
TEXAS REGISTER

Volume 32 Number 3

January 19, 2007

Pages 215 - 274



*Dustin McCracken
12th Grade*

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

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

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

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

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

TEXAS REGISTER

a section of the
Office of the Secretary of State
P.O. Box 13824
Austin, TX 78711-3824
(800) 226-7199
(512) 463-5561
FAX (512) 463-5569
<http://www.sos.state.tx.us>
register@sos.state.tx.us

Secretary of State –
Roger Williams

Director - Dan Procter

Staff

Ada Aulet
Leti Benavides
Dana Blanton
Belinda Bostick
Kris Hogan
Roberta Knight
Jill S. Ledbetter
Juanita Ledesma
Tamara Wah

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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 January 5, 2007

Appointed to the Texas Transportation Commission for a term to expire February 1, 2009, Fred A. Underwood of Lubbock (replacing Robert Nichols of Jacksonville who resigned).

Appointed to the Texas Transportation Commission for a term to expire February 1, 2011, Ned S. Holmes of Houston (replacing John W. Johnson of Houston whose term expired).

Appointed as Presiding Judge of the 5th Judicial Administrative District for a term to expire four (4) years from date of qualification, Judge J. Manuel Banales of Corpus Christi. Judge Banales is replacing Judge Darrell Hester who is deceased.

Designating James A. Cox, Jr. as Presiding Officer of the Texas Lottery Commission for a term at the pleasure of the Governor. Mr. Cox will replace Carlton Thomas Clowe as presiding officer.

Appointments for January 8, 2007

Appointed as Judge of the 425th Judicial District Court, Williamson County, pursuant to SB 1189, 79th Legislature, Regular Session, for a term until the next General Election and until his successor shall be duly elected and qualified, Mark J. Silverstone of Georgetown.

Appointed as Judge of the 426th Judicial District Court, Bell County, pursuant to SB 1189, 79th Legislature, Regular Session, for a term until the next General Election and until her successor shall be duly elected and qualified, Fancy H. Jezek of Temple.

Appointed to the On-Site Wastewater Treatment Research Council for a term to expire September 1, 2012, Susan Ramona Johnson of Austin (replacing Linda Drake of Lindale whose term expired).

Appointed to the Small Business Industrial Development Corporation for a term at the pleasure of the Governor, William W. Lindsay, Jr. of Denison (replacing Nathaniel Parker who no longer qualifies).

Designating Marion Castillo of San Angelo as Chairman of the Small Business Industrial Development Corporation for a term at the pleasure of the Governor. Mr. Castillo is replacing Nathaniel Parker of Flower Mound as chair.

Appointed to the Real Estate Research Advisory Committee for a term to expire January 31, 2011, Jacquelyn K. Hawkins of Austin (replacing Celia Goode-Haddock of College Station whose term expired).

Appointed to the Texas Military Preparedness Commission for a term to expire February 1, 2011, Major General Josue Robles, Jr. (Ret) of San Antonio (General Robles is being reappointed).

Rick Perry, Governor

TRD-200700067



Executive Order

RP 62

Honoring the memory of the thirty-eighth President of the United States of America, Gerald R. Ford.

WHEREAS, the nation lost a humble leader with a gentle spirit this week with the passing of President Gerald R. Ford on Tuesday, December 26, 2006; and

WHEREAS, as president, Gerald R. Ford restored honesty and candor to government, ushering in a new era of national healing in the aftermath of Watergate that thrust him into the presidency during a time of growing economic uncertainty with rising inflation and a looming energy crisis; and

WHEREAS, President Ford led America during an era of difficult foreign policy challenges, including the Soviet Union's aspirations for world domination and the resolution of the conflict in Vietnam; and

WHEREAS, Gerald R. Ford lived a long life of distinguished public service, serving in the Pacific Theater in the United States Navy during World War II, in the United States House of Representatives during twelve terms from 1949 to 1973, and as minority leader from 1965 to 1973; and

WHEREAS, Gerald R. Ford was an icon not only in politics but as a member of two national championship football teams at the University of Michigan; and

WHEREAS, Gerald R. Ford's wife, Betty, is an inspiration to millions of Americans who have battled cancer and addiction, showing there is hope in the midst of adversity; and

WHEREAS, in retirement, President Ford used the years following his presidency to urge bipartisan unity on the critical issues facing the country; and

WHEREAS, it seems fitting to publicly set aside a day of mourning so all Texans can reflect on the life and person of Gerald R. Ford;

NOW, THEREFORE, I, Rick Perry, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas as the Chief Executive Officer, do hereby order the following:

Tuesday, January 2, 2007, shall be recognized as an official Day of Mourning. The people of Texas are encouraged to gather, assemble, and pay their respects to the memory of Gerald R. Ford through appropriate ceremonies in homes, businesses, public buildings, schools, places of worship, or other appropriate places for public expression of grief and remembrance.

