-related illnesses as required by the Insurance Code Chapter 1364 [Article 3.51-6, §3C];

(12) coverage of chemical dependency and stays in a chemical dependency treatment facility as required by the Insurance Code Chapter 1368 [Article 3.51-9];

(13) the offer of mental or emotional illness coverage as required by the Insurance Code §1271.005 and Chapter 1355, Subchapter C [Article 3.70-2(F)];

(14) coverage of inpatient mental health and stays in a psychiatric day treatment facility as required by the Insurance Code §1271.005 and Chapter 1355, Subchapter C [Article 3.70-2(F)];

(15) the offer of speech and hearing coverage as required by the Insurance Code Chapter 1365 [Article 3.70-2(G)];

(16) coverage of stays in a crisis stabilization unit and/or residential treatment center for children and adolescents as required by the Insurance Code §1271.005 and Chapter 1355, Subchapter B [Article 3.72];

(17) coverage of a minimum stay for mastectomy treatment/services as required by the Insurance Code Chapter 1357, Subchapter B [Article 21.52G];

(18) continuation of coverage of certain drugs under a drug formulary as required by the Insurance Code Chapter 1369, Subchapter B [Article 21.52J];

(19) coverage of diagnosis and treatment affecting temporomandibular joint and treatment for a person unable to undergo

dental treatment in an office setting or under local anesthesia as required by the Insurance Code Chapter 1360 [Article 21.53A];

(20) coverage of bone mass measurement for osteoporosis as required by the Insurance Code Chapter 1361 [Article 21.53C];

(21) coverage of diabetes care as required by the Insurance Code Chapter 1358, Subchapter A [Article 21.53D];

(22) coverage of telehealth and telemedicine as required by the Insurance Code Chapter 1455 [Article 21.53F];

(23) coverage of off-label drugs as required by the Insurance Code Chapter 1369, Subchapter A [Article 21.53M];

(24) offer of coverage for therapies for children with developmental delays as required by the Insurance Code Chapter 1367, Subchapter E [Article 21.53F];

(25) entitlement to care under the Insurance Code Article 21.52B relating to pharmaceutical services; ~~and~~

(26) the requirements of the Insurance Code Chapter 1451, Subchapter D [Article 21.52D] regarding the use of optometrists and ophthalmologists by managed care plans, that exceed the entitlement to select a practitioner under the Insurance Code Chapter 1451; and [Article 21.52 and Article 3.70-2.]

(27) coverage of autism spectrum disorder as required by the Insurance Code Chapter 1355, Subchapter A.

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 March 17, 2009.

TRD-200901106

Gene C. Jarmon

General Counsel and Chief Clerk

Texas Department of Insurance

Earliest possible date of adoption: May 3, 2009

For further information, please call: (512) 463-6327



DIVISION 4. ADDITIONAL REQUIREMENTS

28 TAC §21.3540, §21.3543

STATUTORY AUTHORITY. The amendments are proposed pursuant to the Insurance Code §§1355.015, 1507.009, 1507.059, and 36.001. Section 1355.015 establishes the requirement that health benefit plans provide autism spectrum disorder coverage for certain children. Section 1507.009 provides that the Commissioner shall adopt rules as necessary to implement Chapter 1507, Subchapter A, related to Consumer Choice of Benefits Health Insurance Plans. Section 1507.059 provides that the Commissioner shall adopt rules as necessary to implement Chapter 1507, Subchapter B, related to Consumer Choice of Benefits Health Maintenance Organization Plans. Section 36.001 provides that the Commissioner of Insurance may adopt any rules necessary and appropriate to implement the powers and duties of the Texas Department of Insurance under the Insurance Code and other laws of this state.

CROSS REFERENCE TO STATUTE. The following statutes are affected by this proposal: Insurance Code §§1507.004, 1507.009, 1271.101, 1701.051, 1355.015, 1355.001, and 1355.015.

§21.3540. *Direct Access to Services.*

Any consumer choice health benefit plan must include coverage for direct access to the health care services of an obstetrical or gynecological care provider as required by the [Texas] Insurance Code Chapter 1451, Subchapter F [Article 21.53D, as added by Chapter 912, Acts of the 75th Legislature, Regular Session, 1997].

§21.3543. *Required Plan Filings.*

A health carrier shall:

(1) file the consumer choice health benefit plan with the Filings and Operations Division in accordance with:

(A) the Insurance Code Chapter 1271 [Article 20A.09] and Chapter 11 of this title (relating to Health Maintenance Organizations) including the filing fee requirements; and

(B) the Insurance Code Chapter 1701 [Article 3.42] and Chapter 3, Subchapter A of this title (relating to Requirements for Filing of Policy Forms, Riders, Amendments, Endorsements for Life, Accident, and Health Insurance and Annuities) including the filing fee requirements.

(2) (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 March 17, 2009.

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Gene C. Jarmon

General Counsel and Chief Clerk

Texas Department of Insurance

Earliest possible date of adoption: May 3, 2009

For further information, please call: (512) 463-6327



SUBCHAPTER JJ. AUTISM SPECTRUM DISORDER COVERAGE

28 TAC §§21.4401 - 21.4404

STATUTORY AUTHORITY. The new sections are proposed pursuant to the Insurance Code §§1355.015, 1507.009, 1507.059, and 36.001. Section 1355.015 establishes the requirement that health benefit plans provide autism spectrum disorder coverage for certain children. Section 1507.009 provides that the Commissioner shall adopt rules as necessary to implement Chapter 1507, Subchapter A, related to Consumer Choice of Benefits Health Insurance Plans. Section 1507.059 provides that the Commissioner shall adopt rules as necessary to implement Chapter 1507, Subchapter B, related to Consumer Choice of Benefits Health Maintenance Organization Plans. Section 36.001 provides that the Commissioner of Insurance may adopt any rules necessary and appropriate to implement the powers and duties of the Texas Department of Insurance under the Insurance Code and other laws of this state.

CROSS REFERENCE TO STATUTE. The following statutes are affected by this proposal: Insurance Code §§1507.004, 1507.009, 1271.101, 1701.051, 1355.015, 1355.001, and 1355.015.

§21.4401. *Purpose and Applicability.*

(a) General Purpose. This subchapter implements those provisions of the Insurance Code Chapter 1355, Subchapter A, that relate

to autism spectrum disorder coverage. The general purpose of this subchapter is to ensure health benefit plan coverage for the early intervention, treatment, and services of certain child enrollees diagnosed with autism spectrum disorder, as provided in the Insurance Code Chapter 1355, Subchapter A.

(b) Applicability.

(1) This subchapter applies to:

(A) the health benefit plans specified in the Insurance Code §1355.002; and

(B) small employer health benefit plans offered pursuant to the Insurance Code §1501.252(c).

(2) This subchapter does not apply to:

(A) a standard health benefit plan provided under the Insurance Code Chapter 1507, pursuant to the Insurance Code §1355.015(e);

(B) a health benefit plan issued by a health carrier through a health group cooperative under the Insurance Code §1501.058, pursuant to the Insurance Code §1501.0581(i); or

(C) a health benefit plan specified in the Insurance Code §1355.003(a)(1) - (7).

§21.4402. *Definitions.*

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

(1) Applied behavior analysis--The design, implementation, and evaluation of systematic environmental changes to produce socially significant change in human behavior through skill acquisition and the reduction of problematic behavior. Applied behavior analysis includes direct observation and measurement of behavior and the identification of functional relations between behavior and the environment. Contextual factors, establishing operations, antecedent stimuli, positive reinforcers, and other consequences are used to produce the desired behavior change.

(2) Autism spectrum disorder--As defined in the Insurance Code §1355.001(3).

(3) Enrollee--A person covered by a health benefit plan described by the Insurance Code §1355.002.

(4) Generally recognized services--The term includes, but is not limited to, the following services, when such services are prescribed in accordance with the Insurance Code §1355.015(b) and §21.4403(b) of this subchapter (relating to Required Coverage):

(A) evaluation and assessment services;

(B) applied behavior analysis;

(C) behavior training and behavior management;

(D) speech therapy;

(E) occupational therapy;

(F) physical therapy; or

(G) medications or nutritional supplements used to address symptoms of autism spectrum disorder.

(5) Health care practitioner--A physician, advance practice nurse, physician assistant, or other individual appropriately licensed, registered, or certified, or whose professional credential is recognized and accepted as described by the Insurance Code §1355.015(b).

(6) Neurobiological disorder--As defined in the Insurance Code §1355.001(4).

(7) Primary care physician--A physician selected or otherwise designated as the enrollee's primary care physician pursuant to the provisions of the enrollee's health benefit plan or, if the enrollee's health benefit plan does not contain provisions concerning selection or designation of a primary care physician, a physician selected or otherwise designated to develop a treatment plan for the purpose of treating autism spectrum disorder.

§21.4403. Required Coverage.

(a) Certain Children Enrollees.

(1) At a minimum, a health benefit plan must provide coverage as provided by the Insurance Code §1355.015 to an enrollee who is three years of age or older and younger than six years of age and who is diagnosed with autism spectrum disorder.

(2) Pursuant to the Insurance Code §1355.015(a), if an enrollee who is being treated for autism spectrum disorder becomes six years of age or older and continues to need treatment, the health benefit plan is not precluded from providing coverage of treatment and services described by §1355.015(b) of the Insurance Code.

(b) Enrollees of Other Ages. A health benefit plan is not precluded from providing coverage of treatment and services described by §1355.015(b) of the Insurance Code for enrollees of other ages.

(c) Medical and Surgical Benefit. In accordance with the Insurance Code §1355.002 and §1355.015(b), a health benefit plan issuer must provide coverage as a medical and surgical benefit under the health benefit plan for all generally recognized services prescribed in relation to autism spectrum disorder by the enrollee's primary care physician in the treatment plan recommended by that physician.

(d) Deductibles, Copayments, and Coinsurance. Pursuant to the Insurance Code §1355.015(d), coverage under this section may be subject to annual deductibles, copayments, and coinsurance that are consistent with annual deductibles, copayments, and coinsurance required for other coverage under the health benefit plan.

§21.4404. Health Care Practitioners.

(a) Health Care Practitioner Who Provides Treatment. Pursuant to the Insurance Code §1355.015(b), a health care practitioner providing treatment for autism spectrum disorder under the Insurance Code Chapter 1355, Subchapter A, and this subchapter must:

(1) be licensed, certified, or registered by an appropriate agency of this state;

(2) have professional credentials that are recognized and accepted by an appropriate agency of the United States; or

(3) be certified as a provider under the TRICARE military health system.

(b) Coverage for Applied Behavior Analysis. A health benefit plan issuer may not deny coverage for services for autism spectrum disorder on the basis that a health care practitioner providing applied behavior analysis does not hold a license issued by an agency of this state, as long the health care practitioner otherwise meets one of the requirements of the Insurance Code §1355.015(b).

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 March 17, 2009.
TRD-200901108

Gene C. Jarmon
General Counsel and Chief Clerk
Texas Department of Insurance
Earliest possible date of adoption: May 3, 2009
For further information, please call: (512) 463-6327

◆ ◆ ◆
CHAPTER 26. SMALL EMPLOYER HEALTH
INSURANCE REGULATIONS
SUBCHAPTER D. HEALTH GROUP
COOPERATIVES

28 TAC §26.409

The Texas Department of Insurance (Department) proposes an amendment to §26.409, concerning the exclusion of state-mandated health benefits for autism spectrum disorder coverage in health benefit plans issued through health group cooperatives. House Bill (HB) 1919, 80th Legislature, Regular Session, effective January 1, 2008, amends Chapter 1355 of the Insurance Code to include, as a state mandated benefit, all generally recognized services prescribed in relation to autism spectrum disorder by an insured's primary care physician in the treatment plan recommended by that physician. However, pursuant to the Insurance Code §1501.0581(i), a health benefit plan issued by a health benefit plan issuer to provide coverage with a health group cooperative is not subject to a state law, including a rule, that relates to a particular illness, disease, or treatment. Pursuant to the Insurance Code §1355.001(3), which defines "autism spectrum disorder" as a neurobiological disorder, and the Insurance Code §1355.001(4), which defines a "neurobiological disorder" as an illness of the nervous system, autism spectrum disorder is a particular illness. Therefore, the mandated autism spectrum disorder coverage requirements enacted by HB 1919 are not applicable to health benefit plans that provide coverage with a health group cooperative pursuant to §1508.0581 of the Insurance Code. Chapter 26, Subchapter D, of Title 28 of the Texas Administrative Code regulates health benefit plans issued by health carriers through health group cooperatives. Section 26.409 specifies the state mandates that are not required to be provided by such plans. The proposed amendment is necessary to update existing §26.409(a) to specify that the state-mandated health benefit of coverage of autism spectrum disorder as required by the Insurance Code Chapter 1355, Subchapter A, is not required in a health benefit plan issued by a health carrier through a health group cooperative. The proposed amendment, which is consistent with the Insurance Code §1501.0581(i), provides that the state-mandated coverage for autism spectrum disorder, as required by the Insurance Code Chapter 1355, Subchapter A, is not required to be included in a health benefit plan issued by a health carrier through a health group cooperative.

Debra Diaz-Lara, Deputy Commissioner, Health and Workers' Compensation Network Certification and Quality Assurance Division (HWCN), has determined that for each year of the first five years the proposed amendment will be in effect, there will be no fiscal impact to state and local governments as a result of the enforcement or administration of the proposal. There will be no measurable effect on local employment or the local economy as a result of the proposal.

Ms. Diaz-Lara also has determined that for each year of the first five years the proposed amendment is in effect, the anticipated

public benefit is an updated rule that is consistent with the Insurance Code §1501.0581(i), which provides that a health benefit plan offered through a health group cooperative is not subject to the state mandate requiring coverage of autism spectrum disorder under the Insurance Code Chapter 1355, Subchapter A. Because the proposed amendment simply updates existing §26.409(a) to comply with the Insurance Code §1501.0581(i) and Chapter 1355, Subchapter A, and does not impose any new requirements or costs with which businesses, regardless of size, must comply, any costs to persons required to comply with the proposed amendment for each year of the first five years the proposed amendment is in effect are the result of the enactment of HB 1919 and not the result of the adoption, enforcement, or administration of the proposed amendment.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICRO BUSINESSES. In accordance with the Government Code §2006.002(c), the Department has determined that the proposed amendment will not have an adverse economic effect on small businesses or micro businesses that are required to comply with the proposal. Because the proposed amendment simply updates existing §26.409(a) to comply with the Insurance Code §1501.0581(i) and Chapter 1355, Subchapter A, and does not impose any new requirements or costs with which businesses, regardless of size, must comply, any costs to persons required to comply with the proposed amendment are the result of the enactment of HB 1919, and not the result of the adoption, enforcement, or administration of the proposed amendment. In accordance with the Government Code §2006.002(c), the Department has, therefore, determined that a regulatory flexibility analysis is not required because the proposal will not have an adverse impact on small or micro businesses.

TAKINGS IMPACT ASSESSMENT. The Department has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking or require a takings impact assessment under the Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. To be considered, written comments on the proposal must be submitted no later than 5:00 p.m. on May 4, 2009 to Gene C. Jarmon, General Counsel and Chief Clerk, Mail Code 113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. An additional copy of the comments must be simultaneously submitted to Debra Diaz-Lara, Deputy Commissioner, HWCN Division, Mail Code 103-6A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. Any request for a public hearing on the proposal should be submitted separately to the Office of the Chief Clerk before the close of the public comment period. If a hearing is held, written and oral comments presented at the hearing will be considered.

STATUTORY AUTHORITY. The amendment is proposed pursuant to the Insurance Code §§1355.015, 1355.001(3) and (4), 1501.0581(i), and 36.001. Section 1355.015 requires that health benefit plans provide autism spectrum disorder coverage for certain children. Pursuant to the Insurance Code §1355.001(3), which defines "autism spectrum disorder" as a neurobiological disorder, and the Insurance Code §1355.001(4), which defines a "neurobiological disorder" as an illness of the nervous system, autism spectrum disorder is a particular illness. Section 1501.0581(i) provides that except as provided

by §1501.0581(n), which concerns coverage for diabetes equipment, supplies, and services, a health benefit plan issued by a health benefit plan issuer to provide coverage with a health group cooperative is not subject to a state law, including a rule, that relates to a particular illness, disease, or treatment. Section 36.001 provides that the Commissioner of Insurance may adopt any rules necessary and appropriate to implement the powers and duties of the Texas Department of Insurance under the Insurance Code and other laws of this state.

CROSS REFERENCE TO STATUTE. The following statute is affected by this proposal: Insurance Code §1501.0581(i).

§26.409. *Health Benefit Plans Offered Through Health Group Cooperatives.*

(a) A health benefit plan issued by a health carrier through a health group cooperative is not subject to the following state mandates:

(1) - (29) (No change.)

(30) coverage of reconstructive surgery incident to mastectomy as required by Insurance Code §§1357.001 - 1357.007; ~~and~~

(31) coverage of a minimum stay for mastectomy treatment/services as required by Insurance Code §§1357.051 - 1357.057; ~~and~~[-]

(32) coverage of autism spectrum disorder as required by the Insurance Code Chapter 1355, Subchapter A.

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

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

Filed with the Office of the Secretary of State on March 17, 2009.

TRD-200901109

Gene C. Jarmon

General Counsel and Chief Clerk

Texas Department of Insurance

Earliest possible date of adoption: May 3, 2009

For further information, please call: (512) 463-6327



TITLE 34. PUBLIC FINANCE

PART 10. TEXAS PUBLIC FINANCE AUTHORITY

CHAPTER 221. DISTRIBUTION OF BOND PROCEEDS

34 TAC §§221.2 - 221.6

The Texas Public Finance Authority proposes amendments to §§221.2 - 221.6 concerning the distribution of bond proceeds. The proposed amendments are required to update technical information, such as legal citations, and to make the procedures for financing agencies' projects as efficient as possible.

Judith Porras, Interim Executive Director, estimates that for each year of the first five years the amendments will be in effect, there will be no foreseeable fiscal implications for state or local governments as a result of enforcing or administering the rules.

Ms. Porras has determined that for each year of the first five years the proposed rules will be in effect, the public benefit an-

anticipated as a result of enforcing the rules will be a technically correct rule text and more efficient procedures.

Ms. Porras has also determined that there will be no probable economic cost to persons who are required to comply with the proposed rules. Further, in accordance with Texas Government Code §2001.022, she has determined that the proposed rules will not affect a local economy, and, therefore, no local employment impact statement is required, and that the proposed rules will have no adverse economic effect on small businesses or micro-businesses, as result of enforcing or administering the rules.

Written comments on the proposed rules may be submitted within 30 days of publication of this proposal in the *Texas Register* to Judith Porras, Texas Public Finance Authority, 300 W. 15th St., Room 411, Austin, Texas 78701, or electronically to: judith.porras@tpfa.state.tx.us.

The amendments are proposed under Texas Government Code, Chapter 1232, which provides the Texas Public Finance Authority with the authority to adopt rules necessary to administer Texas Government Code, Chapter 1232.

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

§221.2. *Definitions.*

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

(1) Act--The Texas Public Finance Authority Act, Texas Government Code, Chapter 1232 [~~1234~~].

(2) Authority--The Texas Public Finance Authority, together with any successor to its duties and functions.

(3) Board--The board of directors of the authority, the governing body of the authority.

(4) Bond Review Board--The Bond Review Board as created by the Texas Legislature pursuant to Texas Government Code, Chapter 1231, or any successor to its duties and functions.

(5) Bonds--Public securities [~~General obligation bonds and/or revenue bonds~~] issued by the authority pursuant to a constitutional provision and the Act, [~~or~~] the Act, or other legislation.

(6) Capitalized interest--That portion of the proceeds of bonds which represents interest to be capitalized and payable prior to completion of acquisition, construction, or renovation of the projects being financed with such bonds.

(7) Client Agency--A state agency or institution of higher education on whose behalf the board may issue bonds and who has control of or responsibility for facilities to be financed with proceeds of such bonds.

(8) Code--The Internal Revenue Code of 1986.

(9) Commercial paper notes--Variable rate public securities that mature in not more than 270 days and issued by the authority pursuant to a constitutional provision and the Act, the Act, or other legislation.

(10) [~~9~~] Comptroller--The Comptroller of Public Accounts of the State of Texas, or any successor thereto.

(11) [~~10~~] Constitutional provision--A provision of the Texas Constitution that authorizes the issuance of general obligation bonds by the Authority; namely: Article III, §49-h, Article III, §49(e), Article III, §49-l, Article III, §49-n, [~~or~~] Article III, §50-f, Article III, §50-g, or Article III, §67.

(12) [~~11~~] Construction schedule--The time period and sequence of action during which the actual construction of a project or projects is planned to be accomplished.

(13) [~~12~~] Costs of issuance--The costs related to the issuance of any issue of bonds, including, but not limited to:

(A) financing charges, including insuring principal and interest payment on the bonds or obtaining other credit enhancement for the bonds;

(B) professional fees and expenses, including architectural, engineering, surveying, and legal services;

(C) administrative expenses of the authority to the extent provided by law;

(D) the authority's or the paying agent/registrar's charges and expenses;

(E) rating agency fees;

(F) bond printing expenses; and

(G) such other expenses as may be necessary or incident to issuing and marketing of the bonds.

(14) [~~13~~] Debt service fund--Generally, the fund created in financing documents to contain money for the payment of debt service on the bonds.

(15) [~~14~~] Disbursement--The transfer of bond proceeds within a project fund from the authority's control to the client agency's control. [~~from the state treasury to a cost center with the comptroller for payment of duly authorized expenses relating to a bond issue.~~]

(16) [~~15~~] Expenditure [~~Disbursement~~] schedule--The schedule controlling the frequency and amounts of expenditures [~~disbursements~~] from bond proceeds and used for payment of duly authorized expenses relating to a project.

(17) [~~16~~] Executive director--The executive director, or other authorized agent of the authority empowered by the board to perform the duties of the executive director.

(18) [~~17~~] Financing documents--Those documents approved by the board relating to the issuance of bonds, including, but not limited to, bond resolutions, financing agreements, funds management agreements, lease agreements, and official statements.

(19) [~~18~~] General appropriations act--Any legislative act appropriating money for the operation of state government.

(20) [~~19~~] General obligation bond--A bond issued on behalf of the State of Texas, the repayment of which is guaranteed by the full faith and credit of the State of Texas [~~state~~] and which has been authorized by the Texas Constitution.

(21) [~~20~~] Legislature--The Legislature of the State of Texas.

(22) [~~21~~] Memorandum of understanding--The document executed by the authority and a client agency that defines the division of authority and responsibility between the authority and a client agency.

(23) [~~22~~] Plans and specifications--The plans and specifications for each respective project, as the same may be amended from time to time.

(24) [~~23~~] Project--The construction, renovation, acquisition, or equipping a [~~Any~~] building, structure, or other facility, and the component parts thereof, or program authorized by the legislature for financing by a debt issuance. [~~from bond proceeds and which consists~~]

of acquiring, constructing, or equipping new facilities or major repair or renovation of existing facilities.]

(25) [(24)] Project Summary [analysis]--A general description of the project that will be paid for with proceeds of bonds or commercial paper notes including, but not limited to:

(A) a complete description of the facility or project together with a justification of such facility or project prepared by the client agency;

~~[(B) a detailed estimate of the amount of space needed to meet the needs of the client agency and to allow for realistic future growth;]~~

(B) ~~[(C)]~~ a description of the proposed facility prepared by an architect/engineer and including schematic plans and outline specifications describing the type of construction and probable materials to be used, sufficient to establish the general scope and quality of construction;

(C) ~~[(D)]~~ an estimate of the probable cost of construction;

(D) ~~[(E)]~~ a description of the proposed site of the project and an estimate of the cost of site preparation;

(E) ~~[(F)]~~ an overall estimate of the cost of the project;

(F) a description of the program to be financed, including costs and a schedule of expenditures; and

~~[(G) information about alternative proposals for meeting the space needs of the client agency by new construction, acquisition, and rehabilitation of an existing or historic structure, or a combination thereof; and]~~

(G) ~~[(H)]~~ other information as required by the authority.

(26) [(25)] Project costs--To the extent authorized by law or regulation, all costs incurred by the authority, or any client agency requesting financing of a project with respect to the acquisition, construction, or equipment of new facilities, or for major repair or renovation of existing facilities, as the case may be, including, but not limited to, the costs of:

(A) the acquisition of all land, rights-of-way, property rights, easements, and interests;

(B) all furnishings, machinery, and equipment;

(C) necessary contingency funds;

(D) architectural, engineering, and legal services;

(E) plans, specifications, surveys, and estimates of cost and revenue, including a master plan;

(F) contracts necessary or incident to determining the feasibility and practicability of a project;

(G) administrative expenses of the authority which are necessary and related to a project to the extent provided by law; and

(H) such other contracts as may be necessary or incident to the carrying out or start-up of any project, including the refunding or refinancing of any outstanding obligations, mortgages, or advances issued, made, or given by any person for any of the aforementioned costs; or [-]

(I) costs anticipated to be necessary to fund a program.

(27) [(26)] Project fund--The fund created in financing documents for the payment of project costs.

(28) [(27)] Regulations--The Income Tax Regulations promulgated pursuant to the Code.

(29) [(28)] Revenue bond--A bond issued by the authority, the repayment of which depends on:

(A) the pledge of all or any part of the designated rents, issues, and profits from leasing the project to the State of Texas [state] through the client agency; or

(B) from any other source of funds lawfully available to the authority.

(30) [(29)] TDCJ--The Texas Department of Criminal Justice, together with any successor to its duties and functions.

§221.3. Bond Issuance Process.

(a) Preliminary Requirements. Following a legislative session in which bonds have been authorized for a project, the authority and the client agency will confirm basic information concerning the bond issue, such as the time, amount, and scope of the project, and schedule an orientation meeting at their mutual convenience. In most cases, a formal orientation meeting will be required and such a meeting should occur before the authority must begin work on the bond issue, but after the client agency has had sufficient time to prepare a preliminary plan for the project.

(1) As part of the orientation, the authority will provide the client agency the following information:

(A) an explanation of the bond issuance process in plain language;

(B) a review of the specific tasks required for a bond issue and the time needed for such tasks;

(C) a review of the documents, other information, if any, and time requirements applicable to the client agency's request for financing; and

(D) an identification of the authority's staff and outside consultants who will work on the financing, by name and function.

(2) The client agency should be prepared to review a detailed project description and project schedule during the orientation meeting and identify the client agency's staff who will work with the authority on the bond issue.

(3) If a client agency's staff is familiar with the bond issuance process and the authority's requirements for issuing bonds because they have participated in prior bond issuance transactions, a formal orientation meeting is not required. The executive director will insure that up-to-date information described in paragraph (1)(A) - (D) of this subsection is provided to the client agency in an alternative manner such as by schedules, memorandum, or telephone conference.

(b) Request for financing. A request for financing under this section shall include:

(1) a resolution of the client agency's governing body [board] signed by the appropriate officer authorizing submission of the request for financing;

(2) a project summary [analysis], required by the authority for application to the Bond Review Board; and~~], except as provided in X221.4(b) of this title (relating to Criteria for Issuance of Bonds);]~~

~~[(3) a schedule of actions required to be accomplished by the client agency prior to the first actual disbursement of funds after issuance; and]~~

(3) [(4)] an expenditure [a disbursement] schedule.

(c) Amendment to request for financing. A client agency may reschedule the date requested for authority consideration of the bond issuance or amend its request by submitting an amendment to its request for financing at any time prior to the authority board meeting at which the issue will be considered.

(d) Board action. The request for financing will be posted for consideration by the board at the [its] next ~~[regularly scheduled]~~ open meeting following the authority's receipt of the request, for which timely public notice may be given pursuant to Texas Government Code, Chapter 551. [If the client agency's request is received eight days before the board's regularly scheduled meeting date, which schedule shall be posted on the authority's website, the request will be timely for the board's consideration at the scheduled meeting.] The client agency will be informed promptly of a change in the board's meeting date for the month and the exact date on which the request will be considered.

(1) The board may either approve the request or require additional information. When it approves a request for financing, the board will also determine the method of sale of the bonds, either negotiated or competitive, or the issuance of commercial paper notes.

(2) The Board's approval of a request for financing is deemed to constitute approval of the submission of an application to the Bond Review Board for approval of the issuance of debt and instruction to staff to proceed with submission of the application.

(3) ~~[(2)]~~ If the board determines to sell bonds through a negotiated sale, it will designate an underwriting syndicate in accordance with authority's underwriter selection procedures.

(4) ~~[(3)]~~ If the board determines to sell bonds through a competitive sale, it will authorize the executive director and financial advisor to prepare an invitation for competitive bids in the time and manner required so that the board may approve the distribution of the invitation and the Preliminary Official Statement at its open meeting in the month immediately following.

(5) If the board determines to finance a request through the issuance of commercial paper notes, staff shall proceed to complete such issuances.

(e) Procedures following board approval of a request for financing through the issuance of bonds. As soon as possible following the board's approval of a request for financing, the authority staff, financial advisors, bond counsel, representatives of the client agency, and, for negotiated sales, the senior manager of the underwriting syndicate and its counsel, will convene an organization meeting to prepare a schedule of events for the financing, and begin work on the financing documents and an application for Bond Review Board approval of the financing.

(1) In most cases, the application for Bond Review Board approval will be submitted timely for consideration and approval of the Bond Review Board at its next regularly scheduled meeting following the board's approval of the request, however, the timing of the submission is within the discretion of the executive director.

(2) After the Bond Review Board approves the financing, the issuance and sale of the bonds may be scheduled and completed.

§221.4. Criteria for Issuance of Bonds or Commercial Paper Notes.

(a) The authority shall not issue bonds or commercial paper notes to finance any project or cost related thereto, unless:

(1) the project has been specifically authorized by the Act, the General Appropriations Act, or other applicable law;

(2) the ~~[authority]~~ board has approved ~~[accepted]~~ the request for financing and has determined to proceed with the issuance of bonds or commercial paper notes;

(3) the governing body of the client agency requesting such financing has authorized the execution of a memorandum of understanding between the client agency and the authority relating to the specific bond issue or commercial paper notes program and has agreed to necessary financing documents as may be appropriate and consistent with these sections;

(4) the bond or commercial paper notes issuance and the projects have been reviewed and approved by the Bond Review Board or any other agency required to review such bond proceedings or approve projects as authorized by law;

(5) the governing body of the client agency has by resolution authorized the execution and performance of the financing documents; and

(6) the board has approved the related financing documents.

(b) In the event proceeds are to be used to finance a project of the TDCJ, the TDCJ must have submitted to the Bond Review Board a master plan for correctional facilities prior to disbursement of bond proceeds.

(c) The authority assumes no responsibility in connection with the eligibility of any specific project for financing nor with respect to the need for such project or that any project will comply with any legal requirement, except to review legislation authorizing the project, the approval process with respect to the project, including Bond Review Board approvals, and to provide a proper description ~~[description]~~ of the project in bond offering documents, if required.

(d) The authority may request the assistance of the client agency in complying with information requests from the Bond Review Board, rating agencies, the ~~[agency,]~~ attorney general, financial advisor, bond counsel, or other requests required for issuance of the bonds. ~~[approval of the bond issue.]~~

§221.5. Procedure for Disbursement of Bond Proceeds.

(a) Unless otherwise indicated herein, proceeds of bonds shall be distributed ~~[by the comptroller]~~ pursuant to the terms of the financing documents.

(b) Upon the closing of each series of bonds, the purchasers thereof shall pay the proceeds thereof in immediately available funds to the authority, a corporate trustee, or depository account designated by the client agency and specified in the financing documents. ~~[comptroller.]~~

(c) The executive director shall certify to the client ~~[comptroller and to the qualified]~~ agency requesting such financing that the funds are available and, if bond proceeds must be deposited to the Texas state treasury, to the comptroller that such funds have been deposited with the comptroller for the purpose of financing the related project.

(d) The authority will process vouchers for payment of costs of issuance. The client agency will process vouchers for payment of project costs. ~~[The executive director shall certify to the specific amounts to be transferred from the project fund to the debt service fund. The executive director shall instruct the comptroller from time to time to pay the costs of issuance in such amounts as specified by the executive director from the project fund. The qualified agency shall request disbursement of funds for the purpose of paying project costs in accordance with the provisions of the financing documents for a particular issue. The proceeds shall be invested by the comptroller with the con-~~

urrence of the authority until such time as the costs of issuance and project costs are paid.]

(e) The client agency requesting financing from the authority shall pay [make or cause to be made payment of] project costs from the project fund in accordance with the contracts therefore and shall provide a written monthly report to the authority of the activity on each project in compliance with the reporting provisions of the financing documents. The authority will not assume any responsibility for the actual acquisition, construction, equipment, repair, or renovation of any project or the operation or maintenance thereof, but the authority may inspect projects at reasonable times upon reasonable notice to the client agency.

(f) No payments from the project fund may be made for any purpose other than paying costs of issuance and project costs, depositing amounts to any rebate fund for the benefit of the federal government in compliance with the Code, or deposit to the debt service fund of amounts remaining after payment of project costs.

(g) If any proceeds of the bonds remain in the project fund after the completion of a project and depositing amounts to any rebate fund for the benefit of the federal government in compliance with the Code, except the amounts specified by the client agency requesting such financing from the authority to be retained for any amount of any project costs not then due and payable or the liability for payment of which is being contested or disputed by the qualified agency and all labor, services, materials, and supplies used in the project have been fully paid and all costs and expenses incurred in connection therewith have been paid, then the client agency requesting such financing from the authority shall notify the authority that [eause] such proceeds are to be transferred from the project fund to the debt service fund; provided, however, that if the legislature has authorized additional projects of the same nature as the project theretofore financed during such time period, the board may, by formal resolution and if permitted by law, authorize the use of such amounts for such additional projects.

(h) If the bonds are intended by the board to bear interest which is not includable in gross income of the recipient pursuant to the Code, the use of proceeds of the bonds shall be restricted in such manner and to such extent, as may be necessary, to obtain and retain such tax exemption, in accordance with the Code and Regulations. [including restrictions so that the bonds will not constitute arbitrage bonds under the Code, §149(d) (concerning advance refunding), unless otherwise prescribed by law. The requirements of this section are subject to and shall be interpreted in accordance with the Code, §148.]

(i) The plans and specifications will be on file at the client agency and available at all times for inspection by the authority.

§221.6. *Complaints to the Authority.*

In accordance with the requirements of §1232.113(e) of the Act, the authority will notify client agencies of the name, mailing address, and telephone number of the authority for the purpose of directing complaints to the authority by posting such information on the authority's website, by direct mail, [notifying and reminding client agencies periodically of the authority's electronic mail address,] and by distributing a fact sheet on the authority during the orientation meeting described in §221.3 of this title (relating to the Bond Issuance Process) of this Chapter 221.

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 March 23, 2009.
TRD-200901151

Judith Porras
Interim Executive Director and General Counsel
Texas Public Finance Authority
Earliest possible date of adoption: May 3, 2009
For further information, please call: (512) 463-3143

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CHAPTER 223. HISTORICALLY UNDERUTILIZED BUSINESS PROGRAM

34 TAC §223.1

The Texas Public Finance Authority proposes amendments to §223.1, concerning Historically Underutilized Business Program. The proposed amendments are required to update technical information, such as legal citations, and to make the procedures for financing agencies projects as efficient as possible.

Judith Porras, Interim Executive Director, estimates that for each year of the first five years the amendments will be in effect, there will be no foreseeable fiscal implications for state or local governments as a result of enforcing or administering the rules.

Ms. Porras has determined that for each year of the first five years the proposed rules will be in effect, the public benefit anticipated as a result of enforcing the rules will be a technically correct rule text and more efficient procedures.

Ms. Porras has also determined that there will be no probable economic cost to persons who are required to comply with the proposed rules. Further, in accordance with Texas Government Code §2001.022, she has determined that the proposed rules will not affect a local economy, and, therefore, no local employment impact statement is required, and that the proposed rules will have no adverse economic effect on small businesses or micro-businesses, as result of enforcing or administering the rules.