To allow state employees to attend such observances, state agencies, offices, and departments shall be closed on that day; except those agencies, offices, and departments that the heads thereof determine should remain open with a sufficient number of employees for reasons of public safety and essential public business pursuant to Sections 662.003, 662.004 and 662.022 of the Texas Government Code.

In addition, and in accordance with a proclamation issued by the President of the United States and by my powers under the Texas Government Code, the flags of the United States of America and of the State of

Texas on the State Capitol Building and in the Capitol Complex, at the Governor's Mansion, and upon all state buildings, grounds, and facilities shall be flown at half-staff for a period of 30 days from the date of his death. I further direct that these flags shall be flown at half-staff for the same length of time at all Texas offices and facilities abroad. Individuals, businesses, municipalities, counties, and other political subdivisions in Texas are encouraged to fly these flags at half-staff for the same length of time as a sign of respect and honor. Flags should be returned to full staff at sunrise or the beginning of the display day on Friday, January 26, 2007.

This executive order supersedes all previous orders on this matter that are in conflict or inconsistent with its terms and this order shall remain in effect and in full force until modified, amended, rescinded, or superseded by me or by a succeeding Governor.

Given under my hand this the 29th day of December, 2006.

Rick Perry, Governor

TRD-200700068



Proclamation 41-3065

TO ALL TO WHOM THESE PRESENTS SHALL COME:

I, RICK PERRY, Governor of Texas, do hereby certify that severe storms and tornadoes on December 29, 2006 have caused a disaster in Johnson and Limestone Counties, in the State of Texas.

THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby proclaim the existence of such threat and direct that all necessary measures both public and private as authorized under Section 418.015 of the code be implemented to meet that threat.

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

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

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my Office in the City of Austin, Texas, this the 3rd day of January, 2007.

Rick Perry, Governor

Attested by: Roger Williams, Secretary of State

TRD-200700069



THE ATTORNEY GENERAL

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

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

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

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

Request for Opinions

RQ-0556-GA

Requestor:

The Honorable John R. Roach

Collin County Criminal District Attorney

Collin County Courthouse

210 South McDonald, Suite 324

McKinney, Texas 75069

Re: Distribution of proceeds from seizure of gambling equipment and paraphernalia (Request No. 0556-GA)

Briefs requested by January 29, 2007

RQ-0557-GA

Requestor:

Ms. Yolanda P. Esparza

Hudspeth County Auditor

Post Office Box 279

Sierra Blanca, Texas 79851

Re: Whether a commissioners court may contract with a private attorney without the approval of the county attorney (Request No. 0557-GA)

Briefs requested by January 29, 2007

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

TRD-200700073

Stacey Napier

Deputy Attorney General

Office of the Attorney General

Filed: January 9, 2007

Opinions

Opinion No. GA-0498

The Honorable Harvey Hilderbran

Chair, Committee on Culture, Recreation and Tourism

Texas House of Representatives

Post Office Box 2910

Austin, Texas 78768-2910

Re: Whether the Edwards Aquifer Authority may reduce groundwater withdrawal permit amounts for certain permit holders below the amount specified in section 1.16(e) of the Authority's enabling act when, if all permitted amounts are withdrawn, over 450,000 acre-feet of water will be withdrawn from the aquifer in a calendar year (RQ-0469-GA)

S U M M A R Y

The Texas Legislature has not authorized the Edwards Aquifer Authority to reduce the withdrawal rights of irrigation users and averagers, who have received permits under section 1.16(e), sentences 4 and 5 of the Authority's enabling act. *See* Act of May 30, 1993, 73d Leg., R.S., ch. 626, §1.16(e), 1993 Tex. Gen. Laws 2350, 2361. The Legislature also has not authorized the Authority to issue interruptible junior withdrawal rights.

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

TRD-200700076

Stacey Napier

Deputy Attorney General

Office of the Attorney General

Filed: January 9, 2007

PROPOSED RULES

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

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

TITLE 1. ADMINISTRATION

PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 355. REIMBURSEMENT RATES

SUBCHAPTER J. PURCHASED HEALTH SERVICES

DIVISION 4. MEDICAID HOSPITAL SERVICES

1 TAC §355.8061, §355.8063

The Health and Human Services Commission (HHSC) proposes to amend §355.8061, concerning Payment for Hospital Services and §355.8063, concerning Reimbursement Methodology for Inpatient Hospital Services to Chapter 355 of Title 1 of the Texas Administrative Code. Section 355.8061 establishes the methodology HHSC will use to distribute supplemental (UPL) payments for outpatient services to private hospitals. Section 355.8063 establishes the methodology HHSC will use to distribute supplemental (UPL) payments for inpatient services to private hospitals.

Background and Purpose

HHSC submitted two State Plan Amendment (SPAs) during calendar year 2005 to the Centers for Medicare and Medicaid Services (CMS) to implement a supplemental payment program to private hospitals. These two SPAs, TX-05-001 and TX-05-011, have been approved by CMS. The proposed rule amendment amends Title 1 of the Texas Administrative Code, Chapter 355, §355.8063, Reimbursement Methodology for Inpatient Hospital Services, and §355.8061, Payment for Hospital Services. The rule amendment will implement Medicaid Upper Payment Limit (UPL) supplemental payments to privately-owned and operated hospitals in Hidalgo, Webb, Maverick, Montgomery, Travis, and Bexar counties effective June 11, 2005 and Medicaid UPL payments to privately-owned and operated hospitals in all other Texas counties effective November 12, 2005. The privately-owned and operated hospitals must be affiliated with a hospital district or other state or local governmental entity to be eligible for supplemental payments. The hospital district or state or local governmental entity will, thru intergovernmental transfers or in the case of a state entity, general revenue transfers, provide the non-federal share of the supplemental payments.

Fiscal Note

Thomas M. Suehs, Deputy Executive Commissioner for Financial Services, has determined that during the first five-year pe-

riod the proposed rules are in effect, there will be no fiscal impact to state government. Mr. Suehs has determined that the proposed rules are not expected to increase state expenditures, but will increase the amount of federal matching funds to the state. During state fiscal year 2007, HHSC estimates that the proposed rules will result in increased federal matching funds of \$678,958,339; this figure includes retroactive payments for state fiscal years 2005 - 2006. HHSC estimates that the rules will result in increased federal matching funds of \$347,365,919, per fiscal year, in subsequent years.

Small Business and Micro-business Impact Analysis

HHSC has determined that there is no adverse economic effect on small businesses or micro-businesses, or on businesses of any size, as a result of enforcing or administering the proposed rules.

Cost to Persons and Effect on Local Economies

HHSC does not anticipate that there will be any economic cost to persons who are required to comply with the amendments. The amendments will not affect a local economy.

Public Benefit

Thomas M. Suehs, Deputy Executive Commissioner for Financial Services, determined that for the 2006-2007 biennium, the public benefit expected as a result of enforcing the proposed rules is that private hospitals in the State of Texas will receive additional revenue to assist them recover more of their cost of treating Medicaid patients.

Regulatory Analysis

HHSC has determined that this proposal is not a "major environmental rule" as defined by §2001.0225 of the Texas Government Code. "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 Texas Government Code, §2007.043.

Public Comment

Questions about the content of this proposal may be directed to Kevin Niemeyer (512) 491-1366 in HHSC Rate Analysis-Hospital Services. Written comments on the proposal may be

submitted to Mr. Niemeyer by facsimile (512) 491-1998; by e-mail to kevin.niemeyer@hhsc.state.tx.us; or by mail to HHSC Rate Analysis-Hospital Services, Mail Code H-400, P.O. Box 85200, Austin, TX 78708-5200, within 30 days of publication in the *Texas Register*.