Written comments on the proposed rules may be submitted within 30 days of publication of this proposal in the *Texas Register* to Judith Porras, Texas Public Finance Authority, 300 W. 15th St., Room 411, Austin, Texas 78701, or electronically to: judith.porras@tpfa.state.tx.us.

The amendments are proposed under Texas Government Code, Chapter 1232, which provides the Texas Public Finance Authority with the authority to adopt rules necessary to administer Texas Government Code, Chapter 1232.

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

§223.1. *Historically Underutilized Businesses.*

The authority adopts by reference the rules promulgated by the Comptroller of Public Accounts [Texas Building and Procurement Commission (TBPC)] concerning Historically Underutilized Businesses, which are found in 34 Texas Administrative Code, Chapter 20, Subchapter B. [+ Texas Administrative Code §§111.11-111.28, as amended.] A copy of the [TBPC] rules may be obtained by request to the Authority, [to the] attention, [of the] Executive Director [at Texas Public Finance Authority], 300 W. 15th Street, Austin, Texas 78701, or by accessing the rules at: <http://www.sos.state.tx.us/> [http://info.sos.state.tx.us/pls/pub/readText.ViewTAC?tac_view=17PT=5&CH=111&SCH=b&RL=y].

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 March 23, 2009.



CHAPTER 225. MASTER LEASE PURCHASE PROGRAM

34 TAC §§225.1, 225.3, 225.5

The Texas Public Finance Authority proposes amendments to §§225.1, 225.3, and 225.5, concerning the Master Lease Purchase Program. The proposed amendments are required to update technical information, such as legal citations, and to make the procedures for financing agencies projects as efficient as possible.

Judith Porras, Interim Executive Director, estimates that for each year of the first five years the amendments will be in effect, there will be no foreseeable fiscal implications for state or local governments as a result of enforcing or administering the rules.

Ms. Porras has determined that for each year of the first five years the proposed rules will be in effect, the public benefit anticipated as a result of enforcing the rules will be a technically correct rule text and more efficient procedures.

Ms. Porras has also determined that there will be no probable economic cost to persons who are required to comply with the proposed rules. Further, in accordance with Texas Government Code §2001.022, she has determined that the proposed rules will not affect a local economy, and, therefore, no local employment impact statement is required, and that the proposed rules will have no adverse economic effect on small businesses or micro-businesses, as result of enforcing or administering the rules.

Written comments on the proposed rules may be submitted within 30 days of publication of this proposal in the *Texas Register* to Judith Porras, Texas Public Finance Authority, 300 W. 15th St., Room 411, Austin, Texas 78701, or electronically to: judith.porras@tpfa.state.tx.us.

The amendments are proposed under Texas Government Code, Chapter 1232, which provides the Texas Public Finance Authority with the authority to adopt rules necessary to administer Texas Government Code, Chapter 1232.

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

§225.1. Purpose of the Rules.

The Texas Public Finance Authority proposes these new rules, as Chapter 225, concerning the administration of the [State of Texas] Master Lease Purchase Program authorized by Texas Government Code, §1232.103. This chapter defines certain terms pertaining to the operation of the [Texas] Master Lease Purchase Program, identifies the responsibilities of various parties in administering the [Texas] Master Lease Purchase Program, and establishes basic procedures under which state agencies may participate in the [Texas] Master Lease Purchase Program.

§225.3 Definitions.

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

(1) Act--The Texas Public Finance Authority Act, Texas Government Code, Chapter 1232, as amended.

(2) Administrative costs--The reasonable costs incurred by the authority in developing, administering, and monitoring the program, which costs include, but are not limited to fees for the paying agent, the dealer, the servicing agent, and the authority's operational charges.

(3) Amortization schedule--A detailed schedule of principal and interest payments and administrative costs due for each lease payment as required under the master lease agreement and contained in each lease supplement. The principal amount will include the purchase price of the eligible projects and the costs of issuance, if any, which will be separately itemized.

(4) Authority--The Texas Public Finance Authority, or any successor [~~successors or assignees~~] to its duties and functions.

(5) Authorized representative--That person(s) duly authorized by a client agency and the authority to execute and deliver a master lease agreement and lease supplement(s) and such other documents as are deemed necessary or appropriate to implement the program, and a client agency's participation therein.

(6) Board--The board of directors of the authority.

(7) Bond Review Board--The Bond Review Board as [board] defined by the Texas Legislature pursuant to [created by] Texas Government Code, Chapter 1231, or any successor [~~successors or assignees~~] to its duties and functions.

(8) Bundled purchases--Those purchases of multiple eligible projects individually valued at a minimum of \$100 for and on behalf of a client agency [~~one or more client agencies~~], which are aggregated into one vendor contract for acquisition.

(9) Client agency--Any Texas state agency or Texas institution of higher education that participates in the program. [~~that wants to use the program to finance eligible projects and has the authority, pursuant to applicable law, to do so.~~]

(10) Comptroller--The Comptroller of Public Accounts of the State of Texas, or any successor thereto [~~successors or assignees to its duties and functions~~].

(11) Comptroller's interagency agreement--The agreement between the authority and the comptroller [~~provision contained in the master lease agreement and in the lease supplements~~] authorizing the authority to access each client agency's appropriated funds to pay debt service on the program by delivering payment vouchers to the comptroller drawn on the client agency's designated funds.

(12) Costs of issuance--All costs associated with the program, including, but not limited to, printing costs, costs of preparation of documents, and fees to rating agencies, financial advisor, credit and liquidity providers, bond counsel, and underwriters.

(13) Debit memo--The notice provided to each client agency within 30 days after each lease payment. The debit memo will include the name of the client agency, each lease supplement by identifying number, the eligible project, the total amount paid reflected as principal and interest payments, administrative costs, the payment date, credit, if any, and the remaining principal balance.

(14) Eligible project--Any physical structure that has been authorized by the Texas legislature for the authority to finance and is used by a client agency to conduct official Texas state business, together with the land and major equipment or personal property that is functionally related to the physical structure, or any other fixed asset used by a client agency to conduct official Texas state business,

or project, including, without limitation, telecommunications devices or systems, automated information systems, computers and computer software, and energy performance contracts, provided, that such property has a useful life of at least three years, and a value of at least \$10,000, valued either individually or as a group of individual items of property, each having a minimum value of \$100 per item.

(15) Fees--The amount assessed each client agency for participating in the program. Fees include the costs of issuance, if any, and administrative costs.

(16) Interim financing--The initial financing source by which an eligible project may be financed if it is deemed advisable by the authority. Interim financing will occur when the authority issues its Master Lease Purchase Program Tax-Exempt Commercial Paper Revenue Notes [~~the notes~~] in various amounts, not to exceed \$300 million outstanding at any one time, or such other amount authorized by resolution of the board.

(17) LBB--The Legislative Budget Board of the State of Texas, or any successor [~~successors or assignees~~] to its duties and functions.

(18) Lease payments--Those amounts specified in the lease supplements and made pursuant to the comptroller's intercept payable annually on the first day of August. The term "lease payments" also includes all payments and pre-payments, if any, made while the eligible project is in the interim financing [~~and to lease revenue bond holders~~].

(19) Lease revenue bonds--The long-term bonds issued by the authority either to refinance an eligible project that has been initially financed through interim financing, or to fund the purchase of an eligible project.

(20) Lease supplement--A form promulgated by the authority to be executed by each client agency which incorporates the terms of the master lease agreement and other agreements under the program. The lease supplement shall specifically identify the eligible project to be financed, including the serial number or other Texas state identification number, the exact amount to be paid, the payee, and any updates or corrections to the request for financing.

(21) Master lease agreement--The [~~master lease agreement is the~~] contract executed by [~~between~~] the authorized representative of a [~~each~~] client agency and the authority, containing such terms and provisions necessary to authorize the client agency to participate in the program and the authority to make payments on behalf of the client agency for the purchase of an eligible project as specifically set forth in each lease supplement.

(22) Program--The Texas Public Finance Authority [~~State of Texas~~] Master Lease Purchase Program described in this chapter [~~these rules~~] to be carried out by the authority for the purpose of financing or refinancing [~~of~~] eligible projects.

(23) Progress payments--Periodic payments for eligible projects to be made during installation of and prior to acceptance of such eligible project by the client agency that [~~which payments~~] are set out in an agreement with the vendor. Such [~~The~~] agreement must provide for specific payments corresponding to completion of definitive components sufficient to create identifiable collateral.

(24) Request for financing--A [~~written~~] request from a client agency to the authority to finance the acquisition of an eligible project through the program. Such request for financing shall include an itemized description of the eligible project prepared by the client agency including the estimated cost of acquisition, the estimated useful life of the project, the proposed date(s) of delivery and acceptance of the eligible project, the proposed use of the eligible project, and the

source of funds to be used by the client agency to make the payments for the eligible project, and any one of the following documents:

(A) a copy of the purchase order for the eligible project;

(B) a copy of the contract prepared and awarded by the Texas Department of Information Resources for an eligible project; or

(C) any awarded contract for an eligible project, or for bundled purchases, a copy of which is sent to and received by the authority and which may be generated by any client agency.

(25) State agency--A Texas board, commission, department, office, agency, institution of higher education or other governmental entity in the executive, judicial, or legislative branch of Texas state government.

(26) State lease fund account--The account by that name created by the Act.

(27) Statement of acceptance--A statement contained in the lease supplement, executed by the client agency, which states that the eligible project has been received, inspected, and found to be in fully acceptable condition by the client agency, that all approvals, if any, have been obtained and that all other requirements of law have been satisfied and authorizing the authority to provide payment to the vendor.

§225.5. *Procedures for Financing Eligible Projects.*

(a) A client agency shall submit a request for financing when it is prepared to proceed with a program financing. A resolution of the client agency's governing body which authorizes the request for financing and the execution of documents required under the program shall be submitted with the request. Upon receipt of a request for financing the authority will review such request for completeness and compliance with program rules. If the request for financing is found to be complete and in compliance, the authority will accept the request for financing.

(b) Upon acceptance of the request for financing, if the client agency has not previously participated in the program, the authority will forward to the client agency a copy of the master lease agreement to be executed by an authorized representative. The master lease agreement is not subject to revision by the client agency and, when executed by the client agency's authorized representative and the authority, will serve as the basis for all future purchases of eligible projects [~~project~~] under the program.

(c) After acceptance of the request for financing by the authority and execution of the master lease agreement, the client agency will proceed to procure the eligible project in compliance with all applicable laws and rules governing such procurement, including obtaining the approval, if any is required, of the Bond Review Board, the Department of Information Resources, the Comptroller of Public Accounts [~~Texas Building and Procurement Commission~~], or other Texas state agency.

(d) After the client agency has taken delivery and acceptance of the eligible project and determined that it meets all requirements for payment in full to the vendor, and the vendor's invoice complies with the terms and conditions of the contract, the client agency will prepare the lease supplement together with all documents required by the comptroller, sign [~~and will execute two copies of~~] the lease supplement, and forward it to the authority, [which also contains the statement of acceptance of the eligible project and will forward all copies] along with [~~the payment voucher and~~] all other documents required or requested by [~~to~~] the authority. The authority will sign [~~immediately execute two copies of~~] the lease supplement and provide a [~~return one~~] copy to the client agency.

(e) The authority will make a determination to initially fund the eligible project through the interim financing or through the is-

suance of lease revenue bonds. Such determination will be within the sole discretion of the authority.

(f) The authority will effect the payment in full to the vendor, or partial payment if the eligible project has been designated for progress payments.

(g) Upon receipt of the lease payment [~~supplement~~], the authority and the comptroller will effect the comptroller's intercept to provide for the lease payments.

(h) At least [~~No later than on or before~~] 48 hours prior to a lease payment, the authority will submit a voucher directing the comptroller to transfer sufficient monies from each client agency into the Texas state lease fund account and the authority will provide a voucher to the comptroller to effect debt service payment. The monies will then be transferred out of the Texas state lease fund account and lease payments will be made.

(i) Within 30 days following each lease payment, the authority will provide a debit memo to each client agency.

(j) Upon the occurrence of any of the following events listed in paragraphs (1) and (2) of this subsection, the [~~The~~] authority may issue lease revenue bonds in order to refinance the lease supplements initially funded through the interim financing. The final maturity of lease revenue bonds shall not exceed the latest maturity of any [~~the~~] lease supplement [~~supplements~~] being financed. Revenue bonds may be issued: [~~upon the occurrence of any of the following events:~~]

(1) on any date [~~on which~~] the aggregate volume of lease supplements then being financed through the interim financing reaches \$150 million; or

(2) 30 days prior to the end of any Texas state biennial appropriation period which is currently August 31 of odd-numbered years.

(k) The authority may adjust the lease payments under a lease supplement as a result of a change in interest rates, or a refinancing, or

a change in administrative costs. When such adjustment in lease payments is effected, the authority will, concurrent with establishing the new interest rate, provide an amended amortization schedule reflecting the adjusted lease payments to the comptroller and to each client agency.

(l) At least once during each Texas state fiscal year, [~~of the state~~] the authority will forward to the Legislative Budget Board (LBB) a schedule, by client agency, of all lease payments. The authority will use its best efforts to ensure that the staff of the LBB will include in its budget recommendation sufficient appropriations to make all lease payments required under the program.

(m) All books and records of the authority will be available to the LBB, the comptroller, the Texas state auditor's office, client agencies, and other interested parties which may, from time to time, request access to information regarding the program.

(n) All issuances of lease revenue bonds under the program will comply with all approvals required for the public issuance of debt by a Texas state agency, including review and approval by the Bond Review Board and the Texas attorney general.

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 March 23, 2009.

TRD-200901153

Judith Porras

Interim Executive Director and General Counsel

Texas Public Finance Authority

Earliest possible date of adoption: May 3, 2009

For further information, please call: (512) 463-3143

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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 31. NATURAL RESOURCES AND CONSERVATION

PART 1. GENERAL LAND OFFICE

CHAPTER 15. COASTAL AREA PLANNING

SUBCHAPTER A. MANAGEMENT OF THE BEACH/DUNE SYSTEM

31 TAC §15.13

The General Land Office (GLO) adopts new §15.13 concerning Disaster Recovery Orders. The new section is adopted without changes to the proposed text as published in the February 13, 2009, issue of the *Texas Register* (34 TexReg 967) and will not be republished.

BACKGROUND

The adopted rule provides for the use of temporary standards for dune restoration and structure stabilization and repair after a disaster and procedures to assist local governments in restoring beach access and dune protection during recovery from such an event. The coastal destruction caused by Hurricane Ike in September 2008 demonstrated the need for long-term procedures that can be implemented when certain disaster conditions exist. These procedures will enable local governments and their citizens to better respond to coastal disasters and allow these areas to protect and rebuild in the most efficient and safe manner possible, while still protecting coastal areas and the public's right to use and access the public beach.

The adopted rule applies only to a local government with a local dune protection and beach access plan within a coastal county that has been included in a disaster declaration made by the governor or in which a natural disaster has occurred, as determined by the commissioner. A disaster recovery order issued by the commissioner pursuant to the adopted rule will be effective for a period of two years unless a shorter period of recovery is specified.

Pursuant to a disaster recovery order issued under the adopted rule, local governments may authorize repairs necessary to render a structure habitable or to prevent further damage or to stabilize a residential structure that is subject to collapse or substantial further damage as a result of erosion or undermining. For structures with intact foundations after a disaster, local governments may also authorize enclosed spaces with breakaway or louvered walls at ground level, if such authorization would be consistent with the local dune protection and beach access plan and the National Flood Insurance Program.

The adopted rule outlines the circumstances under which the commissioner may exercise his discretion to provide for a tem-

porary standard that includes a demarcation of the landward boundary of the public beach. The standard, based on a line of constant elevation, would be used in issuing beachfront construction certificates and dune protection permits in locations where the natural line of vegetation has been severely damaged by the disaster that precipitated the recovery order.

Pursuant to a disaster recovery order issued under the adopted rule, a local government may grant authorization for recovery repairs of a residential structure that encroaches or may encroach on the public beach if the structure is eligible under §15.11, relating to Repairs to Certain Houses Located Seaward of the Boundary of the Public Beach, and is not subject to a pending enforcement action. Local governments may also authorize the placement of beach-quality sand and, in certain instances, clay or sandy clay, on a lot if certain conditions are met and only if the placement is necessary to prevent further erosion due to wind and water.

The adopted rule also authorizes local governments to permit persons to construct dunes in an area no more than 30 feet seaward of the post-disaster landward boundary of the public beach under certain conditions. The adopted rule authorizes the use of additional types of materials for restored dunes to provide additional stability for restored dunes and to encourage dune restoration activities by local governments and property owners. In accordance with the Beach/Dune rules, restoration of dunes may not result in increased flooding to the site or adjacent property, aggravate erosion, result in adverse effects to dune hydrology, increase the vulnerability to washouts or blowouts, or interfere with the public's right of access to the beach at normal high tide. The adopted rule allows a local government to defer the review of the dune protection line up to one year from the date of the disaster recovery order rather than 90 days required under §15.3(k).

The adopted rule provides guidelines for the continuation of authorized beach access and dune protection measures, including variances that permit the use of fibercrete within 200 feet of the line of vegetation in an eroding area. For a local government with a fibercrete variance, authorized repairs may include construction underneath, outside, or around the house that includes fibercrete or other materials necessary to restore reasonable access to a house for disabled persons, provided that such access existed prior to the disaster, including a house that has become located on the beach or where there is no dune.

The adopted rule allows a local government to temporarily close beach access points damaged beyond repair or temporarily blocked by emergency shore protection projects to prevent damage to infrastructure without a formal plan amendment with notice to the commissioner. The local government must ensure that the period of limited beach access in that area does not exceed the duration of the disaster recovery order and must submit to the commissioner a timeline for amending the local

plan or a remedy to restore access no later than six months prior to the expiration of the disaster recovery order.

The adopted rule also outlines the specific situations that must exist before a local government may authorize repairs to an existing shoreline protection project in order to minimize impacts to adjacent property. The adopted rule prohibits the use of materials such as bulkheads, riprap, concrete, asphalt rubble, building construction materials, non-biodegradable items, sediments containing certain hazardous substances, and sand obtained by scraping or grading dunes or from beaches in eroding areas when making approved repairs or conducting dune restoration activities.

The adopted rule allows the commissioner to require that a local government suspend the authority of a permittee to scrape a beach under a previously issued permit for beach maintenance practices that include scraping of the beach based on a material change in circumstances. The local government may require that a permittee apply for a new permit or certificate for beach maintenance practices with an opportunity for comment by the commissioner.

The adopted rule requires a local government or other governmental entity authorized by law to clean, maintain, and clear debris from the public beach to coordinate with property owners to remove debris from the public beach as soon as possible to minimize the threat of damage to public health, safety, welfare, and property.

Finally, the adopted rule provides for review of permit applications by the GLO and requires local governments to monitor permitted actions, including dune restoration projects. The adopted rule does not create a property right of any kind in a littoral property owner and removal actions may still be commenced against the owner of a structure regardless of whether the structure is eligible for repairs pursuant to the new rule.

PUBLIC COMMENT

The GLO did not receive any comments on the adopted rule or its consistency with the CMP.

REASONED JUSTIFICATION AND SUMMARY OF THE FACTUAL BASIS FOR THE ADOPTED RULE

The adopted rule will provide more certainty regarding recovery measures allowed in the wake of a coastal disaster. In addition, property owners and business owners will be able to more efficiently repair structures and protect their property because the new rule provides clear standards by which repairs may be made and dunes may be restored.

In locations where the natural line of vegetation has been severely damaged by the disaster that precipitated the recovery order, the commissioner may provide for a temporary standard that includes a demarcation of the landward boundary of the public beach based on a line of constant elevation. This standard, consistent with provisions of the Open Beaches Act (Texas Natural Resources Code, Chapter 61), connects areas of the beach together where vegetation still exists. In determining the line of constant elevation, the GLO relies on scientific data from the Bureau of Economic Geology at the University of Texas at Austin indicating that dune vegetation is generally not viable below a certain elevation. The temporary standard, when implemented, will provide local governments and the public with a guideline to use when issuing beachfront construction certificates and dune protection permits.

The adopted rule provides additional types of materials for stabilization underneath structures and for restored dunes, providing additional defenses and stability for restored dunes and to encourage dune restoration activities by local governments and property owners. The GLO has determined that when dunes are obliterated, more than one season is generally required before dune vegetation can grow enough to stabilize the replacement dune. Therefore, the adopted rule authorizes the use of clay material to provide strength and integrity to the dune and to stabilize structures until the natural vegetation recovers.

In addition, the adopted rule allows for an additional ten feet for the dune restoration area, provided that the project does not interfere with beach access or result in other adverse effects as listed in §15.13(h)(5). This larger area will facilitate a larger dune, thus providing better protection for property landward of the dune restoration project. Furthermore, recovery of the beach through natural processes will ultimately result in a dune no further seaward than if the normal 20 foot restoration area had been utilized.

The adopted rule also provides certainty for those jurisdictions that have a variance allowing the use of fibercrete and encourages dune restoration activities to provide protection from flooding and erosion. It also allows restoration of access for disabled persons to eligible structures, including the use of fibercrete under the house.

The adopted rule allows a local government to delay reviewing the dune protection line up to a year so that the local government can focus on recovery efforts before undertaking the technical review of the dune protection line, while at the same time implement a time table for the required reevaluation.

The provisions allowing a local government to temporarily close beach access points damaged beyond repair or temporarily blocked by emergency shore protection projects to prevent damage to infrastructure will allow a local government to address threats to public safety in its exercise of its police power. The provision limits the duration of the closure to the recovery period, and requires a timeline for restoration of access or formal amendment to the beach access plan.

Finally, because the damage to the beach/dune system caused by Hurricane Ike and resulting loss to the sediment budget left the beaches and dunes more vulnerable than ever to imprudent practices that do not protect these valuable resources, the rule requires increased scrutiny of beach maintenance practices, including those previously permitted by a local government. The abundance of seaweed in the spring, followed closely by the summer tourist season and the hurricane season necessitates a closer look at any beach maintenance practices in areas subject to a disaster recovery order to ensure that adverse impacts to the beach/dune system are minimized and that beach maintenance practices facilitate dune restoration.

ENVIRONMENTAL REGULATORY ANALYSIS

The GLO has evaluated the adopted rulemaking action in light of the regulatory analysis requirements of Texas Government Code §2001.0225, and determined that the action is not subject to §2001.0225 because it does not meet the definition of a "major environmental rule" as defined in the statute. "Major environmental rule" means a rule, the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The new rule is not anticipated

to adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state.

CONSISTENCY WITH CMP

The adopted rule is subject to the Coastal Management Program (CMP), 31 TAC §505.11(c), relating to the Actions and Rules subject to the CMP. The GLO has reviewed the adopted rule for consistency with the CMP's goals and policies in accordance with regulations of the Coastal Coordination Council (Council). The applicable goals and policies are found at §501.26, relating to Policies for Construction in the Beach/Dune System and §501.27, relating to Policies for Development in Coastal Hazard Areas.

The adopted rule is consistent with the policy in §501.26 in that the new rule encourages practices including dune restoration and measures other than structural erosion response measures. Although the adopted rule allows repair of certain structures located on the public beach, the practices allowed do not increase the impact to the right of the public to use and access the public beach. An existing erosion response structure that may be repaired under the rule must comply with the standards for shore protection projects found in §501.26(b). Further, the provisions of the adopted rule that allow ground level enclosures are consistent with the policies in §501.27 in that such enclosures must comply with the requirements of the National Flood Insurance Program.

Consequently, the GLO has determined that the adopted rule is consistent with the applicable CMP goals and policies.

STATUTORY AUTHORITY

The new rule is adopted under Texas Natural Resources Code §§61.011(d), 61.015(b) and 63.121, which provide the GLO with the authority to adopt rules: to preserve and enhance the public's right to use and have access to and from Texas's public beaches; to protect the public easement from erosion or reduction caused by development or other activities on adjacent land and beach cleanup and maintenance; for other minimum measures needed to mitigate for adverse effects on access to public beaches and the beach/dune system; for the reasonable exercise of the police power by local governments with respect to the public beaches; for determination of the line of vegetation and structures located near or on the public beach; and to identify and protect critical dune areas. The new section is also adopted pursuant to Texas Water Code §16.321, which provides the GLO with the authority to adopt rules on coastal flood protection.

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 March 20, 2009.

TRD-200901138

Trace Finley

Deputy Commissioner, Policy and Governmental Affairs

General Land Office

Effective date: April 9, 2009

Proposal publication date: February 13, 2009

For further information, please call: (512) 475-1859



REVIEW OF AGENCY RULES

This section contains notices of state agency rules review as directed by the Texas Government Code, §2001.039. Included here are (1) notices of *plan to review*; (2)

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

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

Proposed Rule Review

On-Site Wastewater Treatment Research Council

Title 31, Part 9

Quadrennial Review of Chapter 286

The Texas On-Site Wastewater Treatment Research Council (council) files this notice of intention to review and proposes the readoption of 31 TAC Chapter 286, On-Site Wastewater Treatment Research Council.

This review of Chapter 286 is proposed in accordance with the requirements of Texas Government Code, §2001.039, which requires state agencies to review and consider for readoption each of their rules every four years. The review must include an assessment of whether the reasons for the rules continue to exist.

CHAPTER SUMMARY

Chapter 286 provides for the organization, administration, and general procedures and policies concerning the council's operation. The rules define the organization and administration of the council. The primary purpose of the council is to award competitive grants to enhance the development of on-site wastewater treatment systems through research and technology transfer. These rules provide the criteria for submission of proposals and selection of the grants. The rules also provide the procedures for accepting grants and donations to the council.

ASSESSMENT OF WHETHER THE REASONS FOR THE RULES CONTINUE TO EXIST

The council will conduct a preliminary review to determine whether the reasons for the rules in Chapter 286 continue to exist. The rules implement the requirements of Texas Health and Safety Code, Chapter 367, and address the operation of the council. The rules define the council's grant review and awarding process.

PUBLIC COMMENT

This proposal is limited to the review in accordance with the requirements of Texas Government Code, §2001.039. The council invites public comment on this preliminary review of the rules in Chapter 286. Comments may be submitted to Charlotte Horn, Texas Commission on

Environmental Quality, Office of Legal Services, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. All comments should clearly refer to the rules review of 31 TAC Chapter 286. Comments must be received by May 4, 2009. For further information or questions concerning this proposal, please contact Cassandra Derrick, Compliance Support Division, at (512) 239-5304.

TRD-200901137

Melissa Juarez

Attorney, Office of the Attorney General

On-Site Wastewater Treatment Research Council

Filed: March 19, 2009



Adopted Rule Review

Texas Public Finance Authority

Title 34, Part 10

The Texas Public Finance Authority adopts the review of Chapters 221, 223, and 225, pursuant to the requirements of Government Code, §2001.039. Notice of the proposed rule review was published in the May 16, 2008, issue of the *Texas Register* (33 TexReg 4011). No comments were received concerning the proposed rule review.

The Authority has completed the review of Chapters 221, 223, and 225 and has determined that the reasons for adopting the chapters continue to exist. However, all of the chapters require revisions. Proposed amendments to Chapters 221, 223, and 225 will be published in the Proposed Rules section of this issue of the *Texas Register*.

This concludes the review of Chapters 221, 223, and 225.

TRD-200901150

Judith Porras

Interim Executive Director and General Counsel

Texas Public Finance Authority

Filed: March 23, 2009



TABLES & GRAPHICS

Graphic images included in rules are published separately in this tables and graphics section. Graphic images are arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic images are indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word "Figure" followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph, and so on.

Texas Department of Housing and Community Affairs

MANUFACTURED HOUSING DIVISION

P. O. BOX 12489 Austin, Texas 78711-2489

(800) 500-7074, (512) 475-2200 FAX (512) 475-1109

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**MAKING AN INFORMED DECISION ABOUT BUYING A
MANUFACTURED HOME**

IF YOU HAVE QUESTIONS CALL 1-800-500-7074

WWW.TDHCA.STATE.TX.US/MH

Ownership of ANY home brings many responsibilities. Buying a manufactured home involves many important and unique considerations. This disclosure is to assist you in recognizing and understanding many of those factors. Please read it carefully.

CHOOSING A MANUFACTURED HOME AS YOUR HOME: Manufactured homes come in a variety of sizes, styles, design features, amenities, and price ranges. All manufactured homes are built to federal standards established by the federal Department of Housing and Urban Development (HUD). Also, the federal government and the state of Texas requires manufacturers, retailers and installers to give certain warranties on manufactured homes. The type of warranties you receive will depend on whether you are purchasing a new or used manufactured home. You have the right to see the manufacturer’s warranty and the retailer’s warranty before entering into a binding agreement to purchase a manufactured home.

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CHOOSING A MANUFACTURED HOME RETAILER: The State of Texas licenses and oversees manufacturers, retailers, brokers, salespersons, rebuilders, and installers of manufactured homes. The agency responsible for this licensing and oversight is the Texas Department of Housing and Community Affairs, Manufactured Housing Division (the “Department”). Your properly licensed manufactured home retailer should display, or be willing to show you, its license in its sales office. **Dealing with licensed parties can provide important consumer protections.**

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DEPOSITS: You may be required by a manufactured home retailer to place a deposit on a home, regardless of whether the home is on the retailer's sales lot, is being sold at another location, or will be ordered from a factory. The amount of the deposit is determined between you and your retailer. The deposit becomes a down payment upon execution of a binding written purchase agreement. You have the right to demand a refund of the deposit or down payment, and receive that refund within 15 days thereafter, if you timely and properly rescind the purchase agreement.

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FINANCING OPTIONS: A manufactured home in Texas has tremendous flexibility when it comes to financing because it can be financed as personal property (typically a consumer loan secured by the home only) or, if you own the land the home is on (or have a qualifying long term lease on the land) as real property (typically a mortgage loan secured by the home and the land). You should talk to possible lenders about the terms they can offer. If you think one lender is offering too high a rate, talk to another lender.

Consumer lenders must generally be registered with the Office of the Consumer Credit Commissioner. Mortgage loans are usually originated by mortgage brokers (licensed with the Savings and Mortgage Lending Department), mortgage bankers (registered with the Savings and Mortgage Lending Department), or financial institutions (regulated by state and/or federal regulators, depending on the type of financial institution).

**WHEN YOU MAKE A DECISION ABOUT BUYING A
MANUFACTURED HOME, PLAN FOR FLEXIBILITY AND CHANGE.**

YOUR LOAN WILL BE A **MAJOR FACTOR** IN DETERMINING YOUR PAYMENTS, BUT THERE ARE OTHER IMPORTANT FACTORS YOU SHOULD ALSO THINK ABOUT, SUCH AS:

- Adjustable rate loans – If rates go up, your loan payments will go up.
- Property taxes – Changes in property valuation and changes in tax rate can result in changes in your payments.
- Insurance – If premiums increase, your payments will go up.
- Lot rent – If you are renting the lot your home is on, your rent may be subject to increase.

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LOCAL RESTRICTIONS AND REQUIREMENTS (ZONING): Depending on where a home is to be located it may be subject to special local requirements, including zoning and deed restrictions. These local requirements may affect where the home can be placed and may also involve other related requirements (and expenses) such as size requirements, construction requirements. Contact the local municipality, county, and subdivision manager to find out what, if any, requirements of this sort may apply to any site where you are going to place a manufactured home.

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SITE PREPARATION: The installer is responsible for proper preparation of the site where a new manufactured home is to be installed. A consumer is responsible for proper preparation of the site where a used manufactured home is to be installed. If you do not think you can prepare your site properly, consider hiring someone else with the right experience and equipment to do it for you. Proper site preparation includes a site for placement of the home that has good drainage so that water will not collect or run under or around the home; and firm compacted soil with no stumps, debris, or other matter. The site that is selected and prepared also needs to meet any setback or other placement requirements and have access to any required water, septic system, and utilities.

PROPER SITE PREPARATION IS ESSENTIAL!

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INSTALLATION: If you are purchasing a NEW manufactured home. Installation must be included. If you are purchasing a USED manufactured home, installation may or may not be included. If installation is not included and you arrange for it yourself, remember, **ONLY A LICENSED INSTALLER** may install a manufactured home. The installer who actually installs the home must also provide a warranty.

**PROPER INSTALLATION BY A LICENSED INSTALLER IS
REQUIRED BY LAW IN ORDER FOR A HOME TO BE OCCUPIED.**

If you are buying a home that has already been installed, you should ask the selling retailer if they will check the leveling, check for the presence (if required) and condition of any vapor retarder, check anything else regarding the foundation/stabilization system, or provide any other installation-related services.

If you acquire a used manufactured home that is already installed in a Wind Zone II county but the home is a Wind Zone I home, which means that home was not designed or constructed to withstand a hurricane force wind occurring in a Wind Zone II or III area, the home cannot be installed in a Wind Zone II area unless it was constructed before September 1, 1997.

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UPKEEP AND MAINTENANCE: ANY home requires regular upkeep and maintenance – things like periodic checking of and repairs to the roof, keeping vents and filters clear, maintaining septic systems and wells in safe and sanitary working order, caulking to prevent leaks, and periodic painting. Also, depending on the foundation system you choose, a manufactured home may require periodic checking to be sure that it is still level and that the anchors and straps are secure.

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FOUNDATION MAINTENANCE: You must accept all responsibility for maintenance of the site upon closing. These responsibilities include: maintaining good drainage around the home, preventing soil erosion, periodic inspections of foundation supports and anchorage, and any leveling or adjustment that may be required unless contractually agreed otherwise. Homes located in areas that have soils with high clay content that expands and contracts must maintain consistent moisture levels. This may include watering around the foundation during dry summer months and managing the size and proximity of the vegetation near the foundation.

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LOT RENT: If you rent the lot your home is on, in addition to the possibility of rent increases, it is possible that the property owner could decide to change the use of the land and not renew your lease. Although you would be given advance notice, this would mean that you would have to move your home and have it installed somewhere else.

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WATER AND UTILITIES: Be sure that your lot has access to water. If you must drill a well, consider contacting several drillers for bids. If water is available through a municipality, utility district, water district, or cooperative, you should inquire about the rates you will have to pay and the costs necessary to join the water system. Be sure that any utilities you will need are available at your site and, if they are not, find out what will be involved in getting them delivered and connected.

initials

SEWER CONNECTIONS OR SEPTIC SYSTEMS: If your lot is not serviced by a municipal sewer system or utility district, you will have to install an on-site sewer facility (commonly known as a septic system). There are a number of concerns or restrictions that will determine if your lot is adequate to support a septic system. Check with the local county or a licensed private installer to determine the requirements that apply to your lot and the cost to install such a system.

initials

HOMEOWNERS ASSOCIATIONS AND FEES: Many subdivisions have mandatory assessments and fees that lot owners must pay. Check with the manager of the subdivision in which your lot is located to determine if any fees apply to your lot.

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PROPERTY TAXES: Manufactured homes are appraised and subject to property taxes. Depending on the type of loan you have, your lender may escrow for these taxes, and this will increase your monthly payments. Whether you select personal property or real property status for your home may impact any homestead exemption that you may obtain to reduce your tax liability. Talk with the county tax office if you have any questions. Failing to pay your taxes or make arrangements with the tax assessor-collector may place you at risk of having tax liens recorded on your home and, possibly, having the home foreclosed for non-payment of taxes. If you do not have a lender that escrows for the taxes, the tax assessor-collector will work out an escrow arrangement with you if requested.

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INSURANCE: Your lender will almost certainly require you to obtain insurance. You should request quotes from the agent of your choice to obtain the insurance. Even if you do not have a lender, it is a good idea to obtain insurance to protect your home and yourself.

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THE TEXAS MANUFACTURED HOMEOWNERS' RECOVERY TRUST FUND (the "FUND"): The Fund is established by law to protect consumers who incur certain actual damages arising from specified violations of law involving acts or omissions of licensees. To learn more about the Fund you can check the Department's website at: www.tdhca.state.tx.us/mh or call the Department for a printed description of the Fund and how it works. Claims on the Fund must be verified and must be made within two years from the date of the act or omission or when it was discovered or reasonably should have been discovered.

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RIGHT OF RESCISSION: Once you enter into a contract with a selling retailer to acquire a manufactured home, you have a right to rescind the contract. You may, not later than the third day after the applicable contract is signed, rescind the contract without penalty or charge. The right to rescind may be modified or waived only if you have a *bona fide* emergency. The Department has rules about the detailed requirements for waivers and modifications. If you grant someone other than the retailer a lien on the home you are buying, the right of rescission automatically goes away when the lien is recorded with the TDHCA.

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This **Six Page Disclosure** was provided to me/us by the retailer and/or lender shown below on this date. It was provided to me/us before I/we completed a credit application (if a financed transaction), or before I/we signed a contract to purchase, exchange, or lease-purchase a manufactured home.

DATE

RETAILER or LENDER

LICENSE NUMBER (if a retailer)

CUSTOMER signature

CUSTOMER signature

CUSTOMER printed name

CUSTOMER printed name

Date: _____

Date: _____

Texas Department of Housing and Community Affairs

MANUFACTURED HOUSING DIVISION

P. O. BOX 12489 Austin, Texas 78711-2489

(800) 500-7074, (512) 475-2200 FAX (512) 475-1109

Internet Address: www.tdhca.state.tx.us/mh/index.htm

RETAIL MONITORING CHECKLIST

In accordance with Tex. Occ. Code Chapter 1201 (the "Standards Act") and Title 10 Texas Administrative Code, Subchapter C. of Chapter 80, for each manufactured home that is sold or transferred to one or more consumers by sale, exchange, or lease purchase, the retailer must maintain a file with this checklist on top and, as applicable, each of the following documents, executed and dated:

- All the loan documents were given at least 24 hours prior to execution of the loan documents. If the consumer(s) waived or modified the right to these advance copies, a copy of their written waiver.
- The disclosure required by Section 162 of the Standards Act.
- Dispute Resolution Disclosure required by 24 CFR 3288.5 of the Manufactured Home Procedural and Enforcement Regulations.
- Installation Program Disclosure required by 24 CFR 3286.7 of the Manufactured Home Program.
- Disclosure to Consumer of Possible Need to Vacate Home if Financing does not close.
- The Texas Retail Installment Contract and Security Agreement or other applicable sale agreement (not required for real estate transactions where the home being sold has ALREADY been converted to real property) and, if applicable, any financing agreement if financing was provided or arranged by the retailer.
- If the retailer was responsible for any disclosures under the Federal Truth in Lending Act, Federal Reserve Regulation Z, the Real Estate Settlement Procedures Act, or HUD Regulation X, copies of such disclosures.
- Broker Disclosure Statement.
- Cash Receipts to Support Down Payment.
- A complete list of all alterations with DAPIA Approval on file (if any).
- Notice of Air Conditioning Installation.
- The Formaldehyde Notice (Health Notice).
- ~~The Wind Zone Notice~~
- For Used Homes Only -- Warranty and Disclosure for a Used Manufactured Home.
- The Notice of Installation (Form T) (required on all new homes and, on used homes, if installation is provided).

- The Manufacturer's New Home Warranty was delivered to the Consumer (New Home Only).
- Documentation that any required Installation Warranty was delivered to the Consumer (New and Used Homes) and a copy of the warranty.
- The date that the Manufactured Home information card was mailed to the Manufacturer (New Home Only).
- For Used Homes Only** - Notice and Informed Consent to Installation on an Improperly Prepared Site (~~if applicable~~).
- Copies of the Application for Statement of Ownership and Location.
- ~~Insulation Disclosure (for new home only).~~
- For Used Homes Only** - Site Preparation Notice.
- 3rd Party Instruction letter (if applicable).
- Information concerning inventory payoff (if applicable).
- Right of Rescission Waiver (if applicable).
- List of Unlicensed Installers Form (if applicable).

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**NOTICE AND INFORMED CONSENT TO THE INSTALLATION OF A USED
MANUFACTURED HOME ON AN IMPROPERLY PREPARED SITE**

Consumer: _____

RE: Site Location

Before installing your used manufactured home on your site as requested, a visual inspection of the site was performed, and the following problems (as checked) were observed:

The site has evidence of ponding

Ponding is where water collects and does not drain properly. It can cause a variety of problems including, but not limited to, reducing the load bearing capacity of soil and allowing piers or other parts of the foundations system to sink; reducing the ability of anchors to hold the home firmly; and causing moisture build up under the home and possibly in the home.

The site has evidence of runoff under heavy rains

Runoff is where the slope of the home site and/or the land around the home site have slope and/or other conditions, such as gullies and ditches, in which rains trigger rapid build up of quickly flowing streams. Such rapidly flowing water may erode and/or damage the stabilization system for your home and possibly cause other damage.

The site has evidence of bare uncompacted soil

Bare uncompacted soil is subject to compression and rapid settlement when anything heavy, such as a manufactured home is placed on it. Because a manufactured home must be installed in accordance with the applicable instructions, a site with bare uncompacted soil may require a greater number of piers than was originally planned. It may also necessitate the use of other anchoring devices than were originally planned. These things may increase the cost of your installation. Even with such additional measures, bare uncompacted soil may lead to rapid settlement and other problems with your home.

If you elect to proceed with the installation of your home on this site without correcting these conditions, **you accept these risks** by signing this waiver notifying you of problems with the site location.

Executed this _____ day of _____, _____.

Signature

Signature

Name(print or type)

Name(print or type)

Texas Department of Housing and Community Affairs

MANUFACTURED HOUSING DIVISION
P. O. BOX 12489 Austin, Texas 78711-2489
(800) 500-7074, (512) 475-2200 FAX (512) 475-3506
Internet Address: www.tdhea.state.tx.us/mh/index.htm

NOTICE OF INSTALLATION (FORM T)

HUD Label or Texas Seal # (s): Serial # (s):

Manufacturer Name: License No.

Home Size - Width / Length: X Weight Date of Manufacture: Model / Name:

Draw A Map To Provide Directions To Home On Page 2

Consumer: Phone Numbers: Home: Work:

Mailing Address: City ZIP:

Site Address: City ZIP:

County Where Home is Installed:

Actual Installation Date: Wind Zone on Data Plate: I II III

Is the home installed in a Humid & Fringe Climate Yes No Was the home labeled for alternate construction. Yes No

Table with 5 columns: Name, Address, License #, Expiration Date, Phone #. Rows for Retailer and Installer.

Is home installed in Frost Line Zone? Yes-New No-Used Does retailer or installer provide skirting? Yes No

Is installation part of sales contract of used home? Yes No Not Applicable

New Home - The home has been installed in accordance with:

- 1. Manufacturer's Home Installation Instructions (provide page number or option)
2. A Special Foundation System (attach a copy of the drawing for this system and provide a reference, if applicable, to any drawing previously submitted).

Used Home:

- 1. Manufacturer's Home Installation Instructions (provide page number or option)
2. State Generic Standards - Title 10 Texas Administrative Code (10 TAC) §§80.22, 80.23, 80.24, and 80.25.
3. A stabilization system registered with the Department in accordance with 10 TAC §80.26 - provide name of system or reference to MHD Approval Letter or registration
4. A Special Foundation System (attach a copy of the drawing for this system and provide a reference, if applicable, to any drawing previously submitted).

FOR USED HOMES, IF NO METHOD IS CHECKED, IT WILL BE PRESUMED THAT OPTION 2 (STATE GENERIC STANDARDS) WAS USED.

To be submitted to the Department along with the required fee no later than the 7th day after which the installation is completed. The Installation Report (Form T) should no longer be submitted with the title documents.

Per §1201.206(i): On secondary moves the notice must be accompanied by either the original notice of installation or a certification that a true and correct copy of the notice of installation has been provided to the chief appraiser of the county where the home is installed. The delivery of the copy of the notice to the chief appraiser may be accomplished by either certified mail or by electronic mailing of the electronically reproduced document in a commonly readable format.

I verify that I am a licensed installer, that I am responsible for the installation described, and that the information supplied is true and correct. Executed this _____ day of _____, _____.

Signature (Retailer/Installer)

Name (print or type)

Department Use Only	
<input type="checkbox"/> Inspected Without Violations <input type="checkbox"/> Inspected With Violations <input type="checkbox"/> Not Inspected, Unit Skirted	<input type="checkbox"/> Not Inspected, Unable to Locate <input type="checkbox"/> Not Inspected, No Unit At Location <input type="checkbox"/> Not Inspected, Unit Not Accessible
Inspection Date: _____ HUD/Seal #: _____	
<i>I hereby certify on this _____ day of _____, 20_____ that the above inspection results are true and correct to the best of my knowledge and belief.</i>	
Inspector Signature: _____ Printed Name: _____	

DRAW MAP BELOW



Texas Department of Housing and Community Affairs
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Internet Address: www.tdhca.state.tx.us/mh/index.htm

INSTALLATION CHECKLIST

Home HUD label or Texas seal number: _____

Date of installation: _____

Wind Zone: _____

Humid/fringe status: _____

Method of installation – if a copy is not included because the installation was done to a method that the licensed installer uses from time to time, where is a copy of the actual methods in the installer’s records?

- SITE PREPARATION (**FOR USED HOMES**)
- LOAD BEARING CAPACITY OF SOIL
- SPACING OF PIERS (IF APPLICABLE)
- SPACING OF ANCHORS (IF APPLICABLE)
- NUMBER OF DIAGONAL TIES (IF APPLICABLE)
- LIST OF EACH DEVICE USED
- VAPOR RETARDER REQUIRED?

Was the installer contracting directly with the consumer or were they subcontracted by another retailer or installer? Attach a copy of each contract.

Attach a list of each person who worked on the installation and how to contact them.

If A/C was provided, name and license number of A/C installer: _____

Copy of any required move permits.

SITE PREPARATION NOTICE FOR USED HOMES

FAILURE TO PREPARE THE SITE PROPERLY BEFORE INSTALLING YOUR MANUFACTURED HOME MAY INVALIDATE YOUR WARRANTY AND MAY CAUSE PROBLEMS WITH YOUR HOME.

IF YOU ARE ACQUIRING LAND FOR A MANUFACTURED HOME AND WILL NOT HAVE THE ABILITY TO OVERSEE SITE PREPARATION YOURSELF, BE SURE THAT YOUR AGREEMENT WITH THE PARTY PROVIDING THE LAND COVERS THEIR RESPONSIBILITIES FOR SITE PREPARATION.

If you are acquiring a manufactured home you need to be sure that the site is properly prepared **BEFORE the home is installed.** If you will be having your home installed in a rental community, you should first be sure that the community has prepared the site properly and assumed that responsibility. If you are acquiring a manufactured home that is already installed, you should satisfy yourself that the site was properly prepared first.

Site Preparation includes AT LEAST the following: (1) selecting a site where the home will not be affected by rising or running water, as in the case of heavy rains, (2) grading the site, as needed, so that the land slopes away from the home, (3) making sure that the site will not create puddles or moisture build-up under the home by filling any depressions and, as needed, providing for drainage, (4) clearing away any plants, stumps, or debris on the site where the home will be placed, and (5) installing any required vapor retarder (and, if such a retarder is to be installed, trimming any grasses or other organic materials to a suitable height, not greater than 8”).

The footing must be placed on firm, undisturbed soil, or fill compacted to at least 90% of its maximum relative density. Installation on loose, noncompacted fill may invalidate the home's limited warranty.

If, at the time of installation or within 90 days thereafter your retailer is providing skirting, the retailer must also provide and install any required vapor retarder and insure that there is adequate ventilation under the home. If the retailer is not providing these things, you should be sure that you have provided for any required vapor retarder and that you have provided adequately for ventilation under the home.

FAILURE TO PREPARE THE SITE PROPERLY AND/OR FAILURE TO TAKE APPROPRIATE MEASURES TO GUARD AGAINST MOISTURE BUILD-UP MAY CAUSE SERIOUS PROBLEMS WITH YOUR MANUFACTURED HOME INCLUDING, BUT NOT LIMITED TO, MOISTURE IN THE HOME, DE-LAMINATION OF FLOOR DECKING, BUCKLING OF WALLS AND FLOORS, WARPAGE THAT WILL MAKE DOORS AND WINDOWS NOT OPERATE PROPERLY, FAILURE OF ANCHORS TO HOLD THE HOME AS INTENDED, AND EVEN SERIOUS STRUCTURAL DAMAGE.

consumer's signature

consumer's signature

type or print name

type or print name

date

date

**PROBATIONARY
INSTALLATION**

Texas Department of Housing and Community Affairs
MANUFACTURED HOUSING DIVISION
 P. O. BOX 12489 Austin, Texas 78711-2489
 (800) 500-7074, (512) 475-2200 FAX (512) 475-3506
 Internet Address: www.tdhca.state.tx.us/mh/index.htm

Fax this report within 3 working days from the date of installation to your assigned field office. Mail the original and fee by regular mail to the address on the letterhead.

NOTICE OF INSTALLATION (FORM T)

HUD Label or Texas Seal # (s): _____ Serial # (s): _____

Manufacturer Name: _____ License No. _____

Home Size - Width / Length: _____ X _____ Weight _____ Date of Manufacture: ____/____/____ Model / Name: _____

Draw A Map To Provide Directions To Home On Page 2

Consumer: _____ Phone Numbers: Home: (____) _____ Work: (____) _____

Mailing Address: _____ City _____ ZIP: _____

Site Address: _____ City _____ ZIP: _____

County Where Home is Installed: _____

Actual Installation Date: ____/____/____ Wind Zone on Data Plate: I (____) II (____) III (____)

Is the home installed in a Humid & Fringe Climate Yes (____) No (____) Was the home labeled for alternate construction. Yes (____) No (____)

	Name	Address	License #	Expiration Date	Phone #
Retailer					
Installer					

Is home installed in Frost Line Zone? () Yes-New (____) No-Used (____) Does retailer or installer provide skirting? Yes (____) No (____)

Is installation part of sales contract of used home? Yes (____) No (____) Not Applicable (____)

() **New Home - The home has been installed in accordance with:**

() 1. **Manufacturer's Home Installation Instructions** (provide page number or option _____).

() 2. **A Special Foundation System** (attach a copy of the drawing for this system and provide a reference, if applicable, to any drawing previously submitted).

() **Used Home:**

() 1. **Manufacturer's Home Installation Instructions** (provide page number or option _____).

() 2. **State Generic Standards - Title 10 Texas Administrative Code (10 TAC) §§80.22, 80.23, 80.24, and 80.25.**

() 3. **A stabilization system registered with the Department in accordance with 10 TAC §80.26 - provide name of system or reference to MHD Approval Letter or registration _____.**

() 4. **A Special Foundation System** (attach a copy of the drawing for this system and provide a reference, if applicable, to any drawing previously submitted).

FOR USED HOMES, IF NO METHOD IS CHECKED, IT WILL BE PRESUMED THAT OPTION 2 (STATE GENERIC STANDARDS) WAS USED.

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TOMANDO UNA DECISIÓN BIEN INFORMADA SOBRE LA COMPRA DE UNA VIVIENDA PREFABRICADA

SI TIENE ALGUNA PREGUNTA LLAME AL 1-800-500-7074

Ser dueño de CUALQUIER vivienda trae muchas responsabilidades. La compra de una vivienda prefabricada implica muchas consideraciones importantes y únicas. Esta divulgación es para ayudarle a reconocer y entender muchos de estos factores. **Por favor léalo con cuidado.**

ESCOGIENDO UNA VIVIENDA PREFABRICADA COMO SU VIVIENDA: Las viviendas prefabricadas vienen a una variedad de tamaños, estilos, diseños, comodidades, servicios, y diferentes escalas de precios. Todas las viviendas prefabricadas son construidas de acuerdo con las normas federales establecidas por el Departamento Federal de Vivienda y Desarrollo Urbano (HUD). También, el gobierno federal y el estado de Texas requieren que los fabricantes, vendedores e instaladores ofrezcan cierto tipo de garantías para viviendas prefabricadas. El tipo de garantías que recibirá depende de que si usted está comprando una vivienda prefabricada nueva o usada. Usted tiene el derecho a ver la garantía del fabricante y la garantía del vendedor antes de establecer un acuerdo obligatorio para comprar una vivienda prefabricada.

Iniciales

ESCOGIENDO UN VENDEDOR DE VIVIENDA PREFABRICADA: El Estado de Texas da licencia y supervisa a fabricantes, vendedores, minoristas, comisionistas, reconstructores, e instaladores de vivienda prefabricada. La agencia responsable por esta licensura y vigilancia es el Departamento de Vivienda y Asuntos Comunitarios, División de Vivienda Prefabricada (el "departamento"). Su vendedor de vivienda prefabricada debe exhibir su licencia o estar dispuesto a mostrarla en su oficina de ventas. **Tratar con individuos con licencia puede proporcionar protecciones importantes al consumidor.**

Iniciales

DEPÓSITOS: El vendedor de la vivienda prefabricada puede requerirle que ponga un depósito para una vivienda, sin tener en cuenta de que si la vivienda está en el lote de ventas del vendedor, está siendo vendida en otra locación, o será ordenada a la fábrica. La cantidad del depósito es determinada entre usted y el vendedor. El depósito se convierte a un enganche una vez que se ejecute el acuerdo obligatorio de compra. Usted tiene el derecho de exigir un reembolso de su depósito o el enganche, y recibirlo dentro un período de 15 días, si usted oportunamente y correctamente decide rescindir del acuerdo de compra.

Iniciales

OPCIONES DE FINANCIAMIENTO: Una vivienda prefabricada en Texas tiene una flexibilidad enorme cuando se trata de financiamiento porque puede ser financiada como una propiedad personal (típicamente un préstamo al consumidor asegurado solamente con la vivienda) o, si usted es dueño del terreno donde está ubicada la vivienda prefabricada (o tiene un contrato de arrendamiento a largo término sobre el terreno) como bienes raíces (típicamente un préstamo hipotecario asegurado por la vivienda y el terreno). Debe hablar con posibles prestamistas sobre los términos o condiciones que ellos pueden ofrecer. Si usted piensa que un prestamista ofrece una tasa de interés demasiado alta, entonces hable con otro prestamista.

Generalmente, los prestamistas a consumidores deben estar registrados con la Oficina del Consumer Credit Commissioner. Los préstamos hipotecarios por lo general son originados por agentes de hipotecas (autorizados por el Departamento de Savings and Mortgage Lending), los bancos hipotecarios (registrados con el Departamento de Savings and Mortgage Lending), o instituciones financieras (reguladas por el gobierno estatal y/o federal, dependiendo del tipo de institución financiera).

**Cuando Decida Comprar una Vivienda Prefabricada,
Prepare para la Flexibilidad y el Cambio**

SU PRÉSTAMO SERÁ UN FACTOR MAYOR EN DETERMINAR SUS PAGOS, PERO TAMBIÉN HAY OTROS FACTORES IMPORTANTES QUE DEBE TOMAR EN CUENTA, TAL COMO:

- Préstamos de Tarifa Ajustable - Si las tarifas suben, los pagos de su préstamo también subirán.
- Impuestos sobre la Propiedad – Cambios en el valor de su vivienda y en la tasa de impuesto puede causar cambios en sus pagos.
- Seguro - Si el precio de cobertura sube, también subirá su pago.
- Alquiler del Terreno - Si usted alquila el terreno donde se encuentra la vivienda, su alquiler puede ser sujeto a aumentar.

Iniciales

RESTRICCIONES LOCALES Y EXIGENCIAS (ZONIFICACIÓN): La vivienda puede ser sujeto a exigencias locales especiales dependiente de donde se va a localizar, incluyendo restricciones de zonificación y escritura. Estas exigencias locales pueden afectar donde la vivienda puede ser colocada y también pueden implicar otras exigencias relacionadas (y gastos) como exigencias de tamaño y exigencias de construcción. Comuníquese con el municipio local, el condado, y el gerente de la subdivisión para averiguar qué tipo de exigencias pueden ser aplicadas al sitio donde usted va a colocar la vivienda prefabricada.

Iniciales

PREPARACIÓN ADECUADA DEL SITIO: El instalador es responsable por la preparación apropiada del sitio en donde se instalará una vivienda prefabricada nueva. El consumidor es responsable por la preparación apropiada del sitio en donde se instalará una vivienda prefabricada usada. Si usted no piensa que puede preparar su sitio apropiadamente, considere contratar a alguien más con la experiencia necesaria y el equipo necesario para hacerlo por usted. La preparación apropiada del sitio incluye el lugar correcto para colocar la vivienda para que pueda tener un buen drenaje de modo que el agua no se estanque o corra debajo o alrededor de la vivienda; además tierra comprimida firme sin troncos o basura. El sitio que ha seleccionado y preparado también necesita cumplir cualquier exigencia de colocación y tener acceso a cualquier sistema requerido de agua, tanque séptico, y servicios.

¡LA PREPARACIÓN APROPIADA DEL SITIO ES ESENCIAL!

Iniciales

INSTALACIÓN: Si usted está comprando una vivienda prefabricada NUEVA, la instalación tiene que ser incluida. Si está comprando una vivienda prefabricada USADA, la instalación puede estar incluida o no. Si la instalación no está incluida y hace el arreglo usted mismo, recuerde que SOLAMENTE UN INSTALADOR AUTORIZADO puede instalar la vivienda prefabricada. El instalador que actualmente instala la vivienda también debe proporcionar una garantía.

LA LEY EXIGE QUE UNA VIVIENDA SEA INSTALADA POR UN INSTALADOR AUTORIZADO ANTES DE QUE PUEDA SER OCUPADA.

Si usted compra una vivienda que ya ha sido instalada, debería preguntarle al vendedor si ellos comprobarán la nivelación, la presencia (si es requerido) y la condición de cualquier agente retardador de vapor, revisarán todo lo relacionado con la fundación/sistema de estabilización, o proporcionarán cualquier otro servicio relacionado con la instalación.

Si usted adquiere una vivienda prefabricada usada que ya está instalada en un condado de Zona de Viento II, pero la vivienda es de Zona de Viento I, lo que significa que la vivienda no fue diseñada o construida para resistir vientos fuertes de huracán que ocurren en una Zona de Viento II o III, la vivienda no podrá ser instalada en una Zona de Viento II a menos que la vivienda haya sido construida antes del 1 de Septiembre, 1997.

Iniciales

MANTENIMIENTO: CUALQUIER vivienda requiere mantenimiento – cosas como revisar y reparar el techo, mantener respiraderos y filtros despejados, mantenimiento regular a los sistemas sépticos y pozos para asegurarse que funcionan apropiadamente y de manera sanitaria, calafatear para evitar escapes y pintar periódicamente. También, dependiendo del sistema de fundación que escoja, una vivienda prefabricada puede requerir revisiones periódicas para comprobar que está aún nivel y que las anclas y correas están seguras.

Iniciales

MANTENIMIENTO DE FUNDACIÓN: Debe aceptar toda la responsabilidad por el mantenimiento del sitio al momento de cierre. Estas responsabilidades incluyen: buen mantenimiento del drenaje alrededor de la vivienda, la prevención de la erosión de tierra, inspecciones periódicas del apoyo de la fundación y el anclaje, y cualquier nivelación o ajuste que se puede requerir a menos que se haya acordado de otra manera. Las viviendas localizadas en las áreas que tienen suelos con el alto contenido de arcilla que se expanda deben mantener niveles de humedad constantes. Esto puede incluir el regar alrededor de la fundación durante meses secos del verano y controlando adecuadamente el tamaño y proximidad de plantas cerca de la fundación.

Iniciales

ALQUILER DE SOLAR: Si usted alquila el solar donde su vivienda será instalada, existe la posibilidad de que el alquiler aumente, y es posible que el arrendador pueda decidir cambiar el uso del terreno y no renovar su contrato de renta. Aunque se le de un preaviso, esto significaría que usted tendría que mover su vivienda y tener que instalarla en otro lugar.

Iniciales

AGUA Y SERVICIOS: Asegúrese que su terreno tiene acceso al agua. Si usted taladre un pozo, piense en buscar ofertas de varios perforadores. Si hay agua disponible por medio del municipio, distrito de servicios, distrito de agua, o cooperativa, usted debería informarse sobre las tarifas que tendrá que pagar y los gastos necesarios para poder ser parte del sistema de agua. Asegúrese que cualquier servicio que necesitará está disponible en el terreno, y si no lo están, averigüe que implicará para que usted pueda adquirirlos y conectarlos.

Iniciales

CONEXIONES DE ALCANTARILLADO O SISTEMAS SÉPTICOS: Si el terreno no es parte de un sistema de alcantarillado municipal o de los servicios del distrito, tendrá que instalar un sistema séptico. Hay varias preocupaciones o restricciones que determinarán si su terreno es adecuado para poder tener un sistema séptico. Compruebe con el condado local o un instalador autorizado privado para determinar las exigencias que se aplican en su terreno y el costo para instalar dicho sistema.

Iniciales

ASOCIACIÓN DE PROPIETARIOS Y HONORARIOS: Muchas subdivisiones tienen evaluaciones obligatorias y honorarios que los propietarios del terreno deben pagar. Compruebe con el gerente de la subdivisión donde está ubicado su lote para determinar si los honorarios se aplican a su terreno.

Iniciales

IMPUESTOS DE PROPIEDAD: Las viviendas prefabricadas son valuadas y sujetas a impuestos de propiedad. Según el tipo de préstamo que usted obtenga, su prestamista puede incluir los impuestos junto con su pago, y esto aumentará su mensualidad. Elegir el tratamiento de su vivienda como propiedad personal o bienes raíces puede impactar cualquier exención que podría obtener para reducir sus impuestos. Comuníquese con la oficina de impuestos del condado si tiene alguna pregunta. Si no cumple con su pago de impuestos o no arregla con el agente de colecciones para hacer los pagos, lo puede colocar en riesgo de tener un embargo sobre su vivienda, y posiblemente perder la vivienda por no hacer los pagos de impuestos. Si usted no tiene un prestamista que le retenga los impuestos del pago, el agente de colección calculará un acuerdo para retención de pagos si usted lo solicita.

Iniciales

SEGURO: Su prestamista seguramente requerirá que obtenga seguro. Usted debería solicitar cotizaciones de un agente. Incluso si usted no tiene un prestamista, es buena idea obtener el seguro para proteger su vivienda y a usted mismo.

Iniciales

FONDO FIDUCIARIO DE RECUPERACION PARA PROPIETARIOS DE VIVIENDA PREFABRICADA EN TEXAS (EL FONDO): El Fondo establecido por la ley es para proteger a los consumidores que incurren daños actuales debido a violaciones de ley específicas que impliquen actos u omisiones de agentes autorizados. Para aprender más sobre el Fondo usted puede visitar la página internet del departamento en: www.tdhca.state.tx.us/mh/index.htm o llamar al departamento para una descripción impresa del Fondo y como funciona. Los reclamos sobre el Fondo tienen que ser verificados y tienen que ser hecho dentro de dos años de la fecha del acto o la omisión o cuando fue descubierto o debió ser descubierto razonablemente.

Iniciales

DERECHO DE RESCINDIR CONTRATO DE COMPRA: Una vez que usted hace un contrato con un vendedor para adquirir una vivienda prefabricada, usted tiene el derecho de rescindir el contrato. Usted puede, no más tarde del tercer día después de que el contrato haya sido firmado, rescindir el contrato sin multas ni cargos. El derecho de rescindir puede ser modificado o cancelado sólo si usted tiene una emergencia auténtica. El departamento tiene reglas sobre las exigencias detalladas para renunciaciones y modificaciones. Si usted concede a alguien más que el vendedor un derecho de embargo sobre la vivienda que usted está comprando, el derecho de rescisión automáticamente ya no aplica cuando el gravamen se registra con el TDHCA.

Iniciales

Esta **Divulgación de Seis Páginas** fue proporcionada a mí/nosotros por el vendedor y/o prestamista identificado debajo en esta fecha. Fue proporcionado a yo/nosotros antes de que yo/nosotros cumplí/cumplimos una solicitud de crédito (si la compra es financiada) o antes de que yo/nosotros firmamos un contrato para comprar, para intercambiar, o de arriendo con opción a compra de una vivienda prefabricada.

FECHA

VENDEDOR O PRESTAMISTA

NÚMERO DE LICENCIA (del vendedor)

Firma del CLIENTE

Firma del CLIENTE

Nombre del Cliente (escrito)

Nombre del Cliente (escrito)

Fecha: _____

Fecha: _____

Texas Department of Housing and Community Affairs

MANUFACTURED HOUSING DIVISION

P. O. BOX 12489 Austin, Texas 78711-2489

(800) 500-7074, (512) 475-2200 FAX (512) 475-1109

Internet Address: www.tdhca.state.tx.us/mh/index.htm

HUD Required Installation Program Disclosure to Consumer

Name of Retailer or Installer: _____

License No.: _____

Effective 10/20/08 24 CFR § 3286.7 Consumer information.

(b) Retailer disclosures before sale or lease.

Prior to execution of the sales contract to purchase or agreement to lease a manufactured home, the retailer must provide the purchaser or lessee with a consumer disclosure. This disclosure must be in a document separate from the sales or lease agreement. The disclosure must include the following information, as applicable:

- (1) When the installation of the home is in a state that administers its own qualifying installation program, the consumer disclosure must clearly state that the home will be required to comply with all state requirements for the installation of the home;

This home will be installed to the Texas Administered Installation Program guidelines and in accordance with all the requirements of Chapter 80, Administrative Rules.

- (2) When the installation of the home is in a state that does not administer its own qualifying installation program, the consumer disclosure must clearly state that the home will be required to comply with federal requirements, including installation in accordance with federal installation standards set forth in 24 CFR part 3285 and certification by a licensed installer of installation work, regardless of whether the work is performed by the homeowner or anyone else, and when certification includes inspection by an appropriate person;

- (3) For all homes, the home may also be required to comply with additional state and local requirements for its installation;

In Accordance with Chapter 80, Administrative Rules; any new home installed in Texas shall be installed to Manufacture's Specifications or an engineered approved custom foundation.

- (4) For all homes, additional information about the requirements disclosed under paragraphs (b)(1) through (b)(4) of this section is available from the retailer and, in the case of the federal requirements, is available in part 3286 of Title 24 of the Code of Federal Regulations and from the U.S. Department of Housing and Urban Development;
- (5) For all homes, compliance with any additional federal, state, and local requirements, including a requirement for inspection of the installation of the home, may involve additional costs to the purchaser or lessee; and
- (6) For all homes, a recommendation that any home that has been reinstalled after its original installation should be professionally inspected after it is set up, in order to assure that it has not been damaged.

Secondary installations are allowed to be set to the Texas State Generic Standards, Chapter 80.23 Subchapter C.

Consumer Signature:

Consumer Printed Name:

Date:

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.

Department of Assistive and Rehabilitative Services

Notice of Public Hearing to Receive Public Comments

The Texas Department of Assistive and Rehabilitative Services (DARS), Division for Early Childhood Intervention (ECI) provides comprehensive early intervention services to families with infants and toddlers who have developmental delays, have diagnosed physical or mental conditions with a high probability of developmental delay, or exhibit atypical development. Early intervention services are provided as required by the Individuals with Disabilities Education Act (IDEA), Part C as Amended in 2004.

ECI is soliciting public comments on proposed amendments to Title 40, Texas Administrative Code, Part 2, Chapter 108, Division for Early Childhood Intervention Services and proposed revisions to the Texas Department of Assistive and Rehabilitative Services Division of Early Childhood Intervention Standards Manual for Contracted Programs. The Texas Department of Assistive and Rehabilitative Services is providing an opportunity to comment from March 20, 2009 until May 19, 2009.

The proposed revisions to Title 40, Texas Administrative Code Part 2, Chapter 108, Division for Early Childhood Intervention Services are published in the March 20, 2009, issue of the *Texas Register* (34 TexReg 1947) at: www.sos.state.tx.us/texreg/. Chapter 108 is being extensively restructured and expanded from five subchapters to seven subchapters in order to increase clarity and minimize duplication of or conflicts with federal statutes and rules.

The proposed revisions to the ECI Standards Manual for Contracted Programs can be viewed on the Texas Department of Assistive and Rehabilitative Services Web site at: www.dars.state.tx.us/. The manual has been extensively restructured, expanded from 3 chapters to 23 chapters, and reformatted to clarify requirements and increase usability.

ECI will host public hearings around the state during May to collect testimony and respond to comments. Public Hearings will be held according to the following schedule, and each of these hearings will be held from 3:00 p.m. to 7:00 p.m.

May 11, 2009 - El Paso State Office Building

Room 570, 401 East Franklin, El Paso, Texas 79901

May 15, 2009 - Cook Children's Medical Center

Decker Board Room, 801 Seventh Ave, Fort Worth, Texas 76104

May 19, 2009 - Brown Heatly Building

4900 North Lamar, Suite 1410, Austin, Texas 78751

Persons requiring special accommodations should call (512) 424-6745 at least 72 hours prior to the public hearing.

To provide written comments, please contact:

Cynthia Henderson, M.Ed., Lead Policy Specialist, Texas Department of Assistive and Rehabilitative Services, Division of Early Childhood

Intervention, 4900 North Lamar Blvd., Austin, Texas 78751-2399, Mail Code 3029, cynthia.henderson@dars.state.tx.us, (512) 424-6745.

TRD-200901191

Sylvia F. Hardman

General Counsel

Department of Assistive and Rehabilitative Services

Filed: March 25, 2009

Office of the Attorney General

Contract Award

This publication is filed pursuant to Texas Government Code, §2254.030. The Request for Proposal was published in the December 19, 2008, issue of the *Texas Register* (33 TexReg 10347).

DESCRIPTION OF ACTIVITIES OF PRIVATE CONSULTANT:

The Office of the Attorney General of Texas (the "OAG") has entered into a major consulting services contract for the following services:

The OAG administers millions of dollars of federal funds for the Child Support (Title IV-D) and Medicaid (Title XIX) programs. The OAG recoups its indirect costs from these federal programs based on rates approved by the United States Department of Health and Human Services ("HHS"). Contractor will review the indirect cost methodologies of the OAG to determine areas of cost recovery which will maximize revenue from the recovery of indirect costs and will develop indirect cost rates throughout the OAG, as appropriate. Contractor will prepare Indirect Cost Allocation Plans for FY08 (based on actual expenditures) and for FY10 (based on budgeted expenditures) in accordance with OMB Circular A-87, for submission to HHS for federal approval and will negotiate approval of those plans with HHS. Contractor will also analyze existing legal billing rates of the OAG for purposes of reconciling those existing rates with actual costs of the OAG in providing the legal services and will provide to the OAG a report of that reconciliation. Contractor will develop the FY10 billing rates for legal services. Contractor will negotiate with HHS for approval of the FY10 billing rates. Finally, Contractor will provide guidance to the OAG in the implementation of these plans and billing rates.

NAME AND BUSINESS ADDRESS OF PRIVATE CONSULTANT:

The private consultant engaged by the OAG for these activities is MGT of America, Inc., whose business address is 502 E. 11th Street, Suite 300, Austin, TX 78701.

TOTAL VALUE AND TERM OF THE CONTRACT:

The total value of the contract is \$42,575. The term of the contract began on March 18, 2009, and will terminate on August 31, 2009 or upon completion of work described herein.

DATES ON WHICH REPORTS ARE DUE:

The Indirect Cost Allocation Plans must be submitted to HHS no later than April 30, 2009. The final report regarding the FY10 billing rates

for legal services must be submitted to the OAG no later than August 31, 2009.

For more information regarding this publication, contact Cindy Hodges, Agency Liaison, at (512) 936-1841.

TRD-200901149

Stacey Napier

Deputy Attorney General

Office of the Attorney General

Filed: March 23, 2009

Camino Real Regional Mobility Authority

Request for Qualifications for Underwriting Services

The Camino Real Regional Mobility Authority (CRRMA), a political subdivision of the State of Texas, is soliciting statements of interest and qualifications from experienced investment banking firms interested in providing the CRRMA with underwriting services in connection with the proposed financing of various proposed CRRMA projects identified within the 2008 Comprehensive Mobility Plan for the El Paso Region and any other project financing that the CRRMA may elect to pursue during the term of the engagement. It is the intent of the CRRMA to select and designate a pool of investment banking firms from which to assign firms, as needed, to underwrite financings or provide other debt management related services.