Statutory Authority

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

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

§355.8061. *Payment for Hospital Services.*

(a) The Health and Human Services Commission (commission) or its designated agent shall reimburse hospitals approved for participation in the Texas Medical Assistance Program for covered Title XIX hospital services provided to eligible Medicaid recipients. The Texas Title XIX State Plan for Medical Assistance provides for reimbursement of covered hospital services to be determined as specified in paragraphs (1) - (4) of this subsection.

(1) The amount payable for inpatient hospital services shall be determined as specified in §355.8063 of this title (relating to Reimbursement Methodology for Inpatient Hospital Services).

(2) The amount payable for outpatient hospital services shall be determined under similar methods and procedures used in the Social Security Act, Title XVIII, as amended, effective October 1, 1982 through July 31, 2000, by Public Law 97-248, except as may be otherwise specified by the Health and Human Services Commission. For the period of September 1, 1999 through and including September 30, 2001, payments to all providers were at 80.3% of allowed costs. For the period beginning October 1, 2001, Medicaid reimbursement for outpatient hospital services for high-volume providers, as defined by the commission, shall be at 84.48% of allowable cost. For the remaining providers, reimbursement for outpatient hospital services shall be at 80.3% of allowable cost. For the purpose of establishing the proposed discount factor, a high-volume provider is defined as one, which is paid at least \$200,000 during calendar year 2000. Any subsequent changes to the discount will require HHSC to hold a public hearing on proposed reimbursements before the HHSC approves any changes. The purpose of the hearing is to give interested parties an opportunity to comment on the proposed reimbursements. Notice of the hearing will be provided to the public. The notice of the public hearing will identify the name, address, and telephone number to contact for the materials pertinent to the proposed reimbursements. At least ten working days before the public hearing takes place, material pertinent to the proposed change will be made available to the public. This material will be furnished to anyone who requests it. After the public hearing, if negative comments are received, a summary of the comments made during the public hearing will be presented to the HHSC. Reimbursement for outpatient hospital surgery is limited to the lesser of the amount reimbursed to ambulatory surgical centers (ASCs) for similar services, the hospital's actual charge, the hospital's customary charge, or the allowable cost determined by the commission or its designee.

(3) Variances shall be accounted for in the Texas State Plan for Medical Assistance or as otherwise specified by the commission.

(4) Notwithstanding other provisions of this chapter and subject to the availability of funds, supplemental payments will be made each state fiscal year in accordance with this paragraph to eligible hospitals that serve high volumes of Medicaid and uninsured patients.

(A) Supplemental payments are available under this paragraph for outpatient hospital services provided by a non-state owned or operated, publicly-owned hospital or hospital affiliated with a hospital district in Bexar, Dallas, Ector, El Paso, Harris, Lubbock, Nueces, Tarrant, and Travis counties on or after July 6, 2001. Supplemental payments will be made for outpatient services on or after June 11, 2005, for Midland, Potter, and Randall Counties.

(B) Notwithstanding the provisions of subparagraph (A) of this paragraph, all hospitals that are eligible to receive funding under §355.8063(t)(4) of this title shall also be eligible to receive funding under this paragraph. Supplemental payments will be made for outpatient services on or after June 11, 2005, for hospitals in Hidalgo, Maverick, Montgomery, Travis, Bexar, and Webb counties. Supplemental payments will be made for outpatient services on or after November 12, 2005, for eligible hospitals in all other counties in the State of Texas.

(C) [(B)] State funding for supplemental payments authorized under this paragraph will be limited to and obtained through intergovernmental transfers of local or hospital district funds. State funding for supplemental payments authorized under subparagraph (B) of this paragraph will be limited to and obtained through intergovernmental transfers of local governmental entity or hospital district funds or transfer of State General Revenue. The supplemental payments described in this subsection will be made in accordance with the applicable regulations regarding the Medicaid upper payment limit provisions codified at 42 C.F.R. §447.321.

(D) [(C)] The non-state owned or operated, publicly-owned hospital or hospital affiliated with a hospital district in a county listed in subparagraph (A) of this paragraph that incurs the greatest amount of cost for providing services to Medicaid and uninsured patients[,] will be eligible to receive supplemental [high volume] payments. Any hospital eligible under subparagraph (B) of this paragraph will be eligible to receive supplemental payments. The supplemental payments authorized under this subsection are subject to the following limits:

(i) In each state fiscal year the amount of inpatient supplemental payments and outpatient supplement payments may not exceed the hospital's "hospital specific limit," as determined under §355.8065(f)(2)(E) of this chapter (relating to Reimbursement to Disproportionate Share Hospitals (DSH)) for DSH hospitals; and

(ii) The amount of outpatient supplemental payments and fee-for-service Medicaid outpatient payments the hospital receives in a state fiscal year may not exceed Medicaid billed charges for outpatient services provided by the hospital to fee-for-service Medicaid recipients in accordance with 42 C.F.R. §447.325.