A request for qualifications (RFQ) packet may be obtained electronically from the CRRMA's website at http://www.elpaso-texas.gov/muni_clerk/detail.asp?id=84. Copies will also be available by contacting the CRRMA at (915) 541-4986. Periodic updates, addenda, and clarifications may be posted on the CRRMA's website, and interested parties are responsible for monitoring the website accordingly. In order to be eligible for consideration in this RFQ process, final responses must be received by the Camino Real Regional Mobility Authority, 2 Civic Center Plaza, 9th Floor, El Paso, Texas 79901 by 2:00 p.m. MST, April 21, 2009, with copies to the CRRMA's Financial Advisor, First Southwest Company, 325 N. Saint Paul Street, Suite 800, Dallas, Texas 75201, Attention: Wayne B. Placide, Managing Partner by 3:00 p.m. CST, April 21, 2009.

Questions concerning this RFQ must be directed in writing to the CRRMA, c/o its Financial Advisor, First Southwest Company, 325 N. Saint Paul Street, Suite 800, Dallas, Texas 75201, Attention: Wayne B. Placide, Managing Partner, or via e-mail to wplacide@firstsw.com. All questions must be received by 3:00 p.m. (CST) on April 7, 2009.

Each firm will be evaluated based on the criteria and process set forth in the RFQ. The final selection of firms for inclusion in the pool, if any, will be made by the CRRMA Board of Directors.

TRD-200901179

Raymond L. Telles

Executive Director

Camino Real Regional Mobility Authority

Filed: March 25, 2009

Coastal Coordination Council

Notice of Funds Availability - Texas Coastal Management Program Grants Program

The Coastal Coordination Council (Council) files this Notice of Funds Availability to announce the availability of §306/§306A federal grant funds under the Texas Coastal Management Program (CMP). The pur-

pose of the CMP is to improve the management of the state's coastal resources and to ensure the long-term ecological and economic productivity of the coast.

A federal award to the state of approximately \$2 million in §306/§306A funding is expected in October 2010. The Council, which oversees the implementation of the CMP, passes through approximately 90% of the available §306/§306A funds to eligible entities in the coastal zone to support projects that implement and/or advance the CMP goals and policies.

Eligible Applicants

The following entities are eligible to receive grants under the CMP.

1. Incorporated cities within the coastal zone boundary.
2. County governments within the coastal zone boundary.
3. Texas state agencies.
4. Texas public colleges/universities.
5. Subdivisions of the state with jurisdiction in the coastal zone (e.g., navigation districts, port authorities, river authorities, and Soil and Water Conservation Districts with jurisdiction in the coastal zone).
6. Councils of governments and other regional governmental entities within the coastal zone boundary.
7. The Galveston Bay Estuary Program.
8. The Coastal Bend Bays and Estuaries Program.
9. Nonprofit organizations located in Texas that are nominated by an eligible entity in categories 1 - 8 above. A nomination may take the form of a resolution or letter from a responsible official of an entity in categories 1-8. The nominating entity is not expected to financially or administratively contribute to the management and implementation of the proposed project.

Funding Categories

The Council will accept applications for projects that address any of the following funding categories. The categories are not listed in order of preference.

1. Coastal Natural Hazards Response
2. Critical Areas Enhancement
3. Shoreline Access
4. Water Quality Improvement
5. Waterfront Revitalization and Ecotourism Development
6. Permit Streamlining/Assistance and Governmental Coordination
7. Information and Data Availability
8. Public Education and Outreach

Grant workshops will be held in five coastal cities to help potential applicants through the Guidance and Application Package. Grant workshops are opportunities for potential applicants to learn about the changes made to the grant program and to discuss specific project ideas with staff. Applicants are not required to attend a workshop, but attendance is strongly encouraged for first-time and/or inexperienced applicants who are unfamiliar with the CMP application process.

Current subrecipients of CMP grant funding and their financial staff are also encouraged to attend the grant workshops. Project management training will be held immediately following the grant guidance and application portion of the workshop to educate subrecipients on the administrative requirements once a contract is executed. Project man-

agement training will cover the progress report, invoice, local match, budget amendment, timesheet, and equipment forms.

April 30, 2009, 10:30 a.m., Port Lavaca, City Hall, 202 N. Virginia.

May 7, 2009, 9:30 a.m., Galveston, County Courthouse, 722 Moody, Workshop Room.

May 14, 2009, 9:00 a.m., Port Arthur, City Hall, 444 Fourth Street, 5th Floor.

May 20, 2009, 9:30 a.m., Corpus Christi, Texas A&M University - Natural Resources Center, 6300 Ocean Drive, Room 1003.

May 28, 2009, 9:30 a.m., Port Isabel, Port Isabel Housing Authority - Community Center, 100 Hockaday.

To obtain a copy of the Guidance and Application Package, please contact Melissa Porter at (512) 475-1393, (800) 998-4GLO or at melissa.porter@glo.state.tx.us. The requirements to receive federal grant funds are outlined in the guidance. Written requests for the Guidance and Application Package should be addressed to: Coastal Coordination Council, CMP Grants Program, c/o Texas General Land Office (GLO), Stephen F. Austin Building, Room 335, 1700 North Congress Avenue, Austin, Texas 78701-1495. The Guidance and Application Package are also available on the GLO's website at: <http://www.glo.state.tx.us/coastal/grants/index.html>.

The deadline for receiving pre-proposals is Wednesday, June 24, 2009 by 5:00 p.m. Submission of a pre-proposal is optional but is strongly recommended for first-time and/or inexperienced applicants who are unfamiliar with the CMP application process, applicants who have an idea for a new and/or innovative project, applicants who are uncertain if a project is eligible under this grant program, or applicants submitting research projects. Written comments will only be provided to applicants who submit pre-proposals by June 24, 2009 by 5:00 p.m. The deadline for receiving final grant applications is Wednesday, October 14, 2009 by 5:00 p.m. Pre-proposals and final grant applications must be mailed (regular, express, or certified) or hand-delivered to: Coastal Coordination Council, CMP Grants Program, c/o Texas General Land Office, Stephen F. Austin Building, Room 335, 1700 North Congress Avenue, Austin, Texas 78701-1495. Facsimiles, electronic mail transmissions, and applications postmarked on or after the due date will not be accepted.

TRD-200901146

Larry L. Laine

Chief Clerk/Deputy Land Commissioner, General Land Office
Coastal Coordination Council

Filed: March 23, 2009

◆ ◆ ◆ Comptroller of Public Accounts

Amended Notice of Issuance

Pursuant to §1201.027, Texas Government Code; Chapter 2254, Subchapter B, Texas Government Code; and Chapter 404, Subchapter H, Texas Government Code, the Comptroller of Public Accounts (Comptroller) announces its Request for Proposals (RFP #192a) from qualified, independent firms to serve as Financial Advisor to the Comptroller. The Comptroller desires to obtain the services of a Financial Advisor related to the document preparation, issuance, sale, and delivery of Tax and Revenue Anticipation Notes, including Commercial Paper Notes (Notes) as well as assistance in handling of disclosure issues relating to the Notes. The successful respondent will be expected to begin performance of the contract on or about May 1, 2009.

Contact: Parties interested in submitting a proposal should contact Thomas H. Hill, Assistant General Counsel, Contracts, Comptroller of Public Accounts, 111 E. 17th Street, Room 201, Austin, Texas 78774, telephone number: (512) 305-8673, to obtain a copy of the RFP. The Comptroller will mail copies of the RFP only to those specifically requesting a copy. The RFP will be available for pick-up at the above-referenced address on March 6, 2009, between 10:00 a.m. and 5:00 p.m., Central Zone Time (CZT), and during normal business hours thereafter. The Comptroller will also make the RFP available electronically on the Electronic State Business Daily after Friday, March 6, 2009, 10:00 a.m. CZT.

Questions and Non-Mandatory Letters of Intent: All written inquiries, questions, and non-mandatory Letters of Intent to propose must be received at the above-referenced address not later than 2:00 p.m. CZT on Friday, March 20, 2009. Prospective respondents are encouraged to fax or e-mail non-mandatory Letters of Intent and Questions to (512) 463-3669 or contracts@cpa.state.tx.us to ensure timely receipt. The Letter of Intent must be addressed to Thomas H. Hill, Assistant General Counsel, Contracts, and must contain the information as stated in the corresponding Section of the RFP and be signed by an official of that entity. Non-mandatory Letters of Intent and Questions received after this time and date will not be considered. On or about Friday, March 27, 2009, the Comptroller expects to post responses to questions as a revision to the Electronic State Business Daily notice on the issuance of this RFP.

Closing Date: Proposals must be delivered to the Office of the Assistant General Counsel, Contracts, at the location specified above (Room 201) no later than 2:00 p.m. CZT, on Tuesday, April 14, 2009. Proposals received in Room 201 after this time and date will not be considered regardless of the reason for the late delivery and receipt. Respondents are encouraged to verify and are solely responsible for verifying timely receipt of proposals in that office (Room 201).

Evaluation Criteria: Proposals will be evaluated under the evaluation criteria outlined in the RFP. The Comptroller shall make the final decision on any contract award or awards resulting from this RFP.

The Comptroller reserves the right, in its sole discretion, to accept or reject any or all proposals submitted. The Comptroller is not obligated to award or execute any contracts on the basis of this notice or the distribution of any RFP. The 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 - March 6, 2009, 10:00 a.m. CZT; Non-Mandatory Letter of Intent to Propose and Questions Due - March 20, 2009, 2:00 p.m. CZT; Official Responses to Questions posted - March 27, 2009, or as soon thereafter as practical; Proposals Due - Tuesday, April 14, 2009, 2:00 p.m. CZT; Contract Execution - May 1, 2009, or as soon thereafter as practical; and Commencement of Project Activities - May 1, 2009.

TRD-200901184

Pamela G. Smith

Deputy General Counsel for Contracts

Comptroller of Public Accounts

Filed: March 25, 2009

◆ ◆ ◆ Amended Notice of Issuance

Notice of Request for Proposals: Pursuant to §1201.027, Texas Government Code; Chapter 2254, Subchapter A, Texas Government Code; and Chapter 404, Subchapter H, Texas Government Code, the Comptroller of Public Accounts (Comptroller) announces its Request for Proposals (RFP #192b) from qualified, independent law firms to serve as

Bond Counsel to the Comptroller. The Comptroller desires to obtain the services of Bond Counsel in connection with a variety of issues related to the issuance, sale, and delivery of Tax and Revenue Anticipation Notes, including Commercial Paper Notes (Notes) as well as assisting in handling all disclosure issues relating to the Notes. The successful respondent will be expected to begin performance of the contract on or about May 1, 2009.

Contact: Parties interested in submitting a proposal should contact Thomas H. Hill, Assistant General Counsel, Contracts, Comptroller of Public Accounts, 111 E. 17th St., Room 201, Austin, Texas 78774, telephone number: (512) 305-8673, to obtain a copy of the RFP. The Comptroller will mail copies of the RFP only to those specifically requesting a copy. The RFP will be available for pick-up at the above-referenced address on March 6, 2009, between 10:00 a.m. and 5:00 p.m., Central Zone Time (CZT), and during normal business hours thereafter. The Comptroller will also make the RFP available electronically on the Electronic State Business Daily Friday, March 6, 2009, 10:00 a.m. CZT.

Questions and Non-Mandatory Letters of Intent: All written inquiries, questions, and non-mandatory Letters of Intent to propose must be received at the above-referenced address not later than 2:00 p.m. CZT on Friday, March 20, 2009. Prospective respondents are encouraged to fax or e-mail non-mandatory Letters of Intent and Questions to (512) 463-3669 or contracts@cpa.state.tx.us to ensure timely receipt. The Letter of Intent must be addressed to Thomas H. Hill, Assistant General Counsel, Contracts, and must contain the information as stated in the corresponding Section of the RFP and be signed by an official of that entity. Non-mandatory Letters of Intent and Questions received after this time and date will not be considered. On or about Friday, March 27, 2009, the Comptroller expects to post responses to questions as a revision to the Electronic State Business Daily notice on the issuance of this RFP.

Closing Date: Proposals must be delivered to the Office of the Assistant General Counsel, Contracts, at the location specified above (Room 201) no later than 2:00 p.m. CZT, on Tuesday, April 14, 2009. Proposals received in Room G-24 after this time and date will not be considered regardless of the reason for the late delivery and receipt. Respondents are encouraged to and solely responsible for verifying timely receipt of proposals in that office (Room 201).

Evaluation Criteria: Proposals will be evaluated under the evaluation criteria outlined in the RFP. The Comptroller shall make the final decision on any contract award or awards resulting from this RFP.

The Comptroller reserves the right, in its sole discretion, to accept or reject any or all proposals submitted. The Comptroller is not obligated to award or execute any contracts on the basis of this notice or the distribution of any RFP. The 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 - March 6, 2009, 10:00 a.m. CZT; Non-Mandatory Letter of Intent to propose and Questions Due - March 20, 2009, 2:00 p.m. CZT; Official Responses to Questions posted - March 27, 2009, or as soon thereafter as practical; Proposals Due - Tuesday, April 14, 2009, 2:00 p.m. CZT; Contract Execution - May 1, 2009, or as soon thereafter as practical; and Commencement of Project Activities - May 1, 2009.

TRD-200901185
Pamela G. Smith
Deputy General Counsel for Contracts
Comptroller of Public Accounts
Filed: March 25, 2009



Amended Notice of Issuance

Notice of Request for Proposals: Pursuant to §2107.003, Texas Government Code, the Comptroller of Public Accounts (Comptroller), announces its issuance of a Request for Proposals (RFP #192c) for the purpose of obtaining collection services from a qualified firm for the collection of delinquent state tax accounts that do not meet the minimum thresholds to be referred to the Texas Attorney General for collection but are required by law to be collected by the Comptroller. The successful respondent, if any, will be expected to begin performance of the contract on or before September 1, 2009.

Contact: Parties interested in submitting a proposal should contact Thomas H. Hill, Assistant General Counsel, Contracts, Comptroller of Public Accounts, 111 E. 17th St., Room 201, Austin, Texas 78774, telephone number: (512) 305-8673, to obtain a copy of the RFP. The Comptroller will mail copies of the RFP only to those specifically requesting a copy. The RFP will be available for pick-up at the above-referenced address on March 6, 2009, between 10:00 a.m. and 5:00 p.m., Central Zone Time (CZT), and during normal business hours thereafter. The Comptroller will also make the RFP available electronically on the Electronic State Business Daily Friday, March 6, 2009, 10:00 a.m. CZT.

Questions and Non-Mandatory Letters of Intent: All written inquiries, questions, and non-mandatory Letters of Intent to propose must be received at the above-referenced address not later than 2:00 p.m. CZT on Friday, March 20, 2009. Prospective respondents are encouraged to fax or e-mail non-mandatory Letters of Intent and Questions to (512) 463-3669 or contracts@cpa.state.tx.us to ensure timely receipt. The Letter of Intent must be addressed to Thomas H. Hill, Assistant General Counsel, Contracts, and must contain the information as stated in the corresponding Section of the RFP and be signed by an official of that entity. Non-mandatory Letters of Intent and Questions received after this time and date will not be considered. On or about Wednesday, March 25, 2009, the Comptroller expects to post responses to questions as a revision to the Electronic State Business Daily notice on the issuance of this RFP.

Closing Date: Proposals must be delivered to the Office of the Assistant General Counsel, Contracts, at the location specified above (Room 201) no later than 2:00 p.m. CZT, on Tuesday, April 14, 2009. Proposals received in Room G-24 after this time and date will not be considered regardless of the reason for the late delivery and receipt. Respondents are encouraged to and solely responsible for verifying timely receipt of proposals in that office (Room 201).

Evaluation Criteria: Proposals will be evaluated under the evaluation criteria outlined in the RFP. The Comptroller shall make the final decision on any contract award or awards resulting from this RFP.

The Comptroller reserves the right, in its sole discretion, to accept or reject any or all proposals submitted. The Comptroller is not obligated to award or execute any contracts on the basis of this notice or the distribution of any RFP. The 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 - March 6, 2009, 10:00 a.m. CZT; Non-Mandatory Letter of Intent to propose and Questions Due - March 20, 2009, 2:00 p.m. CZT; Official Responses to Questions posted - March 27, 2009, or as soon thereafter as practical; Proposals Due - Tuesday, April 14, 2009, 2:00 p.m. CZT; Contract Execution - May 8, 2009, or as soon thereafter as practical; transition to work under new contract to begin May 8, 2009 or as soon thereafter as practical and actual Commencement of Project Activities - September 1, 2009.

TRD-200901186

Pamela G. Smith
Deputy General Counsel for Contracts
Comptroller of Public Accounts
Filed: March 25, 2009



Notice of Request for Proposals

Pursuant to Chapter 403 and Chapter 2156, Texas Government Code, and Chapter 54, Subchapter F, Texas Education Code, the Comptroller of Public Accounts (Comptroller) on behalf of the Texas Prepaid Higher Education Tuition Board (Board) announces its Request for Proposals (RFP #192d) for the purpose of obtaining Bank Loan investment management services for the Board for the Texas Tomorrow Fund Guaranteed Tuition Plan Funds (Texas Tomorrow Fund I). The selected contractor (Contractor) will advise and assist the Board and Comptroller in administering the Board's investment activities related to a Bank Loan Mandate for Texas Tomorrow Fund I. The Comptroller, as Chair and Executive Director of the Board, is issuing this RFP on behalf of the Board so that the Board may move forward with retaining the necessary Contractor. The Comptroller and the Board reserve the right to award more than one contract under the RFP. If approved by the Board, Contractor will be expected to begin performance of the contract on or about September 1, 2009, or as soon thereafter as practical.

Contact: Parties interested in submitting a proposal should contact William Clay Harris, Assistant General Counsel, Contracts, Comptroller of Public Accounts, in the Issuing Office at: 111 E. 17th St., Room 201, Austin, Texas 78774, (512) 305-8673, to obtain a complete copy of the RFP. The Comptroller will mail copies of the RFP only to those parties specifically requesting a copy. The RFP will be available for pick-up at the above-referenced address on Friday, April 3, 2009, after 10:00 a.m. Central Zone Time (CZT) and during normal business hours thereafter. The Comptroller will also make the entire RFP available electronically on the Electronic State Business Daily (ESBD) at: <http://esbd.cpa.state.tx.us> after 10:00 a.m. CZT on Friday, April 3, 2009.

Questions and Non-Mandatory Letters of Intent: All written inquiries, questions, and Non-mandatory Letters of Intent to propose must be received at the above-referenced address not later than 2:00 p.m. CZT on Monday, April 13, 2009. Prospective proposers are encouraged to fax non-mandatory Letters of Intent and Questions to (512) 463-3669 to ensure timely receipt. Non-mandatory Letters of Intent must be addressed to William Clay Harris, Assistant General Counsel, Contracts, and must contain the information as stated in the corresponding Section of the RFP and be signed by an official of that entity. On or about Friday, April 17, 2009, the Comptroller expects to post responses to questions on the ESBD. Late Non-mandatory Letters of Intent and Questions will not be considered under any circumstances. Respondents shall be solely responsible for verifying timely receipt of Non-Mandatory Letters of Intent and Questions in the Issuing Office.

Closing Date: Proposals must be delivered in the Issuing Office to the attention of the Assistant General Counsel, Contracts, no later than 2:00 p.m. CZT, on Friday, April 24, 2009. Late Proposals will not be considered under any circumstances. Respondents shall be solely responsible for verifying time receipt of Proposals in the Issuing Office.

Evaluation Criteria: Proposals will be evaluated under the evaluation criteria outlined in the RFP. The Board and Comptroller will make the final decision. The Comptroller and the Board each reserve the right to accept or reject any or all proposals submitted. The Comptroller and the Board are not obligated to execute a contract on the basis of this notice or the distribution of any RFP. The Comptroller and the Board

shall not pay for any costs incurred by any entity in responding to this Notice or to the RFP.

The anticipated schedule of events pertaining to this solicitation is as follows: Issuance of RFP - April 3, 2009, after 10:00 a.m. CZT; Non-Mandatory Letters of Intent and Questions Due - April 13, 2009, 2:00 p.m. CZT; Official Responses to Questions posted - April 17, 2009; Proposals Due - April 24, 2009, 2:00 p.m. CZT; Contract Execution - September 1, 2009, or as soon thereafter as practical; Commencement of Services - September 1, 2009.

TRD-200901183
William Clay Harris
Assistant General Counsel, Contracts
Comptroller of Public Accounts
Filed: March 25, 2009



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 03/30/09 - 04/05/09 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 03/30/09 - 04/05/09 is 18% for Commercial over \$250,000.

¹Credit for personal, family or household use.

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

TRD-200901162
Leslie L. Pettijohn
Commissioner
Office of Consumer Credit Commissioner
Filed: March 24, 2009



Texas Education Agency

Request for eGrant Applications Concerning the 2009-2010 Even Start Family Literacy Competitive Grant

Eligible Applicants. The Texas Education Agency (TEA) is requesting eGrant applications under Request for Applications (RFA) #701-09-113 from eligible applicants to provide family literacy services in Texas. The grant is a partnership composed of a public school district or an open-enrollment charter school and a nonprofit community-based organization, a public agency, an institution of higher education, or a public or private nonprofit organization other than a local educational agency of demonstrated quality. An education service center may apply as fiscal agent of a shared services arrangement of school districts in partnership with the partners listed previously.

Description. The objectives of the 2009-2010 Even Start Family Literacy Competitive Grant (Even Start) are to help parents become full partners in their children's education; help children reach their full potential as learners; provide literacy training for parents; assist families with parenting strategies in child growth and development and the educational process for children ages birth through seven years; and coordinate efforts that build on existing community resources. The purpose is to help break the cycle of poverty and illiteracy by improving educational opportunities of low-income families by integrating early

childhood education, parenting education, and adult education into a unified family-centered program.

Project Dates. The Even Start program will be implemented during the 2009-2010 school year. Applicants should plan for a starting date of no earlier than September 1, 2009, and an ending date of no later than August 31, 2010.

Project Amount. Funding will be provided for approximately 14 projects. Available funding is approximately \$5.2 million in federal No Child Left Behind funds. Each eligible organization can apply for only one project for the 2009-2010 school year. An eligible organization can also participate as a sub-recipient of an eligible organization applying for this grant.

Selection Criteria. Applications will be selected based on the independent reviewers' assessment of each applicant's ability to carry out all requirements contained in the RFA. Reviewers will evaluate applications based on the overall quality and validity of the proposed grant programs and the extent to which the applications address the primary objectives and intent of the project. Applications must address each requirement as specified in the RFA to be considered for funding. Special priority points will be given to applicants that target high-need areas and/or demonstrate high performance in a previous year Even Start program. TEA reserves the right to select from the highest-ranking applications those that address all requirements in the RFA and that are most advantageous to the project.

TEA is not obligated to approve an application, provide funds, or endorse any application submitted in response to this RFA. This RFA does not commit TEA to pay any costs before an application is approved. The issuance of this RFA does not obligate TEA to award a grant or pay any costs incurred in preparing a response.

Obtaining Access to TEA's eGrants. This application is available only through TEA's eGrants online application system and may not be obtained or submitted by any other means. To apply for access to eGrants, go to <http://ritter.tea.state.tx.us/opge/egrant/index.html>. Applicants should complete and submit the form as instructed. Applicants will receive a username and password via email, usually within two weeks. Applicants must request access specifically for eGrants even if they already have a TEA SE username for other TEA SE applications.

To access the information and requirements for this grant, enter the TEA Grant Opportunities webpage at <http://burlson.tea.state.tx.us/GrantOpportunities/forms>. In the "Select Search Options" box, select the name of the program/RFA from the drop-down list. Scroll down to the "Application and Support Information" section to view all documents that pertain to this RFA.

Further Information. For clarifying information about the RFA, contact Iris Adams, Division of Discretionary Grants, Texas Education Agency, (512) 463-9269. To assure that no prospective applicant may obtain a competitive advantage because of acquisition of information unknown to other prospective applicants, any and all questions must be submitted in writing to the TEA contact persons identified in Part 2: Program Guidelines of the RFA. All questions and the written answers thereto will be posted on the TEA website in the format of Frequently Asked Questions (FAQs) at <http://burlson.tea.state.tx.us/GrantOpportunities/forms>. In the "Select Search Options" box, select the name of the RFA from the drop-down list. Scroll down to the "Application and Support Information" section to view all documents that pertain to this RFA.

Deadline for Receipt of Applications. Applications must be certified and submitted through the eGrants online application system to the TEA by 5:00 p.m. (Central Time), Thursday, May 14, 2009, to be considered for funding.

TRD-200901177

Cristina De La Fuente-Valadez
Director, Policy Coordination
Texas Education Agency
Filed: March 25, 2009

Texas Commission on Environmental Quality

Agreed Orders

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (the Code), §7.075. Section 7.075 requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. Section 7.075 requires that notice of the proposed orders and the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **May 4, 2009**. Section 7.075 also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building C, 1st Floor, Austin, Texas 78753, (512) 239-2545 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the enforcement coordinator designated for each AO at the commission's central office at P.O. Box 13087, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on May 4, 2009**. Written comments may also be sent by facsimile machine to the enforcement coordinator at (512) 239-2550. The commission enforcement coordinators are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, §7.075 provides that comments on the AOs shall be submitted to the commission in **writing**.

(1) COMPANY: Bentwood Estates, Inc.; DOCKET NUMBER: 2008-1885-MWD-E; IDENTIFIER: RN102079126; LOCATION: Huffman, Harris County; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 Texas Administrative Code (TAC) §305.125(1) and Texas Pollutant Discharge Elimination System (TPDES) Permit Number 12612001, Sludge Provisions, Section I.B.1, by failing to conduct the toxicity characteristic leaching procedure sludge test at the required frequency; and 30 TAC §305.125(17) and TPDES Permit Number 12612001, Sludge Provisions, by failing to submit the annual sludge report; PENALTY: \$3,318; ENFORCEMENT COORDINATOR: Samuel Short, (512) 239-5363; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(2) COMPANY: Berry Contracting, L.P. dba Bay LIMITED; DOCKET NUMBER: 2008-1911-PST-E; IDENTIFIER: RN102473840; LOCATION: Corpus Christi, Nueces County; TYPE OF FACILITY: fleet fueling; RULE VIOLATED: 30 TAC §334.45(c)(3)(A), by failing to ensure that the emergency shutoff valves were securely anchored; 30 TAC §334.50(b)(1)(A) and the Code, §26.3475(c)(1), by failing to monitor underground storage tanks (USTs) for releases; 30 TAC §334.74 and §334.76, by failing to investigate a suspected release; and 30 TAC §334.72(3), by failing to report the suspected

release; PENALTY: \$6,990; ENFORCEMENT COORDINATOR: John Muennink, (361) 825-3100; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5839, (361) 825-3100.

(3) COMPANY: BP Products North America Inc.; DOCKET NUMBER: 2008-1398-IHW-E; IDENTIFIER: RN102535077; LOCATION: Texas City, Galveston County; TYPE OF FACILITY: petroleum refining; RULE VIOLATED: 30 TAC §335.2(b), by failing to prevent the shipment of industrial hazardous waste to an unauthorized facility; PENALTY: \$12,650; ENFORCEMENT COORDINATOR: Clinton Sims, (512) 239-6933; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(4) COMPANY: George Ted Devries dba Devries Dairy; DOCKET NUMBER: 2008-0854-AGR-E; IDENTIFIER: RN100802917; LOCATION: Dublin, Earth County; TYPE OF FACILITY: concentrated animal feeding operation; RULE VIOLATED: 30 TAC §321.31(a), Permit Number 03061, Special Provision Number 6, and the Code, §26.121(a), by failing to prevent a discharge or disposal of waste or wastewater from animal feeding operations; 30 TAC §321.44(a) and the Code, §26.039(b), by failing to notify the TCEQ orally within 24 hours of the discharge; and 30 TAC §321.44(b), by failing to collect samples from the discharge; PENALTY: \$4,350; ENFORCEMENT COORDINATOR: Jorge Ibarra, (817) 588-5800; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(5) COMPANY: Eagle Rock Field Services, L.P.; DOCKET NUMBER: 2008-1637-AIR-E; IDENTIFIER: RN102546785; LOCATION: Miami, Roberts County; TYPE OF FACILITY: gas plant; RULE VIOLATED: 30 TAC §§106.8(c), 116.115(b)(2)(E), 116.615(8), 116.620(a)(14) and (e)(8), 122.143(4), and 122.144(4), General Operating Permit (GOP) Number O-2952, General Conditions (GC) Number (b)(2) and (b)(7)(B), Permit Number 77131, General Terms and Conditions (GTC), and Texas Health and Safety Code (THSC), §382.085(b), by failing to make operating records readily available to TCEQ personnel upon request; 30 TAC §§101.20(1), 116.620(a)(1), (14), and (e)(6), and 122.143(4), 40 Code of Federal Regulations (CFR) §60.647(c), GOP O-2952, GC Number (b)(7)(B), Permit Number 77131, GTC, and THSC, §382.085(b), by failing to track and maintain documentation necessary to calculate the total sulfur content of process vents or flares in order to demonstrate compliance with the 0.3 long tons per day facility limit for total sulfur emissions and the two long tons per day sulfur limit on the design capacity of the sweetening unit; 30 TAC §§101.20(1), 116.615(2), 116.620(a)(12), (14), (b)(2)(B), and (d)(3), 122.143(4), 40 CFR §60.18, GOP Number O-2952, GC Number (b)(7)(B), Permit Number 77131, GTC, and THSC, §382.085(b), by failing to conduct monitoring of the volatile organic compound control device; 30 TAC §§122.143(4), 122.145(2), and 122.146(5), GOP Number O-2952, GC Number (b)(2), and THSC, §382.085(b), by failing to submit a complete and accurate permit compliance certification and deviation reports; 30 TAC §116.620(a)(14) and §122.143(4), 40 CFR §§60.8(d), 60.487(e), and 60.632(e), Permit Number 77131, GTC, and THSC, §382.085(b), by failing to submit notification of the schedule of the initial plant performance test; 30 TAC §§101.20(1), 116.620(a)(14), and 122.143(4), 40 CFR §§60.8(a), 60.487(e), 60.632(e), and 60.636(b), GOP Number O-2952, GC Number (b)(14)(B), Permit Number 77131, GTC, and THSC, §382.085(b), by failing to submit a timely and accurate initial semiannual fugitive monitoring report; 30 TAC §§101.20(1), 116.620(a)(14), and 122.143(4), 40 CFR §§60.482-7(c)(2), 60.482-9(a), and 60.632(a), Permit Number 77131, GTC, and THSC, §382.085(b), by failing to monitor leaking valves monthly; 30 TAC §§101.20(1), 116.620(a)(14), and 122.143(4), 40 CFR §60.482-2(a)(2) and §60.632(a), Permit Number 77131, GTC, and THSC, §382.085(b), by failing to demon-

strate that weekly visual inspections for indication of liquids dripping from each pump seal were being conducted; 30 TAC §116.620(e)(4) and §122.143(4), GOP Number O-2952, GC Number (b)(7)(B), and THSC, §382.085(b), by failing to maintain complete monthly records for each production, processing and/or pipeline tank battery; 30 TAC §122.503(a)(1) and THSC, §382.085(b), by failing to submit a permit revision application; and 30 TAC §§101.20(1), 116.620(a)(14), and 122.143(4), 40 CFR §60.482-4(b)(2) and §60.632(a), GOP Number O-2952, GC Number (b)(7)(B), Permit Number 77131, GTC, and THSC, §382.085(b), by failing to monitor the Regen pressure release device no later than five calendar days after the repairs were completed; PENALTY: \$57,589; Supplemental Environmental Project (SEP) offset amount of \$23,036 applied to Texas Parent Teacher Association - *Clean School Bus Program*; ENFORCEMENT COORDINATOR: John Muennink, (361) 825-3100; REGIONAL OFFICE: 3918 Canyon Drive, Amarillo, Texas 79109-4933, (806) 353-9251.

(6) COMPANY: City of Emory; DOCKET NUMBER: 2009-0051-MWD-E; IDENTIFIER: RN101916203; LOCATION: East Tawakoni, Rains County; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §305.125(1), TPDES Permit Number WQ0010082002, Effluent Limitations and Monitoring Requirements Number 1, and the Code, §26.121(a), by failing to comply with the permitted effluent limitations for total suspended solids; PENALTY: \$5,250; SEP offset amount of \$4,200 applied to Texas Association of Resource Conservation and Development Areas, Inc. - Water or Wastewater Treatment Assistance; ENFORCEMENT COORDINATOR: Jennifer Graves, (956) 425-6010; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(7) COMPANY: Exxon Mobil Corporation; DOCKET NUMBER: 2008-1727-AIR-E; IDENTIFIER: RN102579307; LOCATION: Baytown, Harris County; TYPE OF FACILITY: refining and supply company; RULE VIOLATED: 30 TAC §116.715(a), Flexible Permit Number 18287, Special Condition (SC) Number 1, and THSC, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$30,000; SEP offset amount of \$15,000 applied to Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program; ENFORCEMENT COORDINATOR: John Muennink, (361) 825-3100; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(8) COMPANY: E-Z STAR, INC. dba EZ Trip Food Stores 05; DOCKET NUMBER: 2008-1780-PST-E; IDENTIFIER: RN102454345; LOCATION: Dallas, Dallas County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §115.245(2) and THSC, §382.085(b), by failing to verify proper operation of the Stage II equipment; PENALTY: \$2,686; ENFORCEMENT COORDINATOR: Mike Pace, (817) 588-5800; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(9) COMPANY: Flat Rock Minerals, LLC; DOCKET NUMBER: 2008-1570-AIR-E; IDENTIFIER: RN105497176; LOCATION: Upshur County; TYPE OF FACILITY: rock crushing plant; RULE VIOLATED: 30 TAC §116.115(c) and §116.116(c)(3), New Source Review (NSR) Permit Number 84664L001, SC Number 1, and THSC, §382.085(b), by failing to notify the TCEQ of a change to facilities; 30 TAC §116.115(c), NSR Permit Number 84664L001, SC Number 6.B., and THSC, §382.085(b), by failing to properly maintain the water spray system on the rock crusher; 30 TAC §116.115(c), NSR Permit Number 84664L001, SC Number 6.C., and THSC, §382.085(b), by failing to spray all in-plant road and traffic areas, active work areas, and aggregate stockpiles with water and/or environmentally sensitive chemicals; 30 TAC §116.115(c), NSR Permit Number 84664L001, SC Number 11.A., C., and D., GC Number 7, and THSC, §382.085(b),

by failing to maintain records of screen production, dust control, and engine fuel usage; and 30 TAC §116.115(c), NSR Permit Number 84664L001, SC Number 1, and THSC, §382.085(b), by failing to have authorization for a second shaker screen; PENALTY: \$3,470; ENFORCEMENT COORDINATOR: Trina Grieco, (210) 490-3096; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(10) COMPANY: Linda Correa Garcia; DOCKET NUMBER: 2008-1827-PST-E; IDENTIFIER: RN101682854; LOCATION: Rio Hondo, Cameron County; TYPE OF FACILITY: vacant convenience store; RULE VIOLATED: 30 TAC §334.47(a)(2), by failing to permanently remove from service a UST system; PENALTY: \$5,500; ENFORCEMENT COORDINATOR: Suzanne Walrath, (512) 239-2134; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(11) COMPANY: Marcario Hernandez; DOCKET NUMBER: 2008-1891-MSW-E; IDENTIFIER: RN105490015; LOCATION: Milam County; TYPE OF FACILITY: unauthorized disposal site; RULE VIOLATED: 30 TAC §330.15(c), by failing to prevent the unauthorized disposal of municipal solid waste (MSW); PENALTY: \$1,050; ENFORCEMENT COORDINATOR: Keith Frank, (512) 239-1203; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(12) COMPANY: HILLSIDE GROCERY, INC. dba Hillside Grocery; DOCKET NUMBER: 2009-0046-PST-E; IDENTIFIER: RN101495232; LOCATION: Lago Vista, Travis County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.7(d)(3), by failing to notify the agency of any change or addition within 30 days from the date of the occurrence of the change or addition, or within 30 days from the date on which the owner or operator first became aware of the change or addition; 30 TAC §334.10(b) and §334.49(e), by failing to maintain the required corrosion protection records and make them immediately available for inspection; 30 TAC §334.50(b) and the Code, §26.3475(a), by failing to provide proper release detection for the pressurized piping associated with the USTs; 30 TAC §334.50(b)(2)(A)(i)(III) and the Code, §26.3475(a), by failing to test the line leak detectors at least once per year for performance and operational reliability; 30 TAC §334.51(a)(6) and the Code, §26.3475(c)(2), by failing to ensure that all spill and overflow prevention devices are maintained in good operating condition; 30 TAC §115.222(3) and THSC, §382.085(b), by failing to eliminate any avoidable gasoline leaks, as detected by sight, sound, or smell from the liquid transfer or vapor balance system; and 30 TAC §115.222(6) and THSC, §382.085(b), by failing to ensure that the storage container vent line was equipped with a pressure-vacuum relief valve; PENALTY: \$5,644; ENFORCEMENT COORDINATOR: Steven Lopez, (512) 239-1896; REGIONAL OFFICE: 2800 South IH 35, Suite 100, Austin, Texas 78704-5700, (512) 339-2929.

(13) COMPANY: City of Houston; DOCKET NUMBER: 2008-1871-MWD-E; IDENTIFIER: RN101702405; LOCATION: Harris County; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §305.65 and §305.125(2) and the Code, §26.121(a), by failing to maintain authorization for the discharge of wastewater; PENALTY: \$7,800; SEP offset amount of \$6,240 applied to Armand Bayou Nature Center Coastal Tall Grass Management-Prescribed Burn Program and Prairie Restoration Project; ENFORCEMENT COORDINATOR: Steven Villatoro, (512) 239-4930; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(14) COMPANY: City of Laredo; DOCKET NUMBER: 2008-1807-PWS-E; IDENTIFIER: RN100524099; LOCATION: Laredo, Webb County; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.45(a) and (b)(2)(G), Agreed Order Docket

Number 2005-1996-MLM-E, Ordering Provision 3.e.ii.A, and THSC, §341.0315(c), by failing to provide an elevated storage capacity of 111 gallons per connection or a pressure tank capacity of 22.2 gallons per connection; 30 TAC §290.45(a) and (b)(2)(F), Agreed Order Docket Number 2005-1996-MLM-E, Ordering Provision 3.e.ii.B, and THSC, §341.0315(c), by failing to provide the Lyon/Hendricks pressure plane with two or more service pumps that have a total capacity of two gallons per minute (gpm) per connection; 30 TAC §290.45(a) and (b)(2)(F), Agreed Order Docket Number 2005-1996-MLM-E, Ordering Provision 3.e.ii.B, and THSC, §341.0315(c), by failing to provide the Mimlo pressure plane with two or more service pumps that have a total capacity of two gpm per connection; 30 TAC §290.43(c)(3) and Agreed Order Docket Number 2005-1996-MLM-E, Ordering Provision 3.c.iii, by failing to equip the Lyon and Mimlo ground storage tanks with overflows that are designed and constructed in accordance with current American Water Works Association standards; 30 TAC §290.45(a) and (b)(2)(E), Agreed Order Docket Number 2005-1996-MLM-E, Ordering Provision 3.e.ii.C, and THSC, §341.0315(c), by failing to provide the Larga Vista pressure plane with a total storage capacity of 222 gallons per connection; and 30 TAC §290.46(m)(4), by failing to maintain the high service discharge header at the upper water treatment facility in a watertight condition; PENALTY: \$48,747; SEP offset amount of \$48,747 applied to The Rensselaerville Institute - "Self-Help Rio Grande"; ENFORCEMENT COORDINATOR: Rebecca Clausewitz, (210) 490-3096; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(15) COMPANY: Liberty Materials, Inc.; DOCKET NUMBER: 2009-0031-IWD-E; IDENTIFIER: RN104527601; LOCATION: Montgomery County; TYPE OF FACILITY: sand mining site; RULE VIOLATED: 30 TAC §281.25(a)(4) and TPDES General Permit Number TXR05R964 Part III, Section E Standard Permit Condition 1(a), by failing to implement the storm water pollution prevention plan; PENALTY: \$1,900; ENFORCEMENT COORDINATOR: Jeremy Escobar, (512) 293-1460; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(16) COMPANY: Luna Creek, Limited; DOCKET NUMBER: 2009-0042-EAQ-E; IDENTIFIER: RN105633044; LOCATION: Round Rock, Williamson County; TYPE OF FACILITY: construction site; RULE VIOLATED: 30 TAC §213.4(a)(1), by failing to obtain approval of a water pollution abatement plan (WPAP); PENALTY: \$1,500; ENFORCEMENT COORDINATOR: Harvey Wilson, (512) 293-0321; REGIONAL OFFICE: 2800 South IH 35, Suite 100, Austin, Texas 78704-5700, (512) 339-2929.

(17) COMPANY: NGH GROUP, INC dba Park and Gas; DOCKET NUMBER: 2008-1917-PST-E; IDENTIFIER: RN101874527; LOCATION: North Richland Hills, Tarrant County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.50(b)(2) and the Code, §26.3475(a), by failing to provide release detection for the piping associated with the UST system; 30 TAC §334.50(b)(2)(A)(i)(III) and the Code, §26.3475(a), by failing to test the line leak detectors at least once per year for performance and operational reliability; 30 TAC §334.50(d)(1)(B)(ii) and the Code, §26.3475(c)(1), by failing to conduct reconciliation of detailed inventory control records; 30 TAC §115.245(2) and THSC, §382.085(b), by failing to verify proper operation of Stage II equipment; and 30 TAC §334.49(b)(2) and the Code, §26.3475(d), by failing to provide corrosion protection to all underground components of an UST system by failing to electrically isolate them from the corrosive elements of the surrounding soil, back fill, groundwater, and or other metallic components; PENALTY: \$8,916; ENFORCEMENT COORDINATOR: Tom Greimel, (512) 293-5690; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(18) COMPANY: OBBCO Ranch Corporation; DOCKET NUMBER: 2008-1937-AIR-E; IDENTIFIER: RN105419279; LOCATION: Odessa, Ector County; TYPE OF FACILITY: real property; RULE VIOLATED: THSC, §382.085(b), by allowing contracted entities, without proper permit authorization, to perform sandblasting activities on the respondent's property; PENALTY: \$1,100; ENFORCEMENT COORDINATOR: Kirk Schoppe, (512) 293-0489; REGIONAL OFFICE: 3300 North A Street, Building 4-107, Midland, Texas 79705-5406, (432) 570-1359.

(19) COMPANY: Pavilion Assisted Living, LLC; DOCKET NUMBER: 2008-1949-EAQ-E; IDENTIFIER: RN105635460; LOCATION: Austin, Travis County; TYPE OF FACILITY: construction site; RULE VIOLATED: 30 TAC §213.4(j), by failing to obtain approval of modifications to a WPAP prior to beginning a regulated activity over the Edwards Aquifer Recharge Zone; PENALTY: \$750; ENFORCEMENT COORDINATOR: Harvey Wilson, (512) 293-0321; REGIONAL OFFICE: 2800 South IH 35, Suite 100, Austin, Texas 78704-5700, (512) 339-2929.

(20) COMPANY: Quicksilver Resources, Inc.; DOCKET NUMBER: 2008-1964-WR-E; IDENTIFIER: RN105647614; LOCATION: Mansfield, Tarrant County; TYPE OF FACILITY: gas well site; RULE VIOLATED: 30 TAC §297.11 and the Code, §11.121, by failing to obtain a water right permit prior to diverting, storing, impounding, taking, or using water in the state; PENALTY: \$700; ENFORCEMENT COORDINATOR: Evette Alvarado, (512) 293-2573; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(21) COMPANY: SandRidge CO2, LLC; DOCKET NUMBER: 2008-1695-AIR-E; IDENTIFIER: RN100825306; LOCATION: Midland, Pecos County; TYPE OF FACILITY: compressor station; RULE VIOLATED: 30 TAC §122.145(2)(B), Federal Operating Permit Number 2684, GTC, and THSC, §382.085(b), by failing to submit a semi-annual deviation report; PENALTY: \$11,750; ENFORCEMENT COORDINATOR: Roshondra Lowe, (713) 767-3500; REGIONAL OFFICE: 3300 North A Street, Building 4-107, Midland, Texas 79705-5406, (432) 570-1359.

(22) COMPANY: TOTAL PETROCHEMICALS USA, INC.; DOCKET NUMBER: 2008-1773-AIR-E; IDENTIFIER: RN100212109; LOCATION: La Porte, Harris County; TYPE OF FACILITY: chemical manufacturing; RULE VIOLATED: 30 TAC §116.615(2), Air Permit Number 78962, GC Number 8, and THSC, §382.085(b), by failing to prevent unauthorized emissions; and 30 TAC §101.201(a)(1) and THSC, §382.085(b), by failing to report incident number 107571 within 24 hours after discovery; PENALTY: \$43,103; ENFORCEMENT COORDINATOR: Rebecca Johnson, (361) 825-3100; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(23) COMPANY: VALET ENTERPRISES, INC. dba Olmos Mart; DOCKET NUMBER: 2009-0029-PST-E; IDENTIFIER: RN102251394; LOCATION: San Antonio, Bexar County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.7(d)(3), by failing to notify the agency of any change or additional information regarding the USTs; 30 TAC §334.50(b)(1)(A) and the Code, §26.3475(c)(1), by failing to monitor USTs for releases; 30 TAC §334.50(d)(1)(B)(ii) and the Code, §26.3475(c)(1), by failing to conduct reconciliation of detailed inventory control records; 30 TAC §334.50(d)(1)(B)(iii)(I) and the Code, §26.3475(c)(1), by failing to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day; and 30 TAC §334.48(c), by failing to conduct effective manual or automatic inventory control procedures for the UST system; PENALTY: \$4,500; ENFORCEMENT COORDINATOR: Wallace Myers, (512) 239-6580; REGIONAL

OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(24) COMPANY: Virgil Wayne Wiley; DOCKET NUMBER: 2008-1724-MLM-E; IDENTIFIER: RN105559082; LOCATION: Seguin, Guadalupe County; TYPE OF FACILITY: unauthorized MSW disposal site; RULE VIOLATED: 30 TAC §111.201 and §330.15(c) and THSC, §382.085(b), by failing to comply with the general prohibition on outdoor burning and to prevent the unauthorized disposal of MSW; PENALTY: \$3,486; ENFORCEMENT COORDINATOR: Ross Fife, (512) 239-2541; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(25) COMPANY: City of Wolfe City; DOCKET NUMBER: 2008-1557-PWS-E; IDENTIFIER: RN101387579; LOCATION: Hunt County; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.45(b)(2)(F) and THSC, §341.0315(a), by failing to provide a service pump capacity of at least two gpm per connection; 30 TAC §290.46(m)(4), by failing to ensure that all water treatment units and related appurtenances are maintained in a water tight condition; 30 TAC §290.42(d)(10)(C)(iv), by failing to provide a side wall water depth of at least 12 feet in clarification basins that are not equipped with mechanical sludge removal facilities; 30 TAC §290.42(m), by failing to provide an intruder-resistant fence; 30 TAC §290.46(1), by failing to flush dead-end mains at monthly intervals or as needed if water quality complaints are received; 30 TAC §290.46(s)(1) and (2), by failing to calibrate all flow measuring devices; and 30 TAC §290.46(d)(2)(B), by failing to operate the disinfection equipment to maintain a minimum chloramine residual of 0.5 milligrams per liter throughout the distribution system; PENALTY: \$1,662; ENFORCEMENT COORDINATOR: Tel Croston, (512) 239-5717; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

TRD-200901158

Kathleen C. Decker

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: March 24, 2009



Enforcement Orders

An agreed order was entered regarding Muhammad Altaf dba Country Food Store, Docket No. 2005-0200-PST-E on March 12, 2009 assessing \$19,500 in administrative penalties with \$15,900 deferred.

Information concerning any aspect of this order may be obtained by contacting Xavier Guerra, Staff Attorney at (210) 403-4016, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of El Paso, Docket No. 2005-0994-PST-E on March 12, 2009 assessing \$73,980 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Xavier Guerra, Staff Attorney at (210) 403-4016, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Dallas AOS Enterprises, Inc. dba Saniyas Grocery & Grill, Docket No. 2006-0154-PST-E on March 12, 2009 assessing \$16,800 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Jacquelyn Boutwell, Staff Attorney at (512) 239-5846,

Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Almeda, Inc. dba Downtown Tiger Mart, Docket No. 2006-1727-PST-E on March 12, 2009 assessing \$55,080 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Jacquelyn Boutwell, Staff Attorney at (512) 239-5846, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding "Triumph Christian Center, Inc.", Docket No. 2006-1792-PWS-E on March 12, 2009 assessing \$2,800 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Tracy Chandler, Staff Attorney at (512) 239-0600, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Socorro Alvarado, Docket No. 2007-0254-PST-E on March 12, 2009 assessing \$7,875 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Gary Shiu, Staff Attorney at (713) 422-8916, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Exxon Mobil Corporation, Docket No. 2007-0372-AIR-E on March 12, 2009 assessing \$22,016 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Alfred Oloko, Staff Attorney at (713) 422-8918, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Jorge A. Cavazos, Docket No. 2007-0391-LII-E on March 12, 2009 assessing \$2,500 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Becky Combs, Staff Attorney at (512) 239-6939, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Los Ojuelos Water Company Inc., Docket No. 2007-0396-PWS-E on March 12, 2009 assessing \$684 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Jennifer Cook, Staff Attorney at Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Town of Mustang, Docket No. 2007-0407-MWD-E on March 12, 2009 assessing \$20,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Gary Shiu, Staff Attorney at (713) 422-8916, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Brian Fabre dba Fay Ben Mobile Home Park, Docket No. 2007-0972-PWS-E on March 12, 2009 assessing \$1,612 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Laurencia Fasoyiro, Staff Attorney at (713) 422-8914,

Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Wilmer Powell, Docket No. 2007-0981-MLM-E on March 12, 2009 assessing \$3,150 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Laurencia Fasoyiro, Staff Attorney at (713) 422-8914, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Orange County Development Company, Docket No. 2007-1073-PST-E on March 12, 2009 assessing \$6,500 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Barham Richard, Staff Attorney at (512) 239-0600, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Healthcare & Rehabilitation Center, Inc. (Previously known as Harvest Communities of Houston, Inc.), Docket No. 2007-1078-MWD-E on March 12, 2009 assessing \$15,408 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Gary Shiu, Staff Attorney at (713) 422-8916, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Jim Sparks dba Sparky's Car Salvage No. 2, Docket No. 2007-1153-WQ-E on March 12, 2009 assessing \$2,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Tracy Chandler, Staff Attorney at (512) 239-0600, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Jerry Dean Harris, Docket No. 2007-1312-AGR-E on March 12, 2009 assessing \$2,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Benjamin Thompson, Staff Attorney at (512) 239-0600, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Smith County Recycling, LLC dba Dingler Road Recycling Center, Docket No. 2007-1518-MSW-E on March 12, 2009 assessing \$15,371 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Benjamin Thompson, Staff Attorney at (512) 239-0600, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Frederico Garcia dba My Dream Ballroom, Docket No. 2007-1912-PWS-E on March 12, 2009 assessing \$157 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Laurencia Fasoyiro, Staff Attorney at (713) 422-8914, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Edna L. Rayford, Docket No. 2008-0098-PST-E on March 12, 2009 assessing \$11,550 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Gary Shiu, Staff Attorney at (713) 422-8916, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Goodlow, Docket No. 2008-0104-MWD-E on March 12, 2009 assessing \$41,166 in administrative penalties with \$41,166 deferred.

Information concerning any aspect of this order may be obtained by contacting Heather Brister, Enforcement Coordinator at (254) 761-3034, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Evant, Docket No. 2008-0584-MWD-E on March 12, 2009 assessing \$10,335 in administrative penalties with \$2,067 deferred.

Information concerning any aspect of this order may be obtained by contacting Trina Grieco, Enforcement Coordinator at (210) 403-4006, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Timpson Rural Water Supply Corporation, Docket No. 2008-0720-OSS-E on March 12, 2009 assessing \$570 in administrative penalties with \$114 deferred.

Information concerning any aspect of this order may be obtained by contacting Pam Campbell, Enforcement Coordinator at (512) 239-4493, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding David Montanez dba David Montanez Calf Farm, Docket No. 2008-0732-AGR-E on March 12, 2009 assessing \$3,150 in administrative penalties with \$630 deferred.

Information concerning any aspect of this order may be obtained by contacting Tom Jecha, Enforcement Coordinator at (512) 239-2576, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Terrell, Docket No. 2008-0802-MLM-E on March 12, 2009 assessing \$6,500 in administrative penalties with \$1,300 deferred.

Information concerning any aspect of this order may be obtained by contacting Ross Fife, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Allied Feeds, Inc., Docket No. 2008-0922-AIR-E on March 12, 2009 assessing \$2,640 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Trina Grieco, Enforcement Coordinator at (210) 403-4006, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Eagle Rock Field Services, LP, Docket No. 2008-1019-AIR-E on March 12, 2009 assessing \$8,241 in administrative penalties with \$1,648 deferred.

Information concerning any aspect of this order may be obtained by contacting Jorge Ibarra, Enforcement Coordinator at (817) 588-5890, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding INVISTA S.a.r.l., Docket No. 2008-1055-AIR-E on March 12, 2009 assessing \$32,082 in administrative penalties with \$6,416 deferred.

Information concerning any aspect of this order may be obtained by contacting Miriam Hall, Enforcement Coordinator at (512) 239-1044, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Fort Worth Crushed Stone, L.C., Docket No. 2008-1081-WQ-E on March 12, 2009 assessing \$5,643 in administrative penalties with \$1,128 deferred.

Information concerning any aspect of this order may be obtained by contacting Lauren Smitherman, Enforcement Coordinator at (512) 239-5223, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Gulf Coast Waste Disposal Authority, Docket No. 2008-1115-AIR-E on March 12, 2009 assessing \$6,950 in administrative penalties with \$1,390 deferred.

Information concerning any aspect of this order may be obtained by contacting Bryan Elliott, Enforcement Coordinator at (512) 239-6162, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Harris County Municipal Utility District No. 24, Docket No. 2008-1169-MWD-E on March 12, 2009 assessing \$25,270 in administrative penalties with \$5,054 deferred.

Information concerning any aspect of this order may be obtained by contacting Merrilee Hupp, Enforcement Coordinator at (512) 239-4490, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding ONE STOP FOOD STORES, INC. dba One Stop 43, Docket No. 2008-1191-PST-E on March 12, 2009 assessing \$58,975 in administrative penalties with \$11,795 deferred.

Information concerning any aspect of this order may be obtained by contacting Judy Kluge, Enforcement Coordinator at (817) 588-5825, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding JO PO AND ASSOCIATES, INC. dba Sunwest Grocery Citgo, Docket No. 2008-1208-PST-E on March 12, 2009 assessing \$18,900 in administrative penalties with \$3,780 deferred.

Information concerning any aspect of this order may be obtained by contacting Judy Kluge, Enforcement Coordinator at (817) 588-5825, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Cimarex Energy Co., Docket No. 2008-1267-AIR-E on March 12, 2009 assessing \$3,750 in administrative penalties with \$750 deferred.

Information concerning any aspect of this order may be obtained by contacting Miriam Hall, Enforcement Coordinator at (512) 239-1044, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding West Hardin County Independent School District, Docket No. 2008-1274-MWD-E on March 12, 2009 assessing \$9,579 in administrative penalties with \$1,915 deferred.

Information concerning any aspect of this order may be obtained by contacting Lauren Smitherman, Enforcement Coordinator at (512) 239-5223, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Magnolia, Docket No. 2008-1289-MWD-E on March 12, 2009 assessing \$8,520 in administrative penalties with \$1,704 deferred.

Information concerning any aspect of this order may be obtained by contacting Lanae Foard, Enforcement Coordinator at (512) 239-2554, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Lucite International, Inc., Docket No. 2008-1293-AIR-E on March 12, 2009 assessing \$28,750 in administrative penalties with \$5,750 deferred.

Information concerning any aspect of this order may be obtained by contacting Raymond Marlow, Enforcement Coordinator at (409) 899-8785, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Monsanto Ag Products, LLC, Docket No. 2008-1314-AIR-E on March 12, 2009 assessing \$1,875 in administrative penalties with \$375 deferred.

Information concerning any aspect of this order may be obtained by contacting Jeremy Escobar, Enforcement Coordinator at (512) 239-1460, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Metroplex Retaining Walls, Inc., Docket No. 2008-1334-IWD-E on March 12, 2009 assessing \$17,876 in administrative penalties with \$3,575 deferred.

Information concerning any aspect of this order may be obtained by contacting Tom Jecha, Enforcement Coordinator at (512) 239-2576, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Gatesville, Docket No. 2008-1361-MWD-E on March 12, 2009 assessing \$23,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Heather Brister, Enforcement Coordinator at (254) 761-3034, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding TOTAL PETROCHEMICALS USA, INC., Docket No. 2008-1382-AIR-E on March 12, 2009 assessing \$7,775 in administrative penalties with \$1,555 deferred.

Information concerning any aspect of this order may be obtained by contacting Raymond Marlow, Enforcement Coordinator at (409) 899-8785, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Belvan Corp., Docket No. 2008-1389-AIR-E on March 12, 2009 assessing \$133,900 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Trina Grieco, Enforcement Coordinator at (210) 403-4006, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Diamond Water Company dba River Bend Estates, Docket No. 2008-1392-PWS-E on March 12, 2009 assessing \$280 in administrative penalties with \$56 deferred.

Information concerning any aspect of this order may be obtained by contacting Amanda Henry, Enforcement Coordinator at (713) 767-3672, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Glenwood Water Supply Corporation, Docket No. 2008-1393-PWS-E on March 12, 2009 assessing \$3,003 in administrative penalties with \$600 deferred.

Information concerning any aspect of this order may be obtained by contacting Epifanio Villarreal, Enforcement Coordinator at (361) 825-3425, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Formosa Plastics Corporation, Texas, Docket No. 2008-1412-AIR-E on March 12, 2009 assessing \$7,425 in administrative penalties with \$1,485 deferred.

Information concerning any aspect of this order may be obtained by contacting Suzanne Walrath, Enforcement Coordinator at (512) 239-2134, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Acme Brick Company, Docket No. 2008-1418-AIR-E on March 12, 2009 assessing \$3,850 in administrative penalties with \$770 deferred.

Information concerning any aspect of this order may be obtained by contacting Kirk Schoppe, Enforcement Coordinator at (512) 239-0489, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Hyman Farm Service, LLC, Docket No. 2008-1423-AIR-E on March 12, 2009 assessing \$6,150 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Terry Murphy, Enforcement Coordinator at (512) 239-5025, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Raytheon Company, Docket No. 2008-1431-AIR-E on March 12, 2009 assessing \$10,000 in administrative penalties with \$2,000 deferred.

Information concerning any aspect of this order may be obtained by contacting Cheryl Thompson, Enforcement Coordinator at (817) 588-5886, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Elvan Management, Inc. dba Elvan's Granbury Chevron, Docket No. 2008-1443-PST-E on March 12, 2009 assessing \$6,498 in administrative penalties with \$1,299 deferred.

Information concerning any aspect of this order may be obtained by contacting Judy Kluge, Enforcement Coordinator at (817) 588-5825, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Cranfills Gap, Docket No. 2008-1445-PWS-E on March 12, 2009 assessing \$787 in administrative penalties with \$157 deferred.

Information concerning any aspect of this order may be obtained by contacting Yuliya Dunaway, Enforcement Coordinator at (210) 490-3096, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Linde Gas North America, LLC, Docket No. 2008-1455-AIR-E on March 12, 2009 assessing \$3,875 in administrative penalties with \$775 deferred.

Information concerning any aspect of this order may be obtained by contacting Raymond Marlow, Enforcement Coordinator at (409) 899-8785, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Chevron Phillips Chemical Company LP, Docket No. 2008-1457-AIR-E on March 12, 2009 assessing \$8,500 in administrative penalties with \$1,700 deferred.

Information concerning any aspect of this order may be obtained by contacting Rebecca Johnson, Enforcement Coordinator at (361) 825-3420, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Enstor Katy Storage and Transportation, LP, Docket No. 2008-1484-AIR-E on March 12, 2009 assessing \$3,850 in administrative penalties with \$770 deferred.

Information concerning any aspect of this order may be obtained by contacting Trina Grieco, Enforcement Coordinator at (210) 403-4006, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Bosqueville Green Acres Water Supply Corporation, Docket No. 2008-1532-PWS-E on March 12, 2009 assessing \$1,474 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Christopher Keffer, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding KMCO, LP, Docket No. 2008-1543-AIR-E on March 12, 2009 assessing \$10,222 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Miriam Hall, Enforcement Coordinator at (512) 239-1044, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding South Rusk County Water Supply Corporation, Docket No. 2008-1551-PWS-E on March 12, 2009 assessing \$1,333 in administrative penalties with \$266 deferred.

Information concerning any aspect of this order may be obtained by contacting Amanda Henry, Enforcement Coordinator at (713) 767-3672, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding American Acryl LP, Docket No. 2008-1553-AIR-E on March 12, 2009 assessing \$3,625 in administrative penalties with \$725 deferred.

Information concerning any aspect of this order may be obtained by contacting Roshondra Lowe, Enforcement Coordinator at (713) 767-3553, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding E. I. du Pont de Nemours and Company, Docket No. 2008-1571-AIR-E on March 12, 2009 assessing \$5,450 in administrative penalties with \$1,090 deferred.

Information concerning any aspect of this order may be obtained by contacting Terry Murphy, Enforcement Coordinator at (512) 239-5025, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding KM Liquids Terminals LLC, Docket No. 2008-1588-AIR-E on March 12, 2009 assessing \$10,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Roshondra Lowe, Enforcement Coordinator at (713) 767-3553, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Bethany Hearne Water Supply Corporation, Docket No. 2008-1653-PWS-E on March 12, 2009 assessing \$154 in administrative penalties with \$30 deferred.

Information concerning any aspect of this order may be obtained by contacting Richard Croston, Enforcement Coordinator at (512) 239-5717, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Groesbeck, Docket No. 2008-1663-MWD-E on March 12, 2009 assessing \$2,580 in administrative penalties with \$516 deferred.

Information concerning any aspect of this order may be obtained by contacting Pam Campbell, Enforcement Coordinator at (512) 239-4493, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Costco Wholesale Corporation dba Costco Gasoline Station 636, Docket No. 2008-1677-PST-E on March 12, 2009 assessing \$5,601 in administrative penalties with \$1,120 deferred.

Information concerning any aspect of this order may be obtained by contacting Michael Pace, Enforcement Coordinator at (817) 588-5933, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Mullin Independent School District, Docket No. 2008-1711-PWS-E on March 12, 2009 assessing \$552 in administrative penalties with \$110 deferred.

Information concerning any aspect of this order may be obtained by contacting Stephen Thompson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Avalon Water Supply and Sewer Service Corporation, Docket No. 2008-1716-MWD-E on March 12, 2009 assessing \$9,950 in administrative penalties with \$1,990 deferred.

Information concerning any aspect of this order may be obtained by contacting Heather Brister, Enforcement Coordinator at (254) 761-3034, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Texas Department of Transportation, Docket No. 2008-1735-MWD-E on March 12, 2009 assessing \$6,380 in administrative penalties with \$1,276 deferred.

Information concerning any aspect of this order may be obtained by contacting Jennifer Graves, Enforcement Coordinator at (956) 430-6023, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding E. E. Hood & Sons, Inc., Docket No. 2008-1746-EAQ-E on March 12, 2009 assessing \$33,750 in administrative penalties with \$6,750 deferred.

Information concerning any aspect of this order may be obtained by contacting Lauren Smitherman, Enforcement Coordinator at (512) 239-5223, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Bridgeport, Docket No. 2008-1747-MWD-E on March 12, 2009 assessing \$4,795 in administrative penalties with \$959 deferred.

Information concerning any aspect of this order may be obtained by contacting Tom Jecha, Enforcement Coordinator at (512) 239-2576, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Flowers Baking Company of Tyler, LLC, Docket No. 2008-1762-AIR-E on March 12, 2009 assessing \$1,925 in administrative penalties with \$385 deferred.

Information concerning any aspect of this order may be obtained by contacting John Muennink, Enforcement Coordinator at (361) 825-3423, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Mira Vista, Inc., Docket No. 2008-1796-WQ-E on March 12, 2009 assessing \$2,000 in administrative penalties with \$400 deferred.

Information concerning any aspect of this order may be obtained by contacting Tom Jecha, Enforcement Coordinator at (512) 239-2576, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding CORNERBROOK CONSTRUCTION, LP dba Summerbrooke Apartments, Docket No. 2008-1508-WQ-E on March 12, 2009 assessing \$700 in administrative penalties.

Information concerning any aspect of this citation may be obtained by contacting Melissa Keller, SEP Coordinator at (512) 239-1768, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding RIDGECREST, INC. dba Ridgecrest Bluffs South, Docket No. 2008-1515-WQ-E on March 12, 2009 assessing \$700 in administrative penalties.

Information concerning any aspect of this citation may be obtained by contacting Melissa Keller, SEP Coordinator at (512) 239-1768, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Edge Concepts, LLC, Docket No. 2008-1518-WQ-E on March 12, 2009 assessing \$700 in administrative penalties.

Information concerning any aspect of this citation may be obtained by contacting Melissa Keller, SEP Coordinator at (512) 239-1768, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Kendrick Oil Company dba Buddy's, Docket No. 2008-1522-PST-E on March 12, 2009 assessing \$875 in administrative penalties.

Information concerning any aspect of this citation may be obtained by contacting Melissa Keller, SEP Coordinator at (512) 239-1768, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding PARADISE MANUFACTURING COMPANY, INC., Docket No. 2008-1535-WQ-E on March 12, 2009 assessing \$700 in administrative penalties.

Information concerning any aspect of this citation may be obtained by contacting Melissa Keller, SEP Coordinator at (512) 239-1768, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Kevin Dunham, Docket No. 2008-1577-WOC-E on March 12, 2009 assessing \$210 in administrative penalties.

Information concerning any aspect of this citation may be obtained by contacting Melissa Keller, SEP Coordinator at (512) 239-1768, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding JORDAN PAVING CORPORATION, Docket No. 2008-1581-WQ-E on March 12, 2009 assessing \$700 in administrative penalties.

Information concerning any aspect of this citation may be obtained by contacting Melissa Keller, SEP Coordinator at (512) 239-1768, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Mark Stewart and Dona Stewart dba Stewart Water, Docket No. 2007-1805-PWS-E on March 13, 2009 assessing \$8,601 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Barham Richard, Staff Attorney at (512) 239-0107, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-200901182
LaDonna Castañuela
Chief Clerk
Texas Commission on Environmental Quality
Filed: March 25, 2009



Notice of Correction - Addendum to Default Order, Docket Number 2008-1668-PST-E

In the March 20, 2009, issue of the *Texas Register* (34 TexReg 2011), the Texas Commission on Environmental Quality (commission or TCEQ) published a Notice of Opportunity to Comment on Default Orders of Administrative Enforcement Actions.

Concerning Item Number 8, Javier B. Armendariz; DOCKET NUMBER: 2008-1668-PST-E, the commission inadvertently changed the following penalty amount as part of the initial notice.

COMPANY: Javier B. Armendariz; DOCKET NUMBER: 2008-1668-PST-E; TCEQ ID NUMBER: RN101835726; LOCATION: 1112 South Dixie Boulevard, Odessa, Ector County; TYPE OF FACILITY: abandoned mechanic shop/car wash facility; RULES VIOLATED: 30 TAC §334.50(b)(1)(A), Texas Water Code (TWC), §26.3475(c)(1), and TCEQ Agreed Order, Docket Number 2006-1902-PST-E, Ordering Provisions Number 2.a.i, by failing to monitor underground storage tanks (USTs) for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); 30 TAC §334.49(a), TWC, §26.3475(d), and TCEQ Agreed Order, Docket Number 2006-1902-PST-E, Ordering Provisions Number 2.a.ii., by failing to provide proper corrosion protection for the UST system; and TCEQ Agreed Order, Docket Number 2006-1902-PST-E, Ordering Provision Number 1, by failing to timely and satisfactorily comply with the administrative penalty payment requirements and late fees associated with the penalty; PENALTY: \$16,625; STAFF ATTORNEY: Phillip Goodwin, Litigation Division, MC 175, (512) 239-0675; REGIONAL OFFICE: Midland Regional Office, 3300 North A Street, Building 4, Suite 107, Midland, Texas 79705-5404, (915) 570-1359.

TRD-200901159
Kathleen C. Decker
Director, Litigation Division
Texas Commission on Environmental Quality
Filed: March 24, 2009



Notice of District Petition

Notice issued March 17, 2009.

TCEQ Internal Control No. 10072008-D01; The petition was signed by Mr. Wilford R. Cardon, Manager, of the Cardon Group, L.L.C., an Arizona limited liability company on behalf of Boa Sorte limited partnership, an Arizona limited partnership, Charlesview, L.L.C, an Arizona limited partnership, Texas Reunion, L.L.L.P., an Arizona limited liability limited partnership, SPG-Stratford III, L.L.L.P., an Arizona limited liability limited partnership, SPG-Wheatley, L.L.L.P., an Arizona limited liability limited partnership, SPG-RW, L.L.L.P., an Arizona limited liability limited partnership, SLPR, L.L.C., an Arizona limited liability company, SPG-Masterson, L.L.L.P., an Arizona limited liability limited partnership, R.D. Hubbard, SPG-Woodard, L.L.L.P., an Arizona limited liability limited partnership, Arizona Lemonade Springs, L.L.L.P., an Arizona limited liability limited partnership (Petitioners) filed a petition for creation of Montgomery County Municipal Utility District No. 125 (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 holder of title to 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 873.3064 acres located within Montgomery County, Texas; and (4) 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. 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 \$85,600,000 for water, wastewater and drainage facilities, \$5,320,000 for recreational facilities, and \$12,575,000 for road facilities.

INFORMATION SECTION

To view the complete issued notice, view the notice on our web site at www.tceq.state.tx.us/comm_exec/cc/pub_notice.html 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 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, Texas 78711-3087. For information concerning the hearing process, please contact the

Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en Español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our web site at www.tceq.state.tx.us.

TRD-200901181

LaDonna Castañuela

Chief Clerk

Texas Commission on Environmental Quality

Filed: March 25, 2009



Notice of Opportunity to Comment on Agreed Orders of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. Section 7.075 requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. Section 7.075 requires that notice of the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **May 4, 2009**. Section 7.075 also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the attorney designated for the AO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on May 4, 2009**. Comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The designated attorney is available to discuss the AO and/or the comment procedure at the listed phone number; however, §7.075 provides that comments on an AO shall be submitted to the commission in **writing**.