(E) [(D)] An eligible hospital will receive quarterly supplemental payments. The quarterly payments will be limited to one-fourth of the difference between the hospital's Medicaid fee-for-service outpatient Medicaid payments received and 100% of Medicaid allowable outpatient hospital cost. Medicaid payments and cost will be based on a twelve consecutive-month period of fee-for-service claims data selected by HHSC.

(F) ~~(E)~~ For purposes of calculating the "hospital specific limit" under this paragraph, the "cost of services to uninsured patients" and "Medicaid shortfall," as defined by Texas Administrative Code §355.8065(b)(5) and (16), will be adjusted as follows:

(i) the amount of Medicaid payments (including inpatient and outpatient supplemental payments) that exceed Medicaid cost will be subtracted from the "Medicaid Shortfall."

(ii) The amount of the "Medicaid shortfall," as adjusted in accordance with clause (i) of this subparagraph, will be subtracted from the "cost of services to uninsured patients" to ensure that, during any state fiscal year, a hospital does not receive more in total Medicaid payments (inpatient and outpatient payments, graduate medical education payments, supplemental payments and disproportionate share hospital payments) than its cost of serving Medicaid patients and patients without health insurance.

(5) Notwithstanding other provisions of this attachment, supplemental payments will be made each state fiscal year in accordance with this subsection to state government-owned or operated hospitals for outpatient services provided to Medicaid patients.

(A) Supplemental payments are available under this subsection for outpatient hospital services provided by state government-owned or operated hospitals on or after December 13, 2003. To qualify for a supplemental payment, the hospital must be owned or operated by the state of Texas.

(B) The aggregate supplemental payment amount will be the annual difference between the aggregate upper payment limit and the outpatient fee-for-service Medicaid payments made to the state government-owned or operated hospitals under this attachment. The aggregate upper payment limit will be calculated, based on Medicare payment principles and in accordance with the federal upper limit regulations at 42 CFR §447.321, using the most recent cost report data available.

(C) The amount of the supplemental payment made to each state government-owned or operated hospital will be determined by:

(i) dividing each hospital's fee-for-service Medicaid payments by the sum of the Medicaid fee-for-service payments of all state government-owned or operated hospitals; and

(ii) multiplying the percentage calculated in clause (i) of this subparagraph by the aggregate supplemental payment calculated in subparagraph (B) of this paragraph.

(D) Supplemental payments determined under this subsection will be calculated annually and paid quarterly.

(E) Supplemental payments made under this subsection when combined with other outpatient payments made under this attachment shall not exceed the maximum amounts allowable under applicable federal regulations at 42 CFR §447.325.

(b) Title XIX providers may not carry forward those unreimbursed costs attributed to either the lower costs or charge limitations authorized by 42 Code of Federal Regulations §405.455 et seq., effective for all accounting periods beginning on or after January 1, 1982.

(c) The direct and indirect costs of caring for charity patients shall have no relationship to eligible recipients of the Texas Medical Assistance program and are not allowable costs under the Texas Title XIX Medical Assistance program. Obligations by hospitals to provide free care, under the Hill-Burton Act or any other arrangement as a con-

dition to secure federal grants or loans, are not recognized as a cost under the Texas Medical Assistance program.

(d) The contents of subsection (a) - (c) of this section do not describe the amount, duration, or scope of services provided to eligible recipients under the Texas Medical Assistance Program.

§355.8063. *Reimbursement Methodology for Inpatient Hospital Services.*

(a) - (s) (No change.)

(t) Non-State Owned ~~Urban~~ Hospital Supplemental Inpatient Payments. Notwithstanding other provisions of this chapter, supplemental payments will be made each state fiscal year in accordance with this subsection to eligible hospitals that serve high volumes of Medicaid and uninsured patients.