(1) COMPANY: ExxonMobil Oil Corporation; DOCKET NUMBER: 2005-0228-AIR-E; TCEQ ID NUMBER: RN102450756; LOCATION: 1795 Burt Street, Beaumont, Jefferson County; TYPE OF FACILITY: petroleum refinery; RULES VIOLATED: 30 TAC §101.201(a)(2)(F), (G), (b)(7), and (9), and Texas Health and Safety Code (THSC), §382.085(b), by failing to properly report on a September 28, 2003, shut down requiring two reports and seven other reports on emissions events beginning on September 4 - December 22, 2003; 30 TAC §116.110(a)(1) and THSC, §382.085(b), by failing to prevent unauthorized emissions during an emissions event in the Catalyst HydroDesulfurization - 1 Flare that began on September 23, 2003, and lasted two hours 23 minutes, releasing 1,113.40 pounds (lbs) of Hydrogen Sulfide (H₂S); 30 TAC §116.110(a)(1) and THSC, §382.085(b), by failing to prevent unauthorized emissions during an emissions event in the Gas Plant 5 East (GP5E) Unit Debutanizer Tower that began on October 8, 2003, and lasted two hours 51 minutes, releasing 162,511.4 lbs of butane, 165,029.5 lbs of n-isobutane, and

89.62 lbs of nitrogen oxide (NO_x); 30 TAC §101.201(a)(1)(B) and (c) and THSC, §382.085(b), by failing to properly report within 24 hours of an emissions event at the fluid catalytic cracking unit (FCCU) discovered on November 11, 2003, at 19:10, but not reported to the TCEQ until November 14, 2003, at 21:01; and an emissions event at the Flare Gas Recovery (FGR) Unit discovered on February 11, 2004, at 09:10, but not reported until February 12, 2004, at 14:24; 30 TAC §101.20(3) and §116.116(a)(1), TCEQ Air Permit Number 18425 (application representation), and THSC, §382.085(b), by failing to prevent unauthorized emissions from the FGR Unit that began on February 11, 2004, at 09:10 hours and lasted till 16:40 (7 hours 30 minutes) releasing 28.18 lbs of H₂S; and 30 TAC §112.3(c) and THSC, §382.085(b), but failing to prevent unauthorized emissions during an emissions event at the Sulfur Plant 3 that began on March 9, 2004, and lasted 1 hour and 23 minutes, releasing 50.00 lbs of carbon monoxide (CO), 516.47 lbs of H₂S, 6.95 lbs of NO_x, 49,374.20 lbs sulfur dioxide (SO₂), and 19.98 lbs of volatile organic compound (VOC); PENALTY: \$22,194; STAFF ATTORNEY: Lena Roberts, Litigation Division, MC 175, (512) 239-0019; REGIONAL OFFICE: Beaumont Regional Office, 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(2) COMPANY: Leopoldo E. Galindo dba Leo's Tire Service aka Crane Texaco; DOCKET NUMBER: 2008-0258-PST-E; TCEQ ID NUMBER: RN102043932; LOCATION: 332 South Gaston Street, Crane, Crane County; TYPE OF FACILITY: tire service; RULES VIOLATED: 30 TAC §334.47(a)(2), by failing to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, an underground storage tank (UST) system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements; PENALTY: \$2,625; STAFF ATTORNEY: Peipey Tang, Litigation Division, MC 175, (512) 239-0654; REGIONAL OFFICE: Midland Regional Office, 3300 North A Street, Building 4, Suite 107, Midland, Texas 79705-5404, (915) 570-1359.

(3) COMPANY: Lucite International, Inc.; DOCKET NUMBER: 2007-1876-AIR-E; TCEQ ID NUMBER: RN102736089; LOCATION: 6350 North Twin City Highway, Nederland, Jefferson County; TYPE OF FACILITY: industrial organic chemical plant; RULES VIOLATED: 30 TAC §§113.120, 115.112(a)(1), and 122.143(4), 40 Code of Federal Regulations (CFR) §63.120(d)(5), Federal Operating Permit (FOP) Number O-01960, General Terms and Conditions (GTC), and Special Conditions (SC) 1A, 1E, 4, and 19, New Source Review (NSR) Air Permit Number 1743, SC 2 and 10, and THSC, §382.085(b), by failing to maintain the required water flow to scrubbers ACR/ABS156, ACR/ABS61, ACR/ABS159, and ACR/ABS218; 30 TAC §§113.120, 116.115(c), and 122.143(4), 40 CFR §63.120(d)(5), FOP Number O-01960 GTC, SC 1A, 1E, and 19, NSR Air Permit Number 1743, SC 2 and 12, and THSC, §382.085(b), by failing to maintain the daily average temperature of incinerator ACR/INC60 above the established minimum limit; 30 TAC §§113.120, 116.115(c), and 122.143(4), 40 CFR §63.120(d)(5), FOP Number O-01960, GTC, SC 1A, 1E, and 19, NSR Air Permit Number 1743, SC 2, and 12, and THSC, §382.085(b), by failing to maintain the daily average temperature of vapor combustor ACR/VC51 above the established minimum limit; 30 TAC §§101.20(3), 116.115(b)(2)(F) and (c), and 112.143(4), FOP Number O-01437, GTC, SC 12, NSR Air Permit Number 19005/PSD-TX-753, SC 1, and THSC, §382.085(b), by failing to maintain emission rates below the allowable emission limits for SO₂; and 30 TAC §116.115(c), Air Permit Number 1743, Special Condition 1, and THSC, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$50,250; Supplemental Environmental Project (SEP) offset amount of \$25,125 applied to Jefferson County - Retrofit/Replace Heavy Equipment and Vehicles with Alternative-Fu-

eled Equipment and Vehicles; STAFF ATTORNEY: Lena Roberts, Litigation Division, MC 175, (512) 239-0019; REGIONAL OFFICE: Beaumont Regional Office, 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(4) COMPANY: MSMS, Inc. dba Golden Stop; DOCKET NUMBER: 2008-1158-PST-E; TCEQ ID NUMBER: RN101567725; LOCATION: 1025 Dallas Drive, Denton, Denton County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §115.245(2) and THSC, §382.085(b), by failing to verify proper operation of the Stage II equipment at least once every 12 months; 30 TAC §115.242(3)(A) and §115.242(1)(C) and THSC, §382.085(b), by failing to upgrade the Stage II equipment to onboard refueling vapor recovery (ORVR) compatible systems and maintain all components of the Stage II vapor recovery system in proper operating condition as specified by the manufacturer and/or any applicable California Air Resources Board (CARB) Executive Order(s), and free of defects that would impair the effectiveness of the system; 30 TAC §115.248(1) and THSC, §382.085(b), by failing to ensure that at least one station representative received training and instruction in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery training regarding the purpose and correct operation of the Stage II equipment; 30 TAC §334.10(b), by failing to maintain UST records and make them immediately available for inspection upon request by agency personnel; 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor USTs for release at a frequency of at least once every month (not to exceed 35 days between each monitoring); 30 TAC §334.51(a)(6) and TWC, §26.3475(c)(2), by failing to ensure that all spill and overflow prevention devices are maintained in good operating condition; PENALTY: \$12,300; STAFF ATTORNEY: Phillip Goodwin, Litigation Division, MC 175, (512) 239-0675; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(5) COMPANY: Quest Laboratories, Inc. dba Quest Diagnostics; DOCKET NUMBER: 2005-0021-MLM-E; TCEQ ID NUMBER: RN104321369; LOCATION: 5850 Rogerdale Road, Houston, Harris County; TYPE OF FACILITY: analytical laboratory for patient specimens gathered from doctors' offices, clinics, and patient service centers; RULES VIOLATED: 30 TAC §330.4(b) and §330.5(a), by failing to obtain authorization for acceptance of untreated medical waste; 30 TAC §335.62 and 40 CFR §262.11, by failing to determine if a waste is hazardous pursuant to 30 TAC §335.504 (relating to Hazardous Waste Determination); 30 TAC §335.69(a)(2) and 40 CFR §262.34(a)(2), by failing to ensure that the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container; 30 TAC §335.69(a)(3) and 40 CFR §262.34(a)(3), by failing to ensure that each container and tank is labeled or marked clearly with the words "Hazardous Waste;" 30 TAC §335.69(d)(1) and 40 CFR §265.173(a), by failing to ensure that a container holding hazardous waste is always closed during storage, except when it is necessary to add or remove waste; 30 TAC §335.69(d)(2) and 40 CFR §262.34(c)(1)(ii), by failing to mark containers with either the words Hazardous Waste or with other words that identify the contents of the containers; 30 TAC §335.9(a)(1)(G), by failing to maintain records to support the location of all hazardous waste accumulation areas; 30 TAC §335.10(b)(22), by failing to include the TCEQ waste classification code assigned to the waste by the generator in the hazardous waste manifest; 30 TAC §335.431(c) and 40 CFR §268.7(a)(5), by failing to develop and follow a written waste analysis plan which describes the procedures that will be followed to comply with treatment standards; 30 TAC §335.69(a)(4) and 40 CFR §265.37(a)(1) and (4), by failing to familiarize police, fire departments, emergency response teams, and hospitals with the layout of the facility, properties of hazardous waste

handled at the facility, associated hazards, the location where facility personnel would be working, entrances to roads inside the facility, possible evacuation routes and the types of injuries or illnesses which could result from fires, explosions, or releases from the facility; and 30 TAC §335.475, by failing to develop a pollution prevention plan; PENALTY: \$51,000; STAFF ATTORNEY: Xavier Guerra, Litigation Division, MC 175, (210) 403-4016; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023, (713) 767-3500.

(6) COMPANY: Sarn Management, Inc. dba Toor Food Mart; DOCKET NUMBER: 2005-1795-PST-E; TCEQ ID NUMBER: RN101432466; LOCATION: 899 Main Street, Liberty, Liberty County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.10(b), by failing to maintain all UST records at the facility and make available for inspection to commission personnel upon request; 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; and 30 TAC §334.50(d)(1)(B)(ii) and TWC, §26.3475(c)(1), by failing to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons; PENALTY: \$5,152; STAFF ATTORNEY: Phillip Goodwin, Litigation Division, MC 175, (512) 239-0675; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023, (713) 767-3500.

(7) COMPANY: Solutia, Inc.; DOCKET NUMBER: 2008-0062-AIR-E; TCEQ ID NUMBER: RN100238682; LOCATION: Farm-to-Market (FM) Road 2917, approximately eight miles south of the intersection of Texas Highway 35 and FM 2917, Brazoria County; TYPE OF FACILITY: organic chemical production plant; RULES VIOLATED: 30 TAC §116.115(c), Permit Number 38336 SC Number 4, and THSC, §382.085(b), by failing to comply with a permit limit of 4.50 lbs/hr for NO_x emissions from the AN-7 Process Air Startup Heater (70H101-1); 30 TAC §117.8000 and THSC, §382.085(b), by failing to test for compliance with the CO emission limits for 70H101-1 during the reference method stack test conducted on February 19, 2007; 30 TAC §§122.143(4), 122.145(2)(A), and 122.146(1); Operating Permit Number O-02319, GTC, THSC, §382.085(b), by failing to submit the Annual Compliance Certification for the period beginning November 29, 2004 - November 25, 2005, with the required certification language; 30 TAC §116.115(c), Air Permit Number 18251, SC Number 4, and THSC, §382.085(b), by failing to prevent unauthorized emissions; 30 TAC §101.201(a)(1)(B) and THSC, §382.085(b), by failing to submit the initial notification within 24 hours of discovery of an emissions event that started on August 5, 2007; 30 TAC §116.115(c), Air Permit Number 18251, SC Number 4, and THSC, §382.085(b), by failing to prevent an unauthorized emissions event which occurred on September 26, 2007; 30 TAC §116.115(c), Air Permit Number 18251, SC Number 4, and THSC, §382.085(b), by failing to prevent an unauthorized emissions event which occurred on October 30, 2007; 30 TAC §101.20(3) and §116.115(c), THSC, §382.085(b) and Permit Number 38336/PSD-TX-910, SC Number 4, by failing to comply with permitted emission limits on March 28, 2008; 30 TAC §116.115(c), THSC, §382.085(b), and Permit Number 18251, SC Number 4, by failing to prevent unauthorized emissions events which occurred on February 29, 2008; 30 TAC §116.115(c), THSC, §382.085(b), and Permit Number 18251, SC Number 4, by failing to prevent unauthorized emissions events which occurred on March 2, 2008; 30 TAC §116.115(c), THSC, §382.085(b), and Permit Number 18251, SC Number 4, by failing to prevent unauthorized emissions events which occurred on March 27,

2008; 30 TAC §101.201(b)(1) and THSC, §382.085(b), by failing to properly report an emissions event which occurred on March 27, 2008; 30 TAC §116.115(c), THSC, §382.085(b), and Permit Number 18251, SC Number 4, by failing to prevent unauthorized emissions on November 26, 2007, when the secondary backup pump, Pump 250P1-3 failed to start automatically when the primary boiler feed water pump, Pump 350P1-2 failed; and 30 TAC §116.115(c), THSC, §382.085(b), and Permit Number 6534, SC Number 1, by failing to comply with the combined maximum allowable emission rate (MAER) for NO_x for seven Linear Alkyl Benzene (LAB) Unit heaters during stack testing conducted on February 27 - 28, March 1 - 2, and 14, 2007; PENALTY: \$117,048; SEP offset amount of \$58,524 applied to Houston-Galveston Area Emission Reduction Credit Organization Clean Cities/Clean Vehicles; STAFF ATTORNEY: Jennifer Cook, Litigation Division, MC 175, (512) 239-1873; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023, (713) 767-3500.

TRD-200901166

Kathleen C. Decker

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: March 24, 2009



Notice of Opportunity to Comment on Default Orders of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Default Orders (DOs). The commission staff proposes a DO when the staff has sent an executive director's preliminary report and petition (EDPRP) to an entity outlining the alleged violations; the proposed penalty; and the proposed technical requirements necessary to bring the entity back into compliance; and the entity fails to request a hearing on the matter within 20 days of its receipt of the EDPRP or requests a hearing and fails to participate at the hearing. Similar to the procedure followed with respect to Agreed Orders entered into by the executive director of the commission, in accordance with Texas Water Code (TWC), §7.075 this notice of the proposed order and the opportunity to comment is published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **May 4, 2009**. The commission will consider any written comments received and the commission may withdraw or withhold approval of a DO if a comment discloses facts or considerations that indicate that consent to the proposed DO is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction, or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed DO is not required to be published if those changes are made in response to written comments.

A copy of each proposed DO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about the DO should be sent to the attorney designated for the DO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on May 4, 2009**. Comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The commission's attorneys are available to discuss the DOs and/or the comment procedure at the listed phone numbers; however, §7.075 provides that comments on the DOs shall be submitted to the commission in **writing**.

(1) COMPANY: AZY Corporation, Inc.; DOCKET NUMBER: 2008-1279-PST-E; TCEQ ID NUMBER: RN102893492; LOCA-

TION: 14623 Buffalo Speedway Houston, Harris County; TYPE OF FACILITY: convenience store; RULES VIOLATED: 30 TAC §334.47(a)(2), by failing to permanently remove two underground storage tanks (USTs) from service; PENALTY: \$10,500; STAFF ATTORNEY: Phillip Goodwin, Litigation Division, MC 175, (512) 239-0675; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023, (713) 767-3500.

(2) COMPANY: Alejandro Romo; DOCKET NUMBER: 2008-1156-MSW-E; TCEQ ID NUMBER: RN105496913; LOCATION: north side of State Highway 204 near Ponta, Cherokee County; TYPE OF FACILITY: unauthorized scrap tire storage facility; RULES VIOLATED: 30 TAC §328.56(d)(2), by failing to obtain a scrap tire storage site registration for the facility prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in containers; PENALTY: \$5,000; STAFF ATTORNEY: Tommy Tucker Henson II, Litigation Division, MC 175, (512) 239-0946; REGIONAL OFFICE: Tyler Regional Office, 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(3) COMPANY: Bert Brymer; DOCKET NUMBER: 2007-1271-PST-E; TCEQ ID NUMBER: RN101537504; LOCATION: 206 West Farm-to-Market (FM) Road 120, Pottsboro, Grayson County; TYPE OF FACILITY: property; RULES VIOLATED: 30 TAC §334.47(a)(2), by failing to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, five USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements; PENALTY: \$13,125; STAFF ATTORNEY: Rudy Calderon, Litigation Division, MC 175, (512) 239-0265; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(4) COMPANY: Cain Addition Homeowners Association CAHA; DOCKET NUMBER: 2008-0975-PWS-E; TCEQ ID NUMBER: RN105504567; LOCATION: County Road 2327, Kleberg County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.42(b)(1), by failing to provide disinfection facilities for microbiological control and distribution protection; and 30 TAC §290.39(m), (c)(3)(A) and (B), and Texas Health and Safety Code (THSC), §341.035(c), by failing to provide written notification to the commission of the startup of a new public water system and by failing to provide plans and specifications, and a business plan for the water system; PENALTY: \$1,850; STAFF ATTORNEY: Laurencia Fasoyiro, Litigation Division, MC R-12, (713) 422-8914; REGIONAL OFFICE: Corpus Christi Regional Office, 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5839, (361) 825-3100.

(5) COMPANY: Clarence Reeves dba Pleasant Ridge Addition and Timber Creek Addition; DOCKET NUMBER: 2008-0929-PWS-E; TCEQ ID NUMBER: RN101175552 (Facility 1) and RN101272433 (Facility 2); LOCATION: one mile north of United States (US) Highway 82 at FM Road 3902, Sadler, Cooke County (Facility 1) and north side of US Highway 82, 1.4 miles east of FM Road 678, Sadler, Cooke County (Facility 2); TYPE OF FACILITY: public water supply (Facility 1 and 2); RULES VIOLATED: 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 1st of each year; and by failing to submit a copy of the annual CCR and certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with compliance monitoring data to the TCEQ by July 1st of each year; 30 TAC §290.51(a)(6), by failing to pay all outstanding Public Health Service (PHS) fees and late fees for TCEQ Financial Administration (FA) Account Number 90490041 for Fiscal Years 1994 - 2008; 30 TAC §290.271(b) and §290.274(a) and (c), by failing to mail or directly deliver one copy of the CCR

to each bill paying customer by July 1st of each year and failing to submit a copy of the annual CCR and certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with compliance monitoring data to the TCEQ by July 1st of each year; and 30 TAC §290.51(a)(6), by failing to pay all outstanding PHS fees and late fees for TCEQ FA Account Number 90490030 for Fiscal Years 1994 - 2008; PENALTY: \$3,117; STAFF ATTORNEY: Jacquelyn Boutwell, Litigation Division, MC 175, (512) 239-5846; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(6) COMPANY: JMJ Organics Ltd; DOCKET NUMBER: 2008-0964-MSW-E; TCEQ ID NUMBER: RN105112874; LOCATION: 13610 Reeveston Road, Houston, Harris County; TYPE OF FACILITY: wood recycling operation; RULES VIOLATED: 30 TAC §328.5(f)(2)(B), by failing to maintain all records necessary to show training of staff in the inspection of incoming loads to ensure that they contain no more than 10% incidental non-recyclable waste; 30 TAC §332.8(c)(1), by failing to have a setback distance of at least 50 feet from all property boundaries to the edge of the area receiving, processing, or storing feedstock or finished product; and 30 TAC §328.5(d), by failing to establish and maintain financial assurance for the closure of a recycling facility that stores combustible materials (mulch and wood waste) outdoors; PENALTY: \$6,539; STAFF ATTORNEY: Laurencia Fasoyiro, Litigation Division, MC R-12, (713) 422-8914; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023, (713) 767-3500.

(7) COMPANY: J.R.'s Concrete Incorporated; DOCKET NUMBER: 2008-0658-WQ-E; TCEQ ID NUMBER: RN105223481; LOCATION: 212 Interstate Loop, Williamson County; TYPE OF FACILITY: batch plant and clean out pits; RULES VIOLATED: 30 TAC §281.25(a)(4) and 40 Code of Federal Regulations (CFR) §122.26(c), by failing to obtain coverage to discharge wash-water from a concrete batch plant under Texas Pollutant Discharge Elimination System (TPDES) Permit Number TXG110000; and TWC, §26.121(a), by failing to prevent the unauthorized discharge of sediment into or adjacent to water in the State; PENALTY: \$5,400; STAFF ATTORNEY: James Sallans, Litigation Division, MC 175, (512) 239-2053; REGIONAL OFFICE: Austin Regional Office, 2800 South Interstate Highway 35, Suite 100, Austin, Texas 78704-5712, (512) 339-2929.

(8) COMPANY: Julio S. Alonso and Maria I. Alonso dba A-1 Metal Finishing & Polishing; DOCKET NUMBER: 2008-0317-MLM-E; TCEQ ID NUMBER: RN105367312; LOCATION: 4206 Lonesome Trail, Von Ormy, Bexar County; TYPE OF FACILITY: metal plating facility; RULES VIOLATED: 30 TAC §335.4(1) and TWC, §26.121(a)(1), by failing to prevent the discharge of industrial waste into or adjacent to waters in the State; 30 TAC §335.69(b) and 40 CFR §262.34(a), by failing to ensure that hazardous waste is not accumulated on-site for more than 90 days without a permit; 30 TAC §335.62, by failing to conduct hazardous waste determinations; 30 TAC §335.69(d)(1) and 40 CFR §264.173(a), by failing to ensure containers of hazardous waste are always closed during storage, except when it is necessary to add or remove waste and by failing to label or mark containers with either the words "Hazardous Waste" or other words identifying the contents of the containers; 30 TAC §116.110(a) and THSC, §382.0518(a) and §382.085(b), by failing to obtain permit authorization prior to engaging in activities in which air contaminants are emitted as documented during an investigation conducted on October 24, 2007; and 30 TAC §335.6(c), by failing to notify the executive director concerning the generation of hazardous waste; PENALTY: \$9,500; STAFF ATTORNEY: Stephanie J. Frazee, Litigation Division, MC 175, (512) 239-3693; REGIONAL OFFICE:

San Antonio Regional Office, 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(9) COMPANY: Lometa Davis; DOCKET NUMBER: 2008-1015-PST-E; TCEQ ID NUMBER: RN102277167; LOCATION: 511 South Divide, Eldorado, Schleicher County; TYPE OF FACILITY: formerly used as a gas station; RULES VIOLATED: 30 TAC §334.47(a)(2), by failing to permanently remove from service, no later than 60 days after the prescribed implementation date, three USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements; and 30 TAC §334.7(d)(3), by failing to update self-certification registration to reflect changes to the system; PENALTY: \$17,600; STAFF ATTORNEY: Tommy Tucker Henson II, Litigation Division, MC 175, (512) 239-0946; REGIONAL OFFICE: San Angelo Regional Office, 622 South Oakes, Suite K, San Angelo, Texas 76903-7013, (915) 655-9479.

(10) COMPANY: M. L. Stringer; DOCKET NUMBER: 2008-0257-PST-E; TCEQ ID NUMBER: RN101548774; LOCATION: Interstate 45 at Exit 221, south of Angus, Navarro County; TYPE OF FACILITY: inactive USTs; RULES VIOLATED: 30 TAC §334.7(a)(2), by failing to perform the permanent removal of four USTs that had not met the upgrade requirements; PENALTY: \$10,500; STAFF ATTORNEY: Benjamin Thompson, Litigation Division, MC 175, (512) 239-1297; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(11) COMPANY: Richard Sullivan dba Country View Mobile Home Park and Richard Sullivan dba Valley Estates; DOCKET NUMBER: 2008-1127-PWS-E; TCEQ ID NUMBER: RN101278190 and RN101278018; LOCATION: 7506 North County Road 1540 Unit 23, Lubbock County (Facility 1) and 7400 North Venita Avenue, Lubbock County (Facility 2); TYPE OF FACILITY: approximately 23 service connections (Facility 1) and approximately 36 service connections (Facility 2); RULES VIOLATED: 30 TAC §290.271(b) and §290.274(a) and (c), by failing to mail or directly deliver one copy of the CCR to each bill paying customer by July 1st of each year and by failing to submit a copy of the annual CCR and certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with compliance monitoring data to the TCEQ by July 1st of each year; and 30 TAC §290.51(a)(6), by failing to pay all annual and late PHS fees for TCEQ FA Account Numbers 91520247 and 91520198 for Fiscal Year 2008 to the TCEQ in a timely manner; PENALTY: \$1,475; STAFF ATTORNEY: Laurencia Fasoyiro, Litigation Division, MC R-12, (713)422-8914; REGIONAL OFFICE: Lubbock Regional Office, 5012 50th Street, Suite 100, Lubbock, Texas 79414-3520, (806) 796-7092.

(12) COMPANY: Rodrigo Salas dba Sams Cleaners; DOCKET NUMBER: 2008-1805-DCL-E; TCEQ ID NUMBER: RN104987888; LOCATION: 10325 Lake June Road, Suite 190, Dallas, Dallas County; TYPE OF FACILITY: dry cleaning drop station facility; RULES VIOLATED: 30 TAC §337.10(a), THSC, §374.102, and TCEQ DO, Docket Number 2006-0940-DCL-E, Ordering Provision 2.a., by failing to renew the facility's registration by completing and submitting the required registration form to the TCEQ for a dry cleaning and/or drop station facility; PENALTY: \$3,172; STAFF ATTORNEY: Tommy Tucker Henson II, Litigation Division, MC 175, (512) 239-0946; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(13) COMPANY: S & J Endeavors, L.L.C.; DOCKET NUMBER: 2008-0998-WQ-E; TCEQ ID NUMBER: RN105329510; LOCATION: two miles northeast of FM 1826 and FM 967 off of FM 1826, Dripping Springs, Hays County; TYPE OF FACILITY: construction site; RULES VIOLATED: 30 TAC §281.25(a)(4) and 40 CFR

§122.26(c), by failing to obtain authorization to discharge storm water associated with construction activities; PENALTY: \$2,100; STAFF ATTORNEY: Stephanie J. Frazee, Litigation Division, MC 175, (512) 239-3693; REGIONAL OFFICE: Austin Regional Office, 2800 South Interstate Highway 35, Suite 100, Austin, Texas 78704-5712, (512) 339-2929.

(14) COMPANY: Wafia Hanif dba Tigerland Express 1 f/k/a Wafia Hanif dba Super Stop Texaco; DOCKET NUMBER: 2007-2009-PST-E; TCEQ ID NUMBER: RN104661384; LOCATION: 401 East Lennon Drive, Emory, Rains County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.49(c)(4), TWC, §26.3475(d), and TCEQ Agreed Order, Docket Number 2005-1573-PST-E, Ordering Provision Number 2.a.i, by failing to have the corrosion protection equipment tested for operability and adequacy of protection at least once every three years to ensure adequate protection of the UST system; 30 TAC §334.49(c)(2)(C), TWC, §26.3475(d), and TCEQ Agreed Order, Docket Number 2005-1573-PST-E, Ordering Provision Number 2.a.i, by failing to inspect the cathodic protection system at least once every 60 days to ensure the rectifier and other system components were operating properly; 30 TAC §334.50(b)(1)(A), TWC, §26.3475(c)(1), and TCEQ Agreed Order, Docket Number 2005-1573-PST-E, Ordering Provision Number 2.a.iii, by failing to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); 30 TAC §334.48(c) and TCEQ Agreed Order, Docket Number 2005-1573-PST-E, Ordering Provision Number 2.a.ii, by failing to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum used as a motor fuel; and 30 TAC §334.45(c)(3)(A) and TCEQ Agreed Order, Docket Number 2005-1573-PST-E, Ordering Provision Number 2.a.iv, by failing to properly install and maintain a secure anchor at the base of each Underwriters Laboratories-listed emergency shutoff valve in a piping system in which regulated substances are conveyed under pressure to an aboveground dispensing unit; PENALTY: \$70,870; STAFF ATTORNEY: Peipey Tang, Litigation Division, MC 175, (512) 239-0654; REGIONAL OFFICE: Tyler Regional Office, 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(15) COMPANY: Walker Building Corporation; DOCKET NUMBER: 2007-1636-PST-E; TCEQ ID NUMBER: RN101810992; LOCATION: 3733 Flory Street, Fort Worth, Tarrant County; TYPE OF FACILITY: construction yard; RULES VIOLATED: 30 TAC §334.47(a)(2), by failing to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, three USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements; PENALTY: \$7,875; STAFF ATTORNEY: Rudy Calderon, Litigation Division, MC 175, (512) 239-0265; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(16) COMPANY: Wayne T. Morgan; DOCKET NUMBER: 2008-0517-PST-E; TCEQ ID NUMBER: RN102021979; LOCATION: 402 Broadnax Street, Dangerfield, Morris County; TYPE OF FACILITY: inactive USTs; RULES VIOLATED: 30 TAC §334.47(a)(2), by failing to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, five USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements; and 30 TAC §334.22(a) and TWC, §5.702, by failing to pay outstanding UST fees and associated late fees for TCEQ FA Account Number 0006065U for Fiscal Years 1988 - 2008; PENALTY: \$13,125; STAFF ATTORNEY: Benjamin Thompson, Litigation Division, MC 175, (512) 239-1297; REGIONAL OFFICE: Tyler Regional Office, 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(17) COMPANY: Yong Baek O. dba 2 EZ Cleaners; DOCKET NUMBER: 2008-0177-DCL-E; TCEQ ID NUMBER: RN105010383; LOCATION: 35041 East Rancier Avenue, Killeen, Bell County; TYPE OF FACILITY: dry cleaner drop station; RULES VIOLATED: 30 TAC §337.11(e), THSC, §374.102, and TCEQ Agreed Order, Docket Number 2006-1463-DCL-E, Ordering Provisions 2.b, by failing to renew the facility's registration by completing and submitting the required registration form to the TCEQ for a dry cleaner and/or drop station facility; and 30 TAC §337.14(c) and TWC, §5.702, by failing to pay outstanding dry cleaner fees for TCEQ FA Account Number 23800478 for the Fiscal Years 2006 - 2007; PENALTY: \$1,343; STAFF ATTORNEY: Rudy Calderon, Litigation Division, MC 175, (512) 239-0265; REGIONAL OFFICE: Waco Regional Office, 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(18) COMPANY: Yunusali Badarpura dba Super Corner; DOCKET NUMBER: 2008-1390-PST-E; TCEQ ID NUMBER: RN102264132; LOCATION: 5212 North Highway 146, Baytown, Chambers County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §115.246(1), (4), and (6), and THSC, §382.085(b), by failing to maintain Stage II records at the station and make them immediately available for inspection upon request by agency personnel; 30 TAC §115.245(2) and THSC, §382.085(b), by failing to verify proper operation of the Stage II vapor space manifold and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first; 30 TAC §115.242(1)(C) and (3) and THSC, §382.085(b), by failing to upgrade the Stage II equipment to onboard refueling vapor recovery (ORVR) compatible systems and by failing to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order, and free of defects that would impair the effectiveness of the system including, but not limited to, absence or disconnection of any component that is a part of the approved system; 30 TAC §334.10(b), by failing to maintain the required UST records and make them immediately available for inspection upon request by agency personnel; 30 TAC §334.49(c)(2)(C) and (4) and TWC, §26.3475(d), by failing to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are functioning as designed and by failing to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years; 30 TAC §334.50(b)(1)(A), (2), (A)(i)(III), (d)(1)(B)(ii) and (iii)(I) and TWC, §26.3475(a) and (c)(1), by failing to ensure that all USTs are monitored in a manner which will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring), by failing to provide release detection for the piping associated with the USTs, by failing to test the line leak detectors at least once per year for performance and operational reliability, by failing to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons, and by failing to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day; 30 TAC §334.48(c), by failing to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel; PENALTY: \$17,893; STAFF ATTORNEY: Tommy Tucker Henson II, Litigation Division, MC 175, (512) 239-0946; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023, (713) 767-3500.

TRD-200901164

Kathleen C. Decker
Director, Litigation Division
Texas Commission on Environmental Quality
Filed: March 24, 2009



Notice of Opportunity to Comment on Shut Down/Default Orders of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (commission) staff is providing an opportunity for written public comment on the listed Shutdown/Default Orders (S/DO). Texas Water Code (TWC), §26.3475 authorizes the commission to order the shutdown of any underground storage tank (UST) system found to be noncompliant with release detection, spill and overflow prevention, and/or, after December 22, 1998, cathodic protection regulations of the commission, until such time as the owner/operator brings the UST system into compliance with those regulations. The commission proposes a Shutdown Order after the owner or operator of a UST facility fails to perform required corrective actions within 30 days after receiving notice of the release detection, spill and overflow prevention, and/or, after December 22, 1998, cathodic protection violations documented at the facility. The commission proposes a Default Order when the staff has sent an executive director's preliminary report and petition (EDPRP) to an entity outlining the alleged violations; the proposed penalty; and the proposed technical requirements necessary to bring the entity back into compliance; and the entity fails to request a hearing on the matter within 20 days of its receipt of the EDPRP or requests a hearing and fails to participate at the hearing. In accordance with TWC, §7.075, this notice of the proposed order and the opportunity to comment is published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **May 4, 2009**. The commission will consider any written comments received and the commission may withdraw or withhold approval of a S/DO if a comment discloses facts or considerations that indicate that consent to the proposed S/DO is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction, or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed S/DO is not required to be published if those changes are made in response to written comments.

Copy of the proposed S/DO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about the S/DO shall be sent to the attorney designated for the S/DO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on May 4, 2009**. Written comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The commission attorneys are available to discuss the S/DO and/or the comment procedure at the listed phone numbers; however, comments on the S/DO shall be submitted to the commission in **writing**.

(1) COMPANY: Dwight Price dba A1 Towing & Recovery; DOCKET NUMBER: 2008-0061-PST-E; TCEQ ID NUMBER: RN102060779; LOCATION: 1601 South Seventh Street, Corsicana, Navarro County; TYPE OF FACILITY: automotive shop; RULES VIOLATED: 30 TAC §334.7(d)(3), by failing to provide an amended registration for any change or additional information regarding underground storage tanks within 30 days from the date of the occurrence of the change or addition; and 30 TAC §334.49(c)(4)(C) and TWC, §26.3475(d), by failing to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once ev-

ery three years; PENALTY: \$4,675; STAFF ATTORNEY: Barham A. Richard, Litigation Division, MC 175, (512) 239-0107; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

TRD-200901165

Kathleen C. Decker

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: March 24, 2009



Notice of Water Quality Applications

The following notices were issued during the period of March 12, 2009 through March 19, 2009.

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

THE DOW CHEMICAL COMPANY which operates Dow Chemical La Porte Site, a chemical manufacturing facility, with products including methylene diphenylisocyanate, related polymers, thermoplastic resins, and thermosetting resins, has applied for a major amendment to TPDES Permit No. WQ0000663000 to authorize the replacement of Total Oxygen Demand (TOD) with Total Organic Carbon (TOC) effluent limitations at Outfalls 001, 002, and 003; a reduction in the permitted flow from 1,150,000 gallons per day to 642,000 gallons per day at Outfall 001; and a reduction in the maximum permitted flow from 2,000,000 gallons per day to 750,000 gallons per day at Outfall 001. The existing permit authorizes the discharge of treated process wastewater, storm water, utility water, and domestic wastewater at a daily average flow not to exceed 1,150,000 gallons per day via Outfall 001; and storm water runoff on an intermittent and flow variable basis via Outfalls 002 and 003. The proposed permit will authorize the discharge of (interim phase) treated process wastewater, storm water, utility water, and domestic wastewater at a daily average flow not to exceed 1,150,000 gallons per day via Outfall 001; and storm water runoff on an intermittent and flow variable basis via Outfalls 002 and 003; (final phase) treated process wastewater, storm water, utility water, and domestic wastewater at a daily average flow not to exceed 642,000 gallons per day via Outfall 001; and storm water runoff on an intermittent and flow variable basis via Outfalls 002 and 003. The facility is located at 550 Battleground Road (State Highway 134) on the east side of State Highway 134, approximately one-half mile north of State Highway 225 in the City of La Porte, Harris County, Texas.

EXXON MOBIL CORPORATION which operates the Baytown Chemical Plant, a petrochemical manufacturing plant, has applied to the Texas Commission on Environmental Quality (TCEQ) for a major amendment to TPDES Permit No. WQ0001215000 to authorize removal of effluent limitations and monitoring requirements for the organic chemical compounds at Outfall 003; remove effluent limitations and monitoring requirements for Xylene at Outfall 003; reduce the monitoring frequency for pH at Outfall 003; use of herbicides in the drainage ditches located throughout the BTCP; addition of the following wastestreams via Outfall 003: fire water control system test and flush water, other diminimus losses from fire water control system (freeze protection, minor leaks awaiting repair), other diminimus losses from the decorative ponds, hydrostatic test water (new and clean equipment), potable water system flush water, irrigation

water from the landscape sprinkler system, steam condensate and air conditioner condensate, other diminimus losses of potable water, and other diminimus losses of clarified water; and remove monitoring requirements for flow, total organic carbon, and oil and grease every six months at Outfall 003. The current permit authorizes the discharge of storm water (commingled with other wastewaters) at an intermittent and flow variable basis via Outfalls 001, 002, and 003. The facility is located at the intersection of Burlson Street and Wooster Cedar Bayou County Road in the City of Baytown, Harris County, Texas.

FREESCALE SEMICONDUCTOR INC which operates Freescale Semiconductor Ed Bluestein Site, has applied for a major amendment to TPDES Permit No. WQ0002876000 to authorize the addition of reclaimed reverse osmosis permeate (process wastewater) to the wastestream at Outfall 001; the replacement of effluent limitations for total dissolved solids with report requirements at Outfall 001. The proposed permit the discharge of reverse osmosis reject, filter backwash water and reclaimed reverse osmosis permeate (process wastewater) at a daily average flow not to exceed 520,000 gallons per day via Outfall 001. The current permit authorizes the discharge of reverse osmosis reject and filter backwash water at a daily average flow not to exceed 520,000 gallons per day via Outfall 001. The facility is located at 3501 Ed Bluestein Boulevard, approximately 1.5 miles south of the intersection of U.S. Route 183 and State Highway 969 (Martin Luther King Jr. Boulevard) in the City of Austin, Travis County, Texas.

WASTE CONTROL SPECIALISTS LLC which proposes to operate the Byproduct Material Disposal Facility (BMDF), a facility that will receive, pretreat, and dispose of byproduct material, a type of radioactive waste as defined in §401.003(3)(B) of the Texas Health and Safety Code, via a landfill operated under the authority of Radioactive Material License No. R05807, has applied for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0004857000, to authorize the discharge of previously monitored effluents (PMEs; from internal Outfalls 102 and 103), non-contact industrial storm water, and storm water associated with construction activities at the proposed BMDF at a daily average dry weather flow not to exceed 440,000 gallons per day via Outfall 005; landfill wastewaters (i.e., landfill leachate, gas collection condensate, drained free liquids, laboratory derived wastewater, contact industrial storm water, wash-water [from washing the surfaces of trucks, containers, and other items that have come in direct contact with wastes at the BMDF and that have not been adequately decontaminated], and personnel decontamination water) at the proposed BMDF at a daily average flow not to exceed 440,000 gallons per day via internal Outfall 102; landfill wastewaters only from the Byproduct Material Disposal Unit at the proposed BMDF at a daily average flow not to exceed 440,000 gallons per day via internal Outfall 103; and non-contact industrial storm water and storm water associated with construction activities at the proposed BMDF on an intermittent and flow variable basis via Outfall 004. The facility is located at 9998 State Highway 176 West, approximately 1.25 miles north of the intersection of State Highway 176 with the Texas and New Mexico state line, Andrews County, Texas.

CITY OF BRYSON has applied for a renewal of Permit No. WQ0010135001, which authorizes the disposal of treated domestic wastewater at a daily average flow not to exceed 60,000 gallons per day via surface irrigation of 80 acres of agricultural non-public access land seeded with bermuda grass and wheat crops. This permit will not authorize a discharge of pollutants into waters in the State. The wastewater treatment facilities and disposal sites are: The Imhoff tank and sludge drying beds are located on the east side of a gravel road known as Lovers Lane, 0.5 mile south of the intersection with U.S. Highway 380 in Jack County, Texas; the stabilization ponds and irrigation site are located approximately 0.5 mile south-southeast of

the intersection of U.S. Highway 380 and Farm-to-Market Road 1191 in Jack County, Texas.

CITY OF HILLCREST VILLAGE has applied for a renewal of TPDES Permit No. WQ0010420001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 150,000 gallons per day. The facility is located on the west bank of Mustang Bayou, approximately 0.5 mile west of the intersection of County Road 326 and County Road 155 in Brazoria County, Texas.

CITY OF PLEASANTON has applied for a renewal of TPDES Permit No. WQ0010598001, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 1,420,000 gallons per day. The current permit also authorizes the disposal of treated domestic wastewater via irrigation of 4.0 acres of lawn at the plant site. The facility is located approximately 0.4 mile southeast of the intersection of U.S. Highway 281 and the Missouri Pacific Railroad and 0.5 mile east of the intersection of State Highway 97 and U.S. Highway 281 in the City of Pleasanton in Atascosa County, Texas.

CITY OF HOLLAND has applied for a renewal of TPDES Permit No. WQ0010897001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 200,000 gallons per day. The facility is located approximately 0.5 mile east of the intersection of Travis Street and U.S. Highway 95 in Bell County, Texas

CITY OF SPRINGLAKE has applied for a renewal of Permit No. WQ0011016001, which authorizes the disposal of treated domestic wastewater at a daily average flow not to exceed 22,000 gallons per day via surface irrigation of 125 acres of non-public access agricultural land. This permit will not authorize a discharge of pollutants into waters in the State. The wastewater treatment facility and disposal site are located approximately 1,000 feet south of U.S. Highway 70 and approximately 0.5 miles west of the City of Springlake in Lamb County, Texas. The wastewater treatment facility and disposal site are located in the drainage area of White River Lake in Segment No. 1240 of the Brazos River Basin. No discharge of pollutants into water in the State is authorized by this permit.

HORSEPEN BAYOU MUNICIPAL UTILITY DISTRICT has applied for a renewal of TPDES Permit No. WQ0012128001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 950,000 gallons per day. The facility is located at 5735 Bryant Pond Drive, approximately 1 3/4 miles south of Farm-to-Market Road 529 (Spencer Road) and 1/2 mile west of Addicks-Fairbanks Road in Harris County, Texas.

FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 81 has applied for a renewal of TPDES Permit No. WQ0013051002, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 325,000 gallons per day. The facility is located approximately 1.75 miles south and 0.6 mile east of the intersection of Farm-to-Market Road 1093 and Weston Drive, approximately 3 miles southwest of the City of Fulshear in Ford Bend County, Texas.

MHC TT INC has applied for a renewal of TPDES Permit No. WQ0013075001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 20,000 gallons per day. The facility is located approximately 1.5 miles south of the intersection of Farm-to-Market Road 2604 and Farm-to-Market Road 933 in Hill County, Texas.

STERLING CHEMICALS INC which operates a chemical manufacturing facility producing organic and inorganic chemicals, has applied for a major amendment to TPDES Permit No. WQ0000575000 to authorize the discharge of process wastewater (including first-flush storm water and recovered groundwater), utility wastewater, storm water, and

sanitary wastewater via internal Outfall 102; replace current effluent limitations and monitoring requirements at Outfall 002 with tiered permit conditions to authorize the discharge of previously monitored effluent from internal Outfall 102, storm water runoff, and hydrostatic test water via Outfall 002 Interim Phase, and previously monitored effluent from internal Outfall 102, once-through bay water for non-contact cooling, screen wash water, storm water runoff, steam condensate, boiler blowdown, and hydrostatic test water via Outfall 002 Final Phase; replace current effluent limitations and monitoring requirements at Outfall 003 with tiered permit conditions to authorize the discharge of storm water runoff, and hydrostatic test water via Outfall 003 Interim Phase, and once-through bay water for non-contact cooling, screen wash water, storm water runoff, steam condensate, boiler blowdown, and hydrostatic test water via Outfall 003 Final Phase; authorize the discharge of hydrostatic test water via Outfalls 003 and 004; reduce the monitoring frequencies for total organic carbon, oil and grease, total copper, and cyanide at Outfall 004 to once per week; and remove authorization for the discharge of non-routine cooling tower blowdown, boiler blowdown, demineralizer and ion exchanger rinse water from Outfall 004. The current permit authorizes the discharge of once-through bay water for non-contact cooling, screen wash water, storm water runoff, steam condensate, and boiler blowdown at a daily average flow not to exceed 72,000,000 gallons per day via Outfall 002; once-through bay water for non-contact cooling, screen wash water, storm water runoff, steam condensate, and boiler blowdown at a daily average flow not to exceed 30,500,000 gallons per day via Outfall 003; and storm water runoff, non-routine cooling tower blowdown, boiler blowdown, demineralizer and ion exchanger rinse water on an intermittent and flow variable basis via Outfall 004. The proposed permit authorizes a discharge of previously monitored effluent [process wastewater (including first-flush storm water and recovered groundwater), utility wastewater, storm water, and sanitary wastewater] from internal Outfall 102, once-through bay water for non-contact cooling, screen wash water, storm water runoff, steam condensate, boiler blowdown, and hydrostatic test water at a daily average flow not to exceed 72,000,000 gallons per day via Outfall 002 (Final); process wastewater (including first-flush storm water and recovered groundwater), utility wastewater, storm water, and sanitary wastewater at a daily average flow not to exceed 3,240,000 gallons per day via internal Outfall 102; storm water runoff and hydrostatic test water on a flow variable basis via Outfall 003 (Interim); once-through bay water for non-contact cooling, screen wash water, storm water runoff, steam condensate, boiler blowdown, and hydrostatic test water at a daily average flow not to exceed 30,500,000 gallons per day via Outfall 003 (Final); and storm water runoff and hydrostatic test water on an intermittent and flow variable basis via Outfall 004. The facility is located at the south end of Bay Street, on the west shore of Galveston Bay, with eastern plant border adjacent to Loop 197, in the City of Texas City, Galveston County, Texas. The TCEQ Executive Director has reviewed this action for consistency with the Texas Coastal Management Program goals and policies in accordance with the regulations of the Coastal Coordination Council, and has determined that the action is consistent with the applicable CMP goals and policies.

SYNAGRO OF TEXAS CDR INC has applied for a renewal of Permit No. WQ0004504000, which authorizes the land application of sewage sludge for beneficial use. The current permit authorizes land application of sewage sludge for beneficial use on 475.7 acres. This permit will not authorize a discharge of pollutants into waters in the State. The land application site is located 7 miles north of north of Paynor, on

Farm-to-Market Road 315 at the Bill Miller Tree Farm in Henderson County, Texas.

CITY OF MOULTON has applied for a renewal of TPDES Permit No. WQ0010227001 which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 242,000 gallons per day. The facility is located at 106 East First Street approximately three blocks south of the intersection of East First Street and Moore Avenue in the City of Moulton in Lavaca County, Texas.

CARTER CC LTD has applied for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014928001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 250,000 gallons per day. The facility will be located 550 feet south of Farm-to-Market Road 563 approximately 1.8 miles southeast from the intersection of Farm-to-Market Road 563 and Interstate Highway 10 in Chambers County, Texas. The TCEQ Executive Director has reviewed this action for consistency with the Texas Coastal Management Program goals and policies in accordance with the regulations of the Coastal Coordination Council, and has determined that the action is consistent with the applicable CMP goals and policies.

If you need more information about these permit applications or the permitting process, please call the TCEQ Office of Public Assistance, Toll Free, at 1-800-687-4040. General information about the TCEQ can be found at our web site at www.tceq.state.tx.us. Si desea información en Español, puede llamar al 1-800-687-4040.

TRD-200901180

LaDonna Castañuela

Chief Clerk

Texas Commission on Environmental Quality

Filed: March 25, 2009



Proposed Settlement of Environmental Claims - ASARCO LLC

The State of Texas hereby gives notice of the proposed resolution of the remaining environmental claims of the Texas Commission on Environmental Quality (TCEQ) in the ASARCO LLC bankruptcy case, including TCEQ's claims related to the remediation of ASARCO's smelter site in El Paso, Texas and maintenance of the zinc smelter site in Amarillo, Texas. The Attorney General will consider any written comments and may withdraw or withhold consent to the proposed settlement if the comments disclose facts or considerations that indicate that the consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Law.

Case Title and Court: *In re ASARCO LLC, et al.*, Chapter 11 Case Number 05-21207, United States Bankruptcy Court for the Southern District of Texas, Corpus Christi Division

Nature of Claims: TCEQ's proofs of claim in the bankruptcy case set forth claims and causes of action under environmental laws and pursuant to ASARCO's status as the present owner of certain properties in Texas.

Proposed Settlement: The proposed settlement (entitled "Consent Decree and Settlement Agreement Establishing a Custodial Trust for the Owned Smelter Site in El Paso, Texas and the Owned Zinc Smelter Site in Amarillo, Texas") resolves all pending claims by TCEQ against ASARCO and contains the following significant provisions. ASARCO's El Paso smelter facility consisting of approximately 450 acres will be placed into an environmental custodial trust which will carry out administrative and property management functions related to

the property as well as conduct, manage and/or fund implementation of environmental actions with respect to the property. The custodial trust will be funded by a payment of fifty-two million dollars (\$52,000,000). The TCEQ and EPA will oversee management of the trust. An additional sum of \$80,000 (for total payments of \$52,080,000) will be utilized to maintain a cap on an approximately 100-acre parcel of land in Amarillo previously utilized by ASARCO as a zinc smelter. Additional details concerning the custodial trust, the consent decree, and the motion to compromise and settle these claims with ASARCO can be found in the settlement documents, which may be viewed at <http://www.tceq.state.tx.us/remediation/sites/asarco.html> or obtained as further provided.

The Office of the Attorney General will accept, on behalf of TCEQ, written comments relating to this proposed settlement for 30 days from the date of the publication of this notice. Copies of the proposed settlement may be examined at the Office of the Attorney General, 300 W. 15th Street, 8th Floor, Austin, Texas. A copy of the proposed settlement may also be obtained in person or by mail at the above address for the cost of copying. Requests for copies of the settlement and written comments on the proposed settlement should be directed to Hal Morris and Ashley Bartram, Assistant Attorneys General, Bankruptcy and Collections Division, Office of the Texas Attorney General, P.O. Box 12548, Austin, Texas 78711-2548, (512) 463-2173, facsimile (512) 482-8341.

TRD-200901178

Kevin McCalla

Director, General Law Division

Texas Commission on Environmental Quality

Filed: March 25, 2009



Department of Family and Protective Services

Title IV-B Child and Family Services Plan

The Texas Department of Family and Protective Services (DFPS), as the designated agency to administer Title IV-B programs in the state of Texas, is developing the annual update of the Title IV-B Child and Family Services Plan (CFSP) for Texas and developing a new CFSP to report on years 2010-2014. Under guidelines issued by the U.S. Department of Health and Human Services, Administration for Children and Families, DFPS is required to review the progress made in the previous year toward accomplishing the goals and objectives identified in the state's five-year CFSP for the period from October 1, 2004, through September 30, 2009, as well as develop a new CFSP to report on years 2010-2014.

The CFSP Annual Progress and Services Report (APSR) is required for the state to receive its federal allocation for fiscal year 2009 authorized under Title IV-B of the Social Security Act, Subparts 1 and 2, and the Child Abuse Prevention and Treatment Act (CAPTA). The APSR also gives states an opportunity to apply for fiscal year 2009 funds for the Chafee Foster Care Independence Program. The annual report referenced above must be submitted by June 30, 2009.

The purpose of this notice is to solicit input in the development of the APSR, as well as the CFSP. This input will enable the agency to consider and include any changes in our state plan in order to best meet the needs of the children and families the agency serves. Members of the public can obtain more detailed information regarding the CFSP from the DFPS web site at: <http://www.dfps.state.tx.us>. The web site includes a copy of last year's APSR and a copy of the 2004-2009 CFSP. To find after you go to the web site, click "About DFPS," click "Reports, Plans, Statistics, and Presentations," and click "Title IV-B State Plan."

Written comments regarding the annual update or the five-year plan may be faxed or mailed to: Texas Department of Family and Protective Services, Attention: Max Villarreal; P.O. Box 149030, MC Y-934; Austin, Texas 78714-9030; telephone (512) 919-7868; fax (512) 339-5927. The comments must be received no later than May 4, 2009.

TRD-200901160

Gerry Williams

General Counsel

Department of Family and Protective Services

Filed: March 24, 2009



Texas Health and Human Services Commission

Notice of Award of a Major Consulting Contract

Pursuant to Chapter 2254, Subchapter B, Texas Government Code, the Health and Human Services Commission (HHSC) announces the award of contract 529-08-0187-00001 to Altarum Institute, an entity with a principal place of business at 3520 Green Court, Suite 300, Ann Arbor, Michigan 48105. The contractor will provide Court-Ordered ("No Care") study (incompliance with Frew, et al. v. Hawkins, et al.) to determine whether there are barriers (and, if so, recommend strategies) that cause Class Members to receive no care or receive only emergency department or inpatient hospital care.

The total value of the contract with Altarum Institute is \$562,698.50. The contract was executed on March 18, 2009 and will expire (in thirteen months) on April 18, 2010, unless extended or terminated sooner by the parties. Altraum Institute will produce numerous documents and reports during the term of the contract, with the final reporting due by (367 days after start) or on or about March 20, 2010.

TRD-200901154

Steve Aragón

Chief Counsel

Texas Health and Human Services Commission

Filed: March 23, 2009



Public Notice

The Texas Health and Human Services Commission (HHSC) announces its intent to terminate the Integrated Care Management (ICM) Program 1915(b) waiver. The termination date is May 31, 2009.

On February 1, 2008, the ICM program began serving people living in the Dallas and Tarrant Medicaid service areas who are 65 or older or who have a disability. HHSC and Evercare of Texas, L.L.C (Evercare) have agreed to end the contract for ICM service management.

Former ICM members will be served by programs that were in place prior to the ICM program's implementation. Effective June 1, 2009, ICM members will be served in either traditional Medicaid or State of Texas Access Reform (STAR), depending on their eligibility.

After termination of the ICM program, clients will continue to receive at least the same level of Medicaid benefits that they had in ICM. Medicaid-only ICM clients will continue to receive unlimited medically necessary prescription drugs from Medicaid. ICM Clients enrolled in Medicare will continue to receive covered acute care services and prescription drugs from Medicare without any change in benefits.

Clients who received Primary Home Care (PHC) services or Day Activity and Health Services (DAHS) in ICM will continue to receive these services. The Department of Aging and Disability Services will provide case management services for the PHC and DAHS programs.

To obtain copies of the proposed waiver amendments, interested parties may contact Christine Longoria by mail at the Texas Health and Human Services Commission, P.O. Box 85200, mail code H-620, Austin, Texas 78708-5200; by telephone at (512) 491-1152; by fax at (512) 491-1953; or by e-mail at Christine.Longoria@hhsc.state.tx.us.

TRD-200901188

Steve Aragón

Chief Counsel

Texas Health and Human Services Commission

Filed: March 25, 2009



Public Notice

The Texas Health and Human Services Commission (HHSC) intends to submit to the Centers for Medicare and Medicaid Services an amendment to the two Integrated Care Management (ICM) Program 1915(c) waivers, which are Medicaid Home and Community-Based Services waiver programs under the authority of 1915(c) of the Social Security Act. The waiver programs are currently approved for the three year period beginning February 1, 2008, and ending January 31, 2011. The proposed effective date for the amendments is June 1, 2009.

The ICM 1915(c) waiver program provides home and community-based services to Medicaid clients in the Dallas and Tarrant Service areas. These two service areas include the counties of Collin, Dallas, Denton, Ellis, Hood, Hunt, Kaufman, Johnson, Navarro, Parker, Rockwall, Tarrant and Wise.

This amendment transfers the case management and coordination of long term care service delivered by Evercare of Texas, L.L.C. for the two ICM 1915(c) waiver programs to the Department of Aging and Disability Services (DADS).

HHSC is requesting that the waiver amendment be approved for the period beginning June 1, 2009, through January 31, 2011. This amendment maintains cost neutrality for waiver years 2009 through 2011.

HHSC has posted a separate notice in this issue of the *Texas Register* regarding its intent to terminate the ICM 1915(b) waiver. Please note that effective June 1, 2009, ICM members will receive acute care services through traditional Medicaid or the State of Texas Access Reform (STAR) 1915(b) waiver program, depending on their eligibility.

To obtain copies of the proposed waiver amendments, interested parties may contact Christine Longoria by mail at Texas Health and Human Services Commission, P.O. Box 85200, mail code H-620, Austin, Texas 78708-5200; by telephone at (512) 491-1152; by fax at (512) 491-1953; or by e-mail at Christine.Longoria@hhsc.state.tx.us.

TRD-200901189

Steve Aragón

Chief Counsel

Texas Health and Human Services Commission

Filed: March 25, 2009



Public Notice

The Texas Health and Human Services Commission (HHSC) intends to submit to the Centers for Medicare and Medicaid Services an amendment to the State of Texas Access Reform (STAR) program, which is a Medicaid waiver program under the authority of Title XIX, Section 1915(b) of the Social Security Act. The STAR program is currently approved for the two year period beginning July 1, 2008, and ending June 31, 2010. The proposed effective date for the amendment is June 1, 2009.

The current STAR program is a Medicaid managed care consolidated waiver serving non-disabled children, low-income families, and pregnant women. SSI and SSI-related adults and children, who do not receive Medicare, may choose to participate in the program in service areas without STAR+PLUS.

Texas' ICM 1915(b) waiver program currently operates in the Dallas and Tarrant service areas. These two service areas include the counties of Collin, Dallas, Denton, Ellis, Hood, Hunt, Kaufman, Johnson, Navarro, Parker, Rockwall, Tarrant and Wise. HHSC intends to terminate the ICM 1915(b) waiver on May 31, 2009, and transfer ICM members who meet eligibility requirements to the STAR program effective June 1, 2009.

The proposed amendment to the STAR waiver will allow ICM and other 1915(c) waiver participants access to STAR 1915(b) waiver services, provided they reside in service areas where STAR+PLUS is not available.

HHSC will amend the cost effectiveness description in the STAR waiver to reflect the members to be served by the STAR program effective June 1, 2009. HHSC must demonstrate to the Centers for Medicare and Medicaid Services that the STAR waiver's cost projections will remain reasonable and consistent with statutes, regulations and guidance.

The proposed amendment maintains cost effectiveness for waiver years 2009 through 2013, and has no negative impact to ICM or STAR members or ICM or STAR services.

To obtain copies of the proposed waiver amendment, interested parties may contact Christine Longoria by mail at Texas Health and Human Services Commission, P.O. Box 85200, Mail Code H-620, Austin, Texas 78708-5200, telephone (512) 491-1152, fax (512) 491-1953, or by e-mail at Christine.Longoria@hhsc.state.tx.us.

TRD-200901192

Steve Aragón

Chief Counsel

Texas Health and Human Services Commission

Filed: March 25, 2009



Department of State Health Services

Licensing Actions for Radioactive Materials

The Department of State Health Services has taken actions regarding Licenses for the possession and use of radioactive materials as listed in the tables. The subheading "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout Texas" indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.

NEW LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Brownsville	The Heart and Vascular Clinic	L06226	Brownsville	00	02/27/09
Houston	Houston Northwest Operating Company L.L.C. dba Houston Northwest Medical Center	L06190	Houston	00	03/11/09

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Beaumont	Baptist Hospital of Southeast Texas	L00358	Beaumont	116	03/03/09
Beaumont	Baptist Hospital of Southeast Texas	L00358	Beaumont	117	03/11/09
Bedford	Texas Oncology P.A. dba Edwards Cancer Center	L05550	Bedford	18	03/05/09
Brownsville	Heart Institute of Brownsville	L05261	Brownsville	09	03/10/09
Corpus Christi	Citgo Refining and Chemicals Company L.P.	L06183	Corpus Christi	01	03/09/09
Corpus Christi	Citgo Refining and Chemicals Company L.P.	L00243	Corpus Christi	44	03/09/09
Corpus Christi	Tru Medical Imaging	L06191	Corpus Christi	01	03/04/09
Corpus Christi	True Medical Imaging	L06191	Corpus Christi	02	03/09/09
Dallas	Dallas Cardiology Associates P.A. dba Heartplace East	L04607	Dallas	53	03/02/09
Deer Park	Shell Oil Products U.S. dba Deer Park Refining Limited Partnership	L04554	Deer Park	27	03/05/09
Denison	UHS of Texoma Inc. dba Texoma Medical Center	L01624	Denison	62	03/09/09
Denton	Tanveer A. Qureshi, M.D. P.A.	L04815	Denton	08	03/03/09
El Paso	East El Paso Physicians' Medical Center L.L.C.	L05676	El Paso	13	03/09/09
El Paso	Tenet Hospitals Limited dba Sierra Medical Center	L04758	El Paso	25	03/06/09
Fort Worth	Kanti C. Gandhi, M.D.	L05756	Fort Worth	05	03/03/09
Fort Worth	Dallas Cardiology Associates P.A. dba Heartplace Huguley	L05883	Fort Worth	04	03/05/09
Fort Worth	Fort Worth Heart P.A.	L05480	Fort Worth	27	03/11/09
Houston	Digirad Imaging Solutions Inc.	L05414	Houston	31	03/09/09
Houston	Nuclear Imaging Services	L05775	Houston	47	02/26/09
Houston	American Diagnostic Tech L.L.C.	L05514	Houston	54	03/03/09
Houston	Hotwell U.S. L.T.D.	L06145	Houston	04	03/03/09
Houston	Cardiology Consultants of Houston	L05046	Houston	10	03/12/09
Houston	Memorial Hermann Hospital System dba River Oaks Imaging and Diagnostic	L06181	Houston	03	03/13/09
Irving	Las Colinas Oncology M.S.O. L.P. dba Las Colinas Cancer Center	L06078	Irving	03	03/11/09
Katy	St. Catherine Health and Wellness Center	L05310	Katy	18	03/02/09
Kingsville	Christus Spohn Health System dba Christus Spohn Hospital Kleberg	L02917	Kingsville	47	03/10/09
Kosse	Luminant Mining Company L.L.C.	L06177	Kosse	01	03/10/09
Lubbock	IBA Molecular North America Inc. dba IBA Molecular	L05482	Lubbock	17	03/03/09

AMENDMENTS TO EXISTING LICENSES ISSUED (CONTINUED):

Lufkin	Piney Woods Healthcare System dba Woodland Heights Medical Center	L01842	Lufkin	45	03/10/09
McCallen	Valley Positron L.L.C.	L05869	McCallen	03	03/04/09
McKinney	Cancer Center Associates dba Rena Tarbet Cancer Center	L05952	McKinney	05	03/05/09
Midland	West Texas Nuclear Pharmacy Partners	L04573	Midland	19	03/03/09
Nederland	Murlidhar A. Amin, M.D. P.A.	L05735	Nederland	04	03/05/09
Nocona	Nocona Hospital District dba Nocona General Hospital	L04977	Nocona	14	03/09/09
Pampa	Titan Specialties L.T.D.	L04920	Pampa	14	03/03/09
Pasadena	Pasadena Refining System Inc.	L01344	Pasadena	32	03/10/09
Plano	Baylor Regional Medical Center of Plano	L05844	Plano	07	03/03/09
San Antonio	VHS San Antonio Partners L.L.C. dba Baptist Health System	L00455	San Antonio	185	02/27/09
San Antonio	Methodist Healthcare System of San Antonio L.T.D. L.L.P.	L00594	San Antonio	255	03/10/09
Sugar Land	Methodist Sugar Land Hospital	L05788	Sugar Land	14	03/03/09
The Woodlands	Memorial Hermann Hospital System	L03772	The Woodlands	69	03/03/09
Throughout Tx	Qal-Tek Associates L.L.C.	L05965	Austin	06	03/04/09
Throughout Tx	Professional Services Industries	L04947	Austin	18	02/26/09
Throughout Tx	Gulf Coast Weld Spec.	L05426	Beaumont	79	03/10/09
Throughout Tx	Gessner Engineering L.L.P.	L03733	Brenham	20	03/10/09
Throughout Tx	Nondestructive and Visual Inspection L.L.C.	L06162	Carthage	02	03/06/09
Throughout Tx	CME Testing and Engineering Inc.	L05263	College Station	10	03/11/09
Throughout Tx	IRISNDT Inc.	L04769	Deer Park	70	03/11/09
Throughout Tx	Waggoner and Associates Inc. dba Waggoner-Texas and Associates Inc.	L06159	Flint	07	02/25/09
Throughout Tx	Permian Nondestructive Testing Inc.	L06001	Gardendale	10	03/04/09
Throughout Tx	Rio Grande Resources Corporation	L06151	Hobson	01	03/03/09
Throughout Tx	Metco	L03018	Houston	197	03/05/09
Throughout Tx	Aviles Engineering Corporation	L03016	Houston	25	02/26/09
Throughout Tx	Thrubit L.L.C.	L06030	Houston	08	02/26/09
Throughout Tx	Kenall Inc.	L05572	Houston	04	03/10/09
Throughout Tx	Oceaneering International Inc.	L04463	Ingleside	67	03/04/09
Throughout Tx	Marco Inspections Services L.L.C.	L06072	Kilgore	20	02/27/09
Throughout Tx	Enertech Wireline Services L.P.	L05738	Midland	15	03/03/09
Throughout Tx	Tuner Speciality Services L.L.C.	L05417	Nederland	36	03/03/09
Throughout Tx	Anatec Texas Inc.	L04865	Nederland	79	03/09/09
Throughout Tx	Conam Inspection and Engineering Inc.	L05010	Pasadena	164	03/10/09
Throughout Tx	Silva Contracting Company Inc.	L05266	Richmond	06	03/10/09
Throughout Tx	Arias and Associates Inc.	L04964	San Antonio	34	02/25/09
Throughout Tx	Wrangler Wireline Inc.	L05404	Sour Lake	05	03/05/09
Throughout Tx	Thermo Process Instruments L.P.	L03524	Sugar Land	80	03/10/09
Throughout Tx	Frontera Materials Inc.	L04830	Weslaco	16	03/03/09
Throughout Tx	Texoma Engineering Services L.L.C.	L05176	Wichita Falls	04	03/11/09
Weatherford	Weatherford Texas Hospital Company L.L.C. dba Weatherford Regional Medical Center	L02973	Weatherford	21	03/12/09

RENEWAL OF LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Jacksonville	East Texas Medical Center Jacksonville	L00169	Jacksonville	41	03/02/09
Kingsville	Texas A and M University Kingsville	L01821	Kingsville	37	02/27/09
Marble Falls	MFIC L.P. dba Marble Falls Imaging	L05301	Marble Falls	11	03/03/09

RENEWAL OF LICENSES ISSUED (CONTINUED):

Port Arthur	Christus Health Southeast Texas dba Christus Hospital St. Mary	L01212	Port Arthur	97	03/04/09
Throughout Tx	Celanese L.T.D.	L04210	Pampa	21	03/03/09
Throughout Tx	ESC-Texas L.L.P.	L05319	Austin	07	03/10/09
Throughout Tx	Midwest Inspection Services	L03120	Perryton	114	03/11/09

TERMINATIONS OF LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Pasadena	Cardiac Medical Solutions dba Heartscan of Pasadena	L05905	Pasadena	03	03/10/09
Throughout Tx	C 3 S Inc.	L05989	Houston	01	03/04/09
Throughout Tx	International Industrial Fab Inc.	L04935	Texas City	25	02/26/09
Houston	Houston Northwest Medical Center	L02253	Houston	73	03/11/09

In issuing new licenses, amending and renewing existing licenses, or approving license exemptions, the Department of State Health Services (department), Radiation Safety Licensing Branch, has determined that the applicant has complied with the applicable provisions of 25 Texas Administrative Code (TAC) Chapter 289, regarding radiation control. In granting termination of licenses, the department has determined that the licensee has complied with the applicable decommissioning requirements of 25 TAC Chapter 289. In denying the application for a license, license renewal or license amendment, the department has determined that the applicant has not met the applicable requirements of 25 TAC Chapter 289.

This notice affords the opportunity for a hearing on written request of a person affected within 30 days of the date of publication of this notice. A person affected is defined as a person who demonstrates that the person has suffered or will suffer actual injury or economic damage and, if the person is not a local government, is (a) a resident of a county, or a county adjacent to the county, in which radioactive material is or will be located, or (b) doing business or has a legal interest in land in the county or adjacent county. A person affected may request a hearing by writing Richard A. Ratliff, Radiation Program Officer, Department of State Health Services, Radiation Material Licensing - MC 2835, P.O. Box 149347, Austin, Texas 78714-9347. For information call (512) 834-6688.

[graphic]

TRD-200901134
 Lisa Hernandez
 General Counsel
 Department of State Health Services
 Filed: March 18, 2009

◆ ◆ ◆
Texas Department of Housing and Community Affairs

Request for Qualifications

Housing Construction Training and Technical Assistance Provider

I. PURPOSE OF THE REQUEST.

The Texas Department of Housing and Community Affairs ("the Department" or "TDHCA") hereby requests qualifications from companies or organizations that wish to provide housing construction management, mentoring, and training. TDHCA intends to select respondents that would serve in the capacity of a training and technical assistance provider to nonprofit organizations for the purpose of capacity building. If qualified as a mentor, the Department will make your organization available as an approved provider of training, mentoring, and technical assistance in future Capacity Building NOFAs.

Respondents that are interested in being considered by the Department for approval to serve as a technical assistance provider should submit their qualifications to the Department. Respondents may be approved for a period of two (2) years, after which they must re-submit their qualifications for subsequent approval by the Department. Respondents must then resubmit their qualifications if they desire to be considered for further approval.

Respondents interested in submitting their qualifications for consideration should contact Raul Gonzales, Office of Colonia Initiatives at (512) 475-1473 or raul.gonzales@tdcha.state.tx.us and/or visit our website at www.tdhca.state.tx.us for a complete copy of the Request for Qualifications (RFQ).

II. NATURE OF SERVICES REQUESTED.

Identify qualifications to provide technical and management assistance and training in the following areas:

1. Income Eligibility and Verification;
2. Application Intake, Affirmative Marketing and Fair Housing;
3. Construction standards, inspections, scheduling, and project management and oversight;
4. Obtaining all required permits and approvals, including final Certificate of Occupancy;
5. Financial management and oversight;

6. Procurement, Conflict of Interest and other applicable regulations;
7. Mortgage loan origination and loan closing;
8. Recordkeeping and Compliance; and
9. Other activities that are necessary for the successful execution of an affordable housing development program as may be suggested by the respondent and accepted by the Department.

III. RESPONSE TIME FRAME AND OTHER INFORMATION.

Response due date: April 30, 2009, 5:00 p.m.

Proposals must comply with rules and statutes relating to purchasing in the State of Texas. Late and/or unsigned proposals will not be considered. The person submitting the proposal must have the authority to bind the Respondent in a contract. Submissions received after 5:00 p.m. (CST) on the due date will not be considered.

Two (2) hard copies of the proposal should be delivered to the following address: (facsimiles will not be accepted)

Texas Department of Housing and Community Affairs

Attn: Raul Gonzales, Office of Colonia Initiatives

221 East 11th Street

P.O. Box 13941

Austin, TX 78711-3941

(512) 475-1473

It is the express policy of the Department that parties responding to this RFQ refrain from initiating any direct contact or communication with members of the Board of Directors with regard to this RFQ during the selection process. Any violation of this policy will be considered a basis for disqualification.

TDHCA shall not be obligated to proceed with any action and may decide it is in the Department's best interest to refrain from pursuing any selection process. Any written waiver exercised under this section will in no way modify any provision of this RFQ.

IV. RESPONSE FORMAT.

1. Each item in Section V. of this RFQ must be addressed.
2. Identify the item to be addressed in the introduction to each response.
3. Please limit your response of relevant material and qualifications to 10 pages in length; additional information may be submitted in the form of an attachment or appendix.

V. PROPOSAL CONTENT.

1. General Information.

Provide information regarding the applicant including, but not limited to:

- a) Number of offices located in Texas;
- b) Location of office(s) and brief description of support staff;
- c) Number of representatives located in Texas;
- d) List of housing clients currently served by or proposed to be served; and
- e) Areas of Texas willing to serve.

2. Company.

Provide information regarding the experience of the Respondent including, but not limited to:

- a) Number of relevant trainings provided for residential properties; attach a descriptive list of training or technical assistance provided in the last five (5) years;
- b) Description of experience with residential construction, including any experience with self-help housing construction, Texas Bootstrap Program, the Housing Trust Fund, HOME, green building standards, or compliance and application processing;
- c) Description of familiarity with federal and/or state housing programs; and
- d) Any other unique qualifications.

3. Personnel.

Provide information about the professional services, staff members, consultants and partners who will be participating in the project including, but not limited to:

- a) Names, office location and brief resumes, including licensing and certifications;
- b) List of housing clients served by or proposed to be served by the personnel assigned to this program;
- c) State whether has there been any litigation or governmental or regulatory action pending or threatened against your company in the past three (3) years that may have a bearing on your firm's ability to provide the services described in this RFQ; and
- d) State any conflicts of interest your firm, any sub-consultants or any key individual may have with this project, Board Members or management of TDHCA.

4. Resources.

Provide description of the Respondent's strategy to provide technical assistance and training. Identify resources to be dedicated to assigned organizations and time commitments.