(1) Supplemental payments are available under this subsection for inpatient hospital services provided by a publicly-owned hospital or hospital affiliated with a hospital district in Bexar, Dallas, Ector, El Paso, Harris, Lubbock, Nueces, Midland, Potter, Randall, Tarrant, and Travis counties. Supplemental payments will be made for inpatient services on or after July 6, 2001, for Bexar, Dallas, Ector, El Paso, Harris, Lubbock, Nueces, Tarrant, and Travis counties. Supplemental payments will be made for inpatient services on or after February 7, 2004, for Midland County. Supplemental payments will be made for inpatient services on or after May 29, 2004 for Potter and Randall counties.

(2) State funding for supplemental payments authorized under this paragraph will be limited to and obtained through intergovernmental transfers of local or hospital district funds. The supplemental payments described in this paragraph will be made in accordance with the applicable regulations regarding the Medicaid upper limit provisions codified at 42 C.F.R. §447.272.

(3) In each county listed in paragraph (1) of this subsection, the publicly-owned hospital or hospital affiliated with a hospital district that incurs the greatest amount of cost for providing services to Medicaid and uninsured patients, will be eligible to receive supplemental high volume payments. The supplemental payments authorized under this paragraph are subject to the following limits:

(A) In each state fiscal year the amount of any inpatient supplemental payments and outpatient supplemental payments may not exceed the hospital's "hospital specific limit," as determined under §355.8065(f)(2)(E) of this chapter (relating to Reimbursement to Disproportionate Share Hospitals (DSH)) for DSH hospitals; and

(B) The amount of inpatient supplemental payments and fee-for-service Medicaid inpatient payments the hospital receives in a state fiscal year may not exceed Medicaid inpatient billed charges for inpatient services provided by the hospital to fee-for-service Medicaid recipients in accordance with 42 CFR §447.271.

(4) Notwithstanding the provisions of paragraphs (1) - (3) of this subsection, a privately-operated hospital that executes an indigent care affiliation agreement (as defined in this subsection) with a hospital district or state or local governmental entity is eligible to receive supplemental payments under this paragraph. The purpose of the affiliation is that private hospitals will use the supplemental funds to provide additional indigent health care.

(A) Supplemental payments will be made for inpatient services on or after June 11, 2005, for eligible hospitals in Hidalgo, Maverick, Montgomery, Travis, Bexar, and Webb counties. Supplemental payments will be made for inpatient services on or after November 12, 2005, for eligible hospitals in all other counties in the State of Texas.

(B) A hospital that is eligible to receive supplemental payments under this paragraph must provide a copy of the fully executed indigent care affiliation agreement to HHSC prior to payment of any supplemental funds under this paragraph.

(C) An eligible hospital must certify, on a form prescribed by HHSC and prior to payment of any supplemental funds under this paragraph, the following:

(i) No part of any supplemental payment paid to the hospital under this paragraph will be returned or reimbursed to the hospital district or state or local governmental entity;

(ii) No part of any supplemental payment paid to the hospital under this paragraph will be used to pay a contingent fee, consulting fee, or legal fee associated with the hospital's receipt of the supplemental funds; and

(iii) The person signing the certification on behalf of the hospital is legally authorized to bind the hospital and to certify the matters described in the certification.

(D) A hospital district or state or local governmental entity must certify, on a form prescribed by HHSC and prior to payment of any supplemental funds under this paragraph, the following:

(i) The hospital district or state or local governmental entity has not received and has no agreement to receive, any portion of the funds paid to an eligible hospital that has executed an affiliation agreement with the hospital district or state or local governmental entity;

(ii) The hospital district or state or local governmental entity has not entered into a contingent fee arrangement related to the hospital district's or state or local governmental entity's participation in the supplemental payment program authorized under this paragraph;

(iii) The hospital district or state or local governmental entity is authorized to participate in the supplemental payment program authorized under this paragraph pursuant to a vote of the hospital district's or state or local governmental entity's governing body in a public meeting preceded by public notice published in accordance with the hospital district's or state or local governmental entity's usual and customary practices or the Texas Open Meetings Act, as applicable;

(iv) All affiliation agreement, consulting agreements, or legal services agreements executed by the hospital district or state or local governmental entity related to the hospital district's or state or local governmental entity's participation in the supplemental payment program authorized under this paragraph are available for public inspection upon request.

(E) Beginning August 31, 2008, each participating hospital and hospital district or state or local governmental entity must submit a fully executed indigent care affiliation agreement as well as certification forms on or before August 31st of each fiscal year to be eligible to receive supplemental payments under this paragraph during the following fiscal year.

(F) If the federal Centers for Medicare and Medicaid Services (CMS), the United States Department of Health and Human Services, or other responsible legal authority recoups federal financial participation related to an eligible hospital's receipt and/or use of supplemental payments authorized under this paragraph, HHSC may recoup an amount equivalent to the amount of supplemental payments recouped by CMS. Supplemental payments under this paragraph may be subject to any adjustments for payments made in error, including, without limitation, adjustments under §371.1703 of this title (relating to recovery of overpayments), 42 C.F.R. part 455, and chapter 403, Texas

Government Code. HHSC will send a notice of recoupment to the hospital and will recoup from any current or future Medicaid payments as follows:

(i) HHSC will recoup from the hospital against which the disallowance was directed;

(ii) If, within 30 days of the hospital's receipt of HHSC's written notice of recoupment, the hospital has not paid the full amount of the recoupment or entered into an agreement, in writing, with HHSC, HHSC will recover the amount of the CMS recoupment from the hospital district or state or local governmental entity;

(iii) If HHSC recoups the outstanding amount from the hospital district or state or local governmental entity, the hospital district or state or local governmental entity may recover the same amount from its affiliated hospitals via mechanisms agreed to in writing by the affiliating entity and the affiliated hospitals.

(G) Funding of supplemental payments under this paragraph shall be disbursed as follows:

(i) Supplemental payments available under this paragraph shall be payable to a hospital affiliated with a hospital district or state or local governmental entity in proportion to the amount transferred by the hospital district or state or local governmental entity affiliated with the private hospital, subject to legislative appropriation. Such supplemental payments will be based on calculations made by HHSC and will be made quarterly, beginning June 1, 2007.

(ii) If a hospital district or state or local governmental entity does not transfer to HHSC sufficient funding for the time period specified to generate the full amount allowable under this paragraph, each hospital affiliated with that hospital district or state or local governmental entity will receive a portion of the supplemental payment under paragraph (5) of this subsection based on that hospital's percentage of the full entitlement for all hospitals affiliated with that hospital district or state or local governmental entity.

(iii) HHSC will issue one supplemental payment for a hospital for inpatient services the hospital provided on or before August 31, 2006, if the hospital meets the criteria of subparagraphs (A) - (C) of this paragraph no later than May 31, 2007, and if a sufficient amount of funds (as determined by HHSC) are transferred to HHSC to support the one-time supplemental payment no later than December 1, 2007. A hospital district or state or local governmental entity must notify HHSC in a manner prescribed by HHSC of the date it intends to transfer funds related to the supplement payment authorized under this subparagraph. The supplemental payment will be processed for each participating hospital based on the amount of funds transferred to HHSC up to the calculated maximum payment for the applicable retroactive time period. A hospital that satisfies the criteria of subparagraphs (A) - (C) of this paragraph after May 31, 2007, will not be eligible for the supplemental payment authorized under this subparagraph but will be eligible to receive regular supplemental payments under paragraph (5) of this subsection. If the full amount of the calculated intergovernmental transfer (IGT) transfer is not made by the transfer deadlines specified by HHSC, the supplemental payment for that time period will be calculated based on the amount of the funds transferred. Regular quarterly supplemental payments for state fiscal year 2007 for which IGT funds are received will be made, beginning in June 2007, to each participating hospital for which a copy of the fully executed indigent care affiliation agreement, as well as any required certification forms, have been timely received.

(H) State funding for supplemental payments authorized under this paragraph will be limited to and obtained through intergovernmental transfers of local governmental entity or hospital

district funds or transfer of State General Revenue. The supplemental payments described in this subsection will be made in accordance with the applicable regulations regarding the Medicaid upper limit provisions codified at 42 C.F.R. §447.272.

(5) [(4)] An eligible hospital under this subsection will receive quarterly supplemental payments. The quarterly payments will be limited to one-fourth of the lesser of:

(A) The difference between the hospital's Medicaid inpatient billed charges and Medicaid