5. Proposed Training Costs.

Provide proposed itemized costs for each technical and management assistance activity or training being proposed.

6. References.

Please provide three (3) references of individuals/companies that have been the recipient of your firm's services, including contact information.

7. Sample Training Curriculum.

Provide detailed descriptions and samples of the following:

- a) Training curriculum for topics listed in Section II of this RFQ;
- b) Scope of mentoring services your organization will provide, including length, timelines and specific personnel assigned to each training topic;
- c) Organizational assessment tool that will be used to track capacity building needs, goals, timelines and progress;
- d) Construction progress reporting tools; and
- e) Any additional training or technical assistance that will be provided.

Items for this section should be included as an attachment or appendix and will not be considered part of the page limitation of proposals. Items that are confidential or proprietary should be marked as such. Otherwise, submissions may be considered open record without referral to the Attorney General.

8. Financial Condition.

Provide a copy of the Respondent's most recent audited financial statement, along with a brief description of your firm's ownership. This item should be included as an attachment or appendix and will not be considered part of the page limitation of proposals. Under Texas Government Code Section 2306.039, financial statements are not released to the public under the Texas Public Information Act.

9. Documentation of Good Standing.

Provide documentation evidencing the following:

- a) Documentation that the firm is authorized to do business in Texas;
- b) Certificate of Good Standing from the State of Texas; and
- c) Current organizational chart and resumes reflecting all members of the Respondent who may author materials or provide training.

VI. DEPARTMENTAL INFORMATION.

Additional information regarding this RFQ may be obtained from Raul Gonzales. All requests must be in writing and sent to Raul Gonzales, Office of Colonia Initiatives, (512) 475-1473. raul.gonzales@tdcha.state.tx.us. All questions and responses will be made available to all applicants and will be subject to disclosure under the Open Records Act.

VII. OPEN RECORDS.

Information submitted to TDHCA is public information and is available upon request in accordance with the Texas Public Information Act, Chapter 552 of the Texas Government Code (the "Act"). An applicant submitting any information it considers confidential as to trade secrets or commercial or financial information, which it desires not to be disclosed, must clearly identify all such information in its proposal. If information so identified by an applicant is requested from TDHCA, the applicant will be notified and given an opportunity to present its position to the Texas Attorney General, who shall make the final determination as to whether such information is excepted from disclosure under the Act. Information not clearly identified as confidential will be deemed to be non-confidential and will be made available by TDHCA upon request.

VIII. COSTS INCURRED IN RESPONDING.

All costs directly or indirectly related to the preparation of a response to this RFQ shall be the sole responsibility of and shall be borne by the Company.

TRD-200901167

Michael Gerber

Executive Director

Texas Department of Housing and Community Affairs

Filed: March 24, 2009



Texas Department of Insurance

Third Party Administrator Application

The following third party administrator application has been filed with the Texas Department of Insurance and is under consideration.

Application of U.S. IMAGING NETWORK, LLC (using the assumed name IMAGING NETWORK ADMINISTRATORS, LLC), a foreign third party administrator. The home office is WILMINGTON, DELAWARE.

Any objections must be filed within 20 days after this notice is published in the *Texas Register*, addressed to the attention of David Moskowitz, MC 305-2E, 333 Guadalupe, Austin, Texas 78701.

TRD-200901187

Gene C. Jarmon

Chief Clerk and General Counsel

Texas Department of Insurance

Filed: March 25, 2009



Texas Lottery Commission

Instant Game Number 1164 "Monthly Bonus"

1.0 Name and Style of Game.

A. The name of Instant Game No. 1164 is "MONTHLY BONUS". The play style is "key number match with auto win".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 1164 shall be \$5.00 per ticket.

1.2 Definitions in Instant Game No. 1164.

A. Display Printing - That area of the instant game ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the ticket.

C. Play Symbol - The printed data under the latex on the front of the instant ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black play symbols are: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, DOLLAR BILL SYMBOL, \$5.00, \$10.00, \$15.00, \$20.00, \$50.00, \$200, \$2,000, \$10,000 and \$20,000.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 1164 - 1.2D

PLAY SYMBOL	CAPTION
1	ONE
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
7	SVN
8	EGT
9	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWV
26	TWSX
27	TWSV
28	TWET
29	TWNI
30	TRTY
31	TRON
32	TRTO
33	TRTH
34	TRFR
35	TRV
36	TRSX
37	TRSV
38	TRET
39	TRNI
DOLLAR BILL SYMBOL	WIN
\$5	FIVE\$
\$10	TEN\$
\$15	FIFTN
\$20	TWENTY
\$50	FIFTY
\$200	TWO HUND

\$2,000	TWO THOU
\$10,000	MO/20YRS
\$20,000	20 THOU

E. Serial Number - A unique 14 (fourteen) digit number appearing under the latex scratch-off covering on the front of the ticket. There will be a four (4)-digit "security number" which will be individually boxed and randomly placed within the number. The remaining ten (10) digits of the Serial Number are the Validation Number. The Serial Number is positioned beneath the bottom row of play data in the scratched-off play area. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 00000000000000.

F. Low-Tier Prize - A prize of \$5.00, \$10.00, \$15.00 or \$20.00.

G. Mid-Tier Prize - A prize of \$25.00, \$50.00, \$60.00 or \$200.

H. High-Tier Prize - A prize of \$2,000, \$20,000 or \$10,000/MO (\$10,000 per month for 20 years).

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 (1164), a seven (7) digit pack number, and a three (3) digit ticket number. Ticket numbers start with 001 and end with 075 within each pack. The format will be: 1164-0000001-001.

K. Pack - A pack of "MONTHLY BONUS" Instant Game tickets contains 075 tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). The packs will alternate. One will show the front of ticket 001 and back of 075 while the other fold will show the back of ticket 001 and front of 075.

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 "MONTHLY BONUS" Instant Game No. 1164 ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general ticket validation requirements set forth in Texas Lottery Rule 401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each instant ticket. A prize winner in the "MONTHLY BONUS" Instant Game is determined once the latex on the ticket is scratched off to expose 45 (forty-five) Play Symbols. If a player matches any of YOUR NUMBERS play symbols to any of the LUCKY NUMBERS play symbols, the player wins PRIZE shown for that number. If a player reveals a "DOLLAR BILL" play symbol, the player wins \$10,000 per month for 20 years. No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly 45 (forty-five) Play Symbols must appear under the latex overprint on the front portion of the ticket;

2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;

3. Each of the Play Symbols must be present in its entirety and be fully legible;

4. Each of the Play Symbols must be printed in black ink except for dual image games;

5. The ticket shall be intact;

6. The Serial Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;

7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;

8. The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;

9. The ticket must not be counterfeit in whole or in part;

10. The ticket must have been issued by the Texas Lottery in an authorized manner;

11. The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;

12. The Play Symbols, Serial Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;

13. The ticket must be complete and not miscut, and have exactly 45 (forty-five) Play Symbols under the latex overprint on the front portion of the ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;

14. The Serial Number of an apparent winning ticket shall correspond with the Texas Lottery's Serial Numbers for winning tickets, and a ticket with that Serial Number shall not have been paid previously;

15. The ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the 45 (forty-five) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 45 (forty-five) Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The ticket must have been received by the Texas Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. Consecutive non-winning tickets in a pack will not have identical play data, spot for spot.

B. No duplicate non-winning YOUR NUMBERS play symbols on a ticket.

C. No duplicate LUCKY NUMBERS play symbols on a ticket.

D. No more than four matching non-winning prize symbols on a ticket.

E. A non-winning prize symbol will never be the same as a winning prize symbol.

F. No prize amount in a non-winning spot will correspond with the YOUR NUMBERS play symbol (i.e. 5 and \$5).

G. The "DOLLAR BILL" (auto win) and \$10,000 prize symbol will only appear on intended winning tickets as dictated by the prize structure and will only appear with each other.

H. The \$20,000 prize symbol will appear on every ticket unless otherwise restricted.

2.3 Procedure for Claiming Prizes.

A. To claim a "MONTHLY BONUS" Instant Game prize of \$5.00, \$10.00, \$15.00, \$20.00, \$25.00, \$50.00, \$60.00 or \$200, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, 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, \$60.00 or \$200 ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas 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 "MONTHLY BONUS" Instant Game prize of \$2,000 or \$20,000, 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 "MONTHLY BONUS" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of send-

ing a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. To claim a "MONTHLY BONUS" top level prize of \$10,000/MO for 20 years, the claimant must sign the winning ticket and present it at Texas Lottery Commission headquarters in Austin, Texas. 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.

E. When claiming a "MONTHLY BONUS" Instant Game prize of \$10,000 per month for 20 years, the claimant must choose one of two (2) payment options for receiving his prize:

1. Monthly via direct deposit to the winner's account. With this plan, upon validation of the prize, a payment of \$10,000 less any taxes and/or other offsets or mandatory withholdings required by law, will be made each month on the first business day of the month for a combined total of \$120,000 per year. Monthly payments will be made for a period of 20 years or a total of 240 monthly payments to reach the total maximum payment of "\$2,400, 000".

2. Annually via direct deposit to the winner's account. With this plan, upon validation of the prize, a payment of \$120,000 less any taxes and/or other offsets or mandatory withholdings required by law, will be made once a year on the first business day of the anniversary month of the claim. Annual payments will be made for a period of 20 years or a total of 20 annual to reach the total maximum payment of \$2,400,000.

3. If a payment falls on a holiday or weekend, the payment will be made on the following business day.

F. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;

2. delinquent in making child support payments administered or collected by the Attorney General;

3. delinquent in reimbursing the Texas Health and Human Services Commission for a benefit granted in error under the food stamp program or the program of financial assistance under Chapter 31, Human Resources Code;

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

5. in default on a loan guaranteed under Chapter 57, Education Code.

G. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "MONTHLY BONUS" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of more than \$600 from the "MONTHLY BONUS" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available

in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed. An Instant Game ticket may continue to be sold even when all the top prizes have been claimed.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 15,000,000 tickets in the Instant Game No. 1164. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 1164 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in**
\$5	1,000,000	15.00
\$10	1,100,000	13.64
\$15	200,000	75.00
\$20	400,000	37.50
\$25	100,000	150.00
\$50	200,000	75.00
\$60	32,000	468.75
\$200	6,000	2,500.00
\$2,000	210	71,428.57
\$20,000	40	375,000.00
\$10,000/MO	4	3,750,000.00

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

**The overall odds of winning a prize are 1 in 4.94. 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. 1164 without advance notice, at which point no further tickets in that game may be sold. The determination of the closing date and reasons for

closing the game will be made in accordance with the instant game closing procedures and the Instant Game Rules, 16 TAC §401.302(j).

6.0 Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game No. 1164, 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-200901147
Kimberly L. Kiplin
General Counsel
Texas Lottery Commission
Filed: March 23, 2009



Instant Game Number 1191 "Sparkling 7's"

1.0 Name and Style of Game.

A. The name of Instant Game No. 1191 is "SPARKLING 7'S". The play style is "key number with multiplier".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 1191 shall be \$7.00 per ticket.

1.2 Definitions in Instant Game No. 1191.

A. Display Printing - That area of the instant game ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the ticket.

C. Play Symbol - The printed data under the latex on the front of the instant ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black play symbols are: 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26, 28, 29, 30, 31, 32, 33, 34, 35, 36, 38, 39, 40, 7 SYMBOL, \$7.00, \$10.00, \$15.00, \$20.00, \$40.00, \$50.00, \$100, \$500, \$2,000 and \$75,000. The possible red play symbols are: 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26, 28, 29, 30, 31, 32, 33, 34, 35, 36, 38, 39, 40 and 7 SYMBOL.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 1191 - 1.2D

PLAY SYMBOL	CAPTION
1 (black)	ONE
2 (black)	TWO
3 (black)	THR
4 (black)	FOR
5 (black)	FIV
6 (black)	SIX
8 (black)	EGT
9 (black)	NIN
10 (black)	TEN
11 (black)	ELV
12 (black)	TLV
13 (black)	TRN
14 (black)	FTN
15 (black)	FFN
16 (black)	SXN
18 (black)	ETN
19 (black)	NTN
20 (black)	TWY
21 (black)	TWON
22 (black)	TWTO
23 (black)	TWTH
24 (black)	TWFR
25 (black)	TWV
26 (black)	TWSX
28 (black)	TWET
29 (black)	TWNI
30 (black)	TRTY
31 (black)	TRON
32 (black)	TRTO
33 (black)	TRTH
34 (black)	TRFR
35 (black)	TRFV
36 (black)	TRSX
38 (black)	TRET
39 (black)	TRNI
40 (black)	FRTY
7 SYMBOL (black)	WIN
1 (red)	ONE
2 (red)	TWO
3 (red)	THR
4 (red)	FOR
5 (red)	FIV
6 (red)	SIX
8 (red)	EGT
9 (red)	NIN
10 (red)	TEN

11 (red)	ELV
12 (red)	TLV
13 (red)	TRN
14 (red)	FTN
15 (red)	FFN
16 (red)	SXN
18 (red)	ETN
19 (red)	NTN
20 (red)	TWY
21 (red)	TWON
22 (red)	TWTO
23 (red)	TWTH
24 (red)	TWFR
25 (red)	TWV
26 (red)	TWSX
28 (red)	TWET
29 (red)	TWNI
30 (red)	TRTY
31 (red)	TRON
32 (red)	TRTO
33 (red)	TRTH
34 (red)	TRFR
35 (red)	TRFV
36 (red)	TRSX
38 (red)	TRET
39 (red)	TRNI
40 (red)	FRTY
7 SYMBOL (red)	WINX7
\$7.00 (black)	SEVEN\$
\$10.00 (black)	TEN\$
\$15.00 (black)	FIFTN
\$20.00 (black)	TWENTY
\$40.00 (black)	FORTY
\$50.00 (black)	FIFTY
\$100 (black)	ONE HUND
\$500 (black)	FIV HUND
\$2,000 (black)	TWO THOU
\$75,000 (black)	75 THOU

E. Serial Number - A unique 14 (fourteen) digit number appearing under the latex scratch-off covering on the front of the ticket. There will be a four (4)-digit "security number" which will be individually boxed and randomly placed within the number. The remaining ten (10) digits of the Serial Number are the Validation Number. The Serial Number is positioned beneath the bottom row of play data in the scratched-off play area. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 00000000000000.

F. Low-Tier Prize - A prize of \$7.00, \$10.00, \$15.00 or \$20.00.

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

H. High-Tier Prize - A prize of \$2,000 or \$75,000.

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 (1191), a seven (7) digit pack number, and

a three (3) digit ticket number. Ticket numbers start with 001 and end with 075 within each pack. The format will be: 1191-0000001-001.

K. Pack - A pack of "SPARKLING 7'S" Instant Game tickets contains 075 tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). The packs will alternate. One will show the front of ticket 001 and back of 075 while the other fold will show the back of ticket 001 and front of 075.

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 "SPARKLING 7'S" Instant Game No. 1191 ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general ticket validation requirements set forth in Texas Lottery Rule 401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each instant ticket. A prize winner in the "SPARKLING 7'S" Instant Game is determined once the latex on the ticket is scratched off to expose 40 (forty) Play Symbols. If a player reveals a BLACK "7" play symbol, the player wins the PRIZE shown instantly. If a player reveals a RED "7" play symbol, the player wins 7 TIMES the PRIZE shown. No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly 40 (forty) 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 40 (forty) 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 40 (forty) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 40 (forty) Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The ticket must have been received by the Texas Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. Consecutive non-winning tickets will not have identical play data, spot for spot.

B. The "RED 7" (win x 7) play symbol will only appear as dictated by the prize structure.

C. The "BLACK 7" (auto win) play symbol will only appear as dictated by the prize structure.

D. There will be a minimum of 4 and a maximum of 12 red play symbols on every ticket unless otherwise restricted by the prize structure.

E. No more than four (4) matching non-winning prize symbols will appear on a ticket.

F. No duplicate non-winning play symbols on a ticket regardless of color.

G. Non-winning prize symbols will never be the same as the winning prize symbol(s).

H. No prize amount in a non-winning spot will correspond with the play symbol (i.e. 20 and \$20).

I. The top prize symbol will appear on every ticket unless otherwise restricted.

2.3 Procedure for Claiming Prizes.

A. To claim a "SPARKLING 7'S" Instant Game prize of \$7.00, \$10.00, \$15.00, \$20.00, \$50.00, \$100 or \$500, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$50.00, \$100 or \$500 ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "SPARKLING 7'S" Instant Game prize of \$2,000 or \$75,000, 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 "SPARKLING 7'S" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;
2. delinquent in making child support payments administered or collected by the Attorney General;
3. delinquent in reimbursing the Texas Health and Human Services Commission for a benefit granted in error under the food stamp program or the program of financial assistance under Chapter 31, Human Resources Code;
4. in default on a loan made under Chapter 52, Education Code; or
5. in default on a loan guaranteed under Chapter 57, Education Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "SPARKLING 7'S" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of more than \$600 from the "SPARKLING 7'S" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed. An Instant Game ticket may continue to be sold even when all the top prizes have been claimed.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 4,080,000 tickets in the Instant Game No. 1191. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 1191 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in**
\$7	408,000	10.00
\$10	435,200	9.38
\$15	190,400	21.43
\$20	108,800	37.50
\$50	54,400	75.00
\$100	30,600	133.33
\$500	1,904	2,142.86
\$2,000	75	54,400.00
\$75,000	4	1,020,000.00

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

**The overall odds of winning a prize are 1 in 3.32. 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. 1191 without advance notice, at which point no further tickets in that game may be sold. The determination of the closing date and reasons for closing the game will be made in accordance with the instant game closing procedures and the Instant Game Rules, 16 TAC §401.302(j).

6.0 Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game No. 1191, 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-200901148
 Kimberly L. Kiplin
 General Counsel
 Texas Lottery Commission
 Filed: March 23, 2009



Public Utility Commission of Texas

Announcement of Application for Amendment to a State-Issued Certificate of Franchise Authority

The Public Utility Commission of Texas received an application on March 16, 2009, for an amendment to a state-issued certificate of franchise authority (CFA), pursuant to §§66.001 - 66.016 of the Public Utility Regulatory Act (PURA).

Project Title and Number: Application of Time Warner Cable for an Amendment to its State-Issued Certificate of Franchise Authority, Project Number 36800 before the Public Utility Commission of Texas.

The requested amended CFA service area includes expanding the service area footprint to include the city limits of Mountain City, Texas.

Information on the application may be obtained by contacting the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All inquiries should reference Project Number 36800.

TRD-200901135
 Adriana A. Gonzales
 Rules Coordinator
 Public Utility Commission of Texas
 Filed: March 19, 2009



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 March 17, 2009, for retail electric provider (REP) certification, pursuant to §§39.101 - 39.109 of the Public Utility Regulatory Act (PURA).

Docket Title and Number: Application of GTC Energy, Inc. for Retail Electric Provider Certification, Docket Number 36807 before the Public Utility Commission of Texas.

Applicant's requested service area by geography includes the geographic area of the Electric Reliability Council of Texas (ERCOT).

Persons wishing to comment upon the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477 no later than April 10, 2009. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All comments should reference Docket Number 36807.

TRD-200901143

Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: March 20, 2009

◆ ◆ ◆
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 March 17, 2009, for retail electric provider (REP) certification, pursuant to §§39.101 - 39.109 of the Public Utility Regulatory Act (PURA).

Docket Title and Number: Application of Always Electric, LLC for Retail Electric Provider Certification, Docket Number 36810 before the Public Utility Commission of Texas.

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

Persons wishing to comment upon the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477 no later than April 10, 2009. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All comments should reference Docket Number 36810.

TRD-200901144
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: March 20, 2009

◆ ◆ ◆
Notice of Application for Service Provider Certificate of Operating Authority

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on March 16, 2009 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 CVC CLEC, LLC for a Service Provider Certificate of Operating Authority, Docket Number 36806 before the Public Utility Commission of Texas.

Applicant intends to provide plain old telephone service, ADSL, ISDN, HDSL, SDSL, RADSL, VDSL, Optical Services, T1-Private Line, Switch 56 KBPS, Frame Relay, Fractional T1, long distance, and wireless services.

Applicant's requested SPCOA geographic area includes the entire state of Texas.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477 no later than April 8, 2009. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All comments should reference Docket Number 36806.

TRD-200901136
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: March 19, 2009

◆ ◆ ◆
Notice of Application for Waiver from Requirements

Notice is given to the public of an application filed on March 18, 2009 with the Public Utility Commission of Texas for waiver from the requirements in P.U.C. Substantive Rule §26.420(f)(3)(B).

Docket Style and Number: Application of TWC Digital Phone LLC for Permanent Waiver to Apply Safe-Harbor Percentage to Calculate Texas Universal Service Fund (TUSF) Assessment Pursuant to P.U.C. Substantive Rule §26.420(f). Docket Number 36811.

The Application: TWC Digital Phone LLC (TWC) provides interconnected Voice over Internet Protocol (VoIP) services in Texas. Most of TWC services are provided on a bundled basis, at a single package price, rather than on the traditional per-call, minute-of-use basis. TWC requests that the commission grant it a permanent waiver from the requirements contained in P.U.C. Substantive Rule §26.420(f)(3)(A) to allow TWC to use the commission-ordered safe-harbor TUSF assessment methodology to calculate TUSF assessments.

Persons wishing to comment on the action sought or intervene should contact the Public Utility Commission of Texas by April 13, 2009, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or use Relay Texas (toll-free) 1-800-735-2989. All comments should reference Docket Number 36811.

TRD-200901173
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: March 24, 2009

◆ ◆ ◆
Notice of Application for Waiver of Denial of Request for NXX Code

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) an application on March 18, 2009, for waiver of denial by the Pooling Administrator (PA) of Southwestern Bell Telephone Company d/b/a AT&T Texas' (AT&T Texas) request for assignment of nine thousand-blocks of numbers in the San Antonio rate center.

Docket Title and Number: Petition of Southwestern Bell Telephone Company d/b/a AT&T Texas for Waiver of Denial of Numbering Resources, Docket Number 36814.

The Application: AT&T Texas submitted an application to the PA for the requested blocks in accordance with the current guidelines. The PA denied the request because AT&T Texas did not meet the months-to-exhaust and utilization criteria established by the Federal Communications Commission.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477 no later than April 8, 2009. Hearing and speech impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All comments should reference Docket Number 36814.

TRD-200901169

Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: March 24, 2009

◆ ◆ ◆
Notice of Application to Amend Certificated Service Area
Boundaries

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) of an application filed on March 20, 2009, for an amendment to certificated service area boundaries within Cameron County, Texas.

Docket Style and Number: Application of the Brownsville Public Utilities Board (BPUB) for an Amendment to a Certificate of Convenience and Necessity for Service Area Boundaries within Cameron County (Plaza La Guardia). Docket Number 36822.

The Application: The application encompasses an area of land which is singly certificated to American Electric Power Company (AEP), formerly known as Central Power & Light (CP&L), and is within the corporate limits of the City of Brownsville. BPUB received a letter request from Pedro L. Barraza requesting BPUB to provide electric utility services to 112.602 acres of land for a proposed subdivision known as Plaza La Guardia. The estimated cost to BPUB to provide service to this proposed area is \$698,500. The area is presently undeveloped. If the application is granted, the area would be dually certificated for electric service.

Persons wishing to comment on the action sought should contact the Public Utility Commission of Texas no later than April 13, 2009, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or use Relay Texas (toll-free) 1-800-735-2989. All comments should reference Docket Number 36822.

TRD-200901170
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: March 24, 2009

◆ ◆ ◆
Notice of Intent to File LRIC Study Pursuant to P.U.C.
Substantive Rule §26.215

Notice is given to the public of the filing on March 20, 2009, with the Public Utility Commission of Texas (commission), a notice of intent to file a long run incremental cost (LRIC) study pursuant to P.U.C. Substantive Rule §26.215. The Applicant will file the LRIC study on March 30, 2009.

Docket Title and Number: Application of Southwestern Bell Telephone Company d/b/a AT&T Texas for Approval of LRIC Study for Opt-E-MAN Pursuant to P.U.C. Substantive Rule §26.215, Docket Number 36821.

Any party that demonstrates a justiciable interest may file with the administrative law judge, written comments or recommendations concerning the LRIC study referencing Docket Number 36821. Written comments or recommendations should be filed no later than 45 days after the date of a sufficient study and should be filed at the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-

8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or toll free 1-800-735-2989. All comments should reference Docket Number 36821.

TRD-200901174
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: March 24, 2009

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

Notice is given to the public of Brazos Telecommunications, Inc.'s (Brazos Telecommunications) application filed with the Public Utility Commission of Texas (commission) on March 11, 2009, for approval of a minor rate change pursuant to P.U.C. Substantive Rule §26.171.

Tariff Control Title and Number: Statement of Intent of Brazos Telecommunications, Inc. to Implement a Minor Rate Change Pursuant to P.U.C. Substantive Rule §26.171; Tariff Control Number 36792.

The Application: Brazos Telecommunications filed an application, pursuant to the P.U.C. Substantive Rule §26.171, to implement a minor rate change to the monthly rates for the following services: 1-Party Local Exchange Access Line Rates for residence and business customers, the PBX trunk rate, the Direct Inward Dialing number assignment and trunk termination rates, the Direct Outward Dialing Service trunk/access line rates, and the Detached Access Line Service per additional 1/4 mile rate. Brazos Telecommunications is also seeking to increase the following non-recurring rates: Primary and Secondary Service Charges, Line Connection Charge, Maintenance of Service Charge, Returned Check Charge and non-recurring charges for the installation of Custom Calling Features, Enhanced Call Packages, and Caller ID Service. The proposed effective date for the rate changes is July 1, 2009. The estimated annual revenue increase recognized by Brazos Telecommunications is \$85,529.44 or less than 5% of Brazos Telecommunications' gross annual intrastate revenues. Brazos Telecommunications has 4,396 access lines (residence and business) in service in the state of Texas.

If the commission receives a complaint(s) relating to this application signed by the lesser of 5% or 1,500 of the affected local service customers to which this application applies by June 1, 2009, 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 June 1, 2009. 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 36792.

TRD-200901171
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: March 24, 2009

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

Notice is given to the public of Brazos Telephone Cooperative, Inc.'s (Brazos Telephone) application filed with the Public Utility Commission of Texas (commission) on March 11, 2009, for approval of a minor rate change pursuant to P.U.C. Substantive Rule §26.171.

Tariff Control Title and Number: Statement of Intent of Brazos Telephone Cooperative, Inc. to Implement a Minor Rate Change Pursuant to P.U.C. Substantive Rule §26.171; Tariff Control Number 36793.

The Application: Brazos Telephone Cooperative, Inc. (Brazos Telephone) filed an application, pursuant to the P.U.C. Substantive Rule §26.171, to implement a minor rate change to the monthly rates for the following services: 1-Party Local Exchange Access Line Rates for residence and business customers, the Direct Outward Dialing service trunk/access line rate, the Direct Inward Dialing number assignment and trunk termination rates, and the Detached Access Line Service per additional 1/4 mile rate. The Cooperative is also seeking to increase the following non-recurring rates: Primary and Secondary Service Charges, Line Connection Charge, Maintenance of Service Charge, Returned Check Charge and non-recurring charges for the installation of Custom Calling Features, Enhanced Call Packages, and Caller ID Service. The proposed effective date for the rate changes is July 1, 2009. The estimated annual revenue increase recognized by Brazos Telephone is \$18,975.70 or less than 5% of Brazos Telephone's gross annual intrastate revenues. Brazos Telephone has 1,310 access lines (residence and business) in service in the state of Texas.

If the commission receives a complaint(s) relating to this application signed by the lesser of 5% or 1,500 of the affected local service customers to which this application applies by June 1, 2009, 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 June 1, 2009. 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 36793.

TRD-200901172

Adriana A. Gonzales

Rules Coordinator

Public Utility Commission of Texas

Filed: March 24, 2009

Texas Department of Transportation

Public Hearing Notice - Statewide Transportation Improvement Program

The Texas Department of Transportation (department) will hold a public hearing on Tuesday, April 14, 2009, at 10:00 a.m. at the Texas Department of Transportation, 200 East Riverside Drive, Room 1A-2, Austin, Texas to receive public comments on the April out of cycle 2009 Revisions to the Statewide Transportation Improvement Program (STIP) for FY 2008-2011. The STIP reflects the federally funded transportation projects in the FY 2008-2011 Transportation Improvement Programs (TIPs) for each Metropolitan Planning Organization (MPO) in the state. The STIP includes both state and federally funded projects

for the nonattainment areas of Beaumont, Dallas-Fort Worth, El Paso, and Houston. The STIP also contains information on federally funded projects in rural areas that are not included in any MPO area, and other statewide programs as listed.

Title 23, United States Code, §134 and §135 require each designated MPO and the state, respectively, to develop a TIP as a condition to securing federal funds for transportation projects under Title 23 or the Federal Transit Act (49 USC §5301, et seq.).

Section 134(j) requires an MPO to develop its TIP in cooperation with the state and affected transportation operators, to provide an opportunity for interested parties to participate in the development of the program, and further requires the TIP to be updated at least once every four years and approved by the MPO and the Governor or Governor's designee. Section 135(g) requires the state to develop a STIP for all areas of the state in cooperation with the designated MPOs and, with respect to non-metropolitan areas, in consultation with affected local officials, and further requires an opportunity for participation by interested parties as well as approval by the Governor or the Governor's designee.

In accordance with 43 TAC §15.8(d), a copy of the proposed April out of cycle 2009 Revisions to the FY 2008-2011 STIP will be available for review, at the time the notice of hearing is published, at each of the department's district offices, at the department's Transportation Planning and Programming Division offices located in Building 118, Second Floor, 118 East Riverside Drive, Austin, Texas, and on the department's website at:

www.txdot.gov.

Persons wishing to review the April out of cycle 2009 Revisions to the FY 2008-2011 STIP may do so online or contact the Transportation Planning and Programming Division at (512) 486-5033.

Persons wishing to speak at the hearing may register in advance by notifying Lori Morel, Transportation Planning and Programming Division, at (512) 486-5033 not later than Monday, April 13, 2009, or they may register at the hearing location beginning at 9:00 a.m. on the day of the hearing. Speakers will be taken in the order registered. Any interested person may appear and offer comments or testimony, either orally or in writing; however, questioning of witnesses will be reserved exclusively to the presiding authority as may be necessary to ensure a complete record. While any persons with pertinent comments or testimony will be granted an opportunity to present them during the course of the hearing, the presiding authority reserves the right to restrict testimony in terms of time or repetitive content. Groups, organizations, or associations should be represented by only one speaker. Speakers are requested to refrain from repeating previously presented testimony. Persons with disabilities who have special communication or accommodation needs or who plan to attend the hearing may contact the Government and Public Affairs Division, at 125 East 11th Street, Austin, Texas 78701-2483, (512) 463-9957. Requests should be made no later than three days prior to the hearing. Every reasonable effort will be made to accommodate the needs.

Further information on the FY 2008-2011 STIP may be obtained from Lori Morel, Transportation Planning and Programming Division, 118 East Riverside Drive, Austin, Texas 78704, (512) 486-5033. Interested parties who are unable to attend the hearing may submit comments to James L. Randall, P.E., Director, Transportation Planning and Programming Division, 118 East Riverside Drive, Austin, Texas 78704. In order to be considered, all written comments must be received at the Transportation Planning and Programming office by Monday, May 18, 2009, at 4:00 p.m.

TRD-200901156

Joanne Wright
Deputy General Counsel
Texas Department of Transportation
Filed: March 24, 2009



Public Notice - Aviation

Pursuant to Transportation Code, §21.111, and Title 43, Texas Administrative Code, §30.209, the Texas Department of Transportation conducts public hearings to receive comments from interested parties concerning proposed approval of various aviation projects.

For information regarding actions and times for aviation public hearings, please go to the following web site:

http://www.txdot.gov/public_involvement/hearings_meetings/schedule.htm

Or visit www.txdot.gov, click on Public Involvement, click on Hearings and Meetings, and then click on Aviation.

Or contact Texas Department of Transportation, Aviation Division, 150 East Riverside, Austin, Texas 78704, (512) 416-4501 or 1-800-68-PI-LOT.

TRD-200901155
Joanne Wright
Deputy General Counsel
Texas Department of Transportation
Filed: March 24, 2009



Public Notice - Municipal Restriction on Use of State Highway

In accordance with Transportation Code, §545.0651 and 43 TAC §§25.601 - 25.603, the City of El Paso has proposed an ordinance establishing lane use restrictions for certain trucks on a portion of Interstate Highway (IH) 10 within the city.

The proposed ordinance would apply to trucks, as defined in Transportation Code, §541.201, with three or more axles, and to truck tractors, also as defined by Transportation Code, §541.201, regardless of whether the truck tractor is drawing another vehicle or trailer. The proposed ordinance would prohibit those eastbound vehicles from using the left hand (or inner) controlled access lane on IH10, between a point 0.2 miles east of the apex of the State Highway 20 (Mesa Street) overpass structure on the west and a point 0.7 miles west of the apex of the Farm-to-Market Highway 659 (Zaragoza Road) overpass structure on the east. The proposed ordinance would also prohibit those westbound vehicles from using the left hand (or inner) controlled access lane on IH10, between a point 0.3 miles west of the apex of the Farm-to-Market Highway 659 (Zaragoza Road) overpass structure on the east and a point 0.2 miles east of the apex of the State Highway 20 (Mesa Street) overpass structure on the west.

The proposed restriction would apply 24 hours a day, 365 days a year, and would allow the operation of such a truck in a prohibited traffic lane

only for the purposes of passing another vehicle or entering or exiting the highway.

In accordance with 43 TAC §25.603(f), the Texas Department of Transportation will evaluate the impact of the proposed restriction and the proposed ordinance's compliance with the requirements of Transportation Code, §545.0651 and 43 TAC §§25.601 - 25.603. Interested persons are requested to submit comments concerning the proposed ordinance. Written comments may be submitted to Mr. Carlos Lopez, P.E., Director, Traffic Operations Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701. The deadline for receipt of comments is 5:00 p.m. on May 4, 2009.

TRD-200901157
Joanne Wright
Deputy General Counsel
Texas Department of Transportation
Filed: March 24, 2009



The Texas A&M University System

Request for Proposals

Business/Process Mapping Analysis - RFP90005

Texas A&M University-Corpus Christi (TAMU-CC) seeks a consultant to conduct a comprehensive Business/Process Mapping and Analysis for the department of Enrollment Management.

In particular, the services requested herein and to be provided under any contract(s) awarded as a result of the Request for Proposals (RFP), will detail process maps of the following departments: University Registrar, Admissions, Financial Assistance, Academic Advising Transition and Bursar's Office.

The RFP documentation may be obtained by contacting: David Davila, Associate Director, Purchasing, Texas A&M University-Corpus Christi, 6300 Ocean Drive, Unit 5731, Corpus Christi, Texas 78412 or e-mail at david.davila@tamucc.edu.

TAMU-CC will base its choice on demonstrated competence, knowledge, experience, and qualifications and on the reasonableness of the proposed fee for the services; and if other considerations are equal, give preference to a consultant who has conducted similar business/process mapping and analysis in a postsecondary institution of higher learning, specifically within the functional areas of Enrollment Management.

Proposals must be received on or before 2:00 p.m. CDT on April 23, 2009.

TRD-200901163
Don Barwick
HUB and Procurement Manager
The Texas A&M University System
Filed: March 24, 2009



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 33 (2008) is cited as follows: 33 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 "33 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 33 TexReg 3."

How to Research: The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, Room 245, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code*, section numbers, or TRD number.

Both the *Texas Register* and the *Texas Administrative Code* are available online through the Internet. The address is: <http://www.sos.state.tx.us>. The *Register* is available in an .html version as well as a .pdf (portable document format) version

through the Internet. For website subscription information, call the Texas Register at (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 *Table of TAC Titles Affected*. The table 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 one or more *Texas Register* page numbers, as shown in the following example.

TITLE 40. SOCIAL SERVICES AND ASSISTANCE
Part I. Texas Department of Human Services
40 TAC §3.704.....950, 1820

The *Table of TAC Titles Affected* is cumulative for each volume of the *Texas Register* (calendar year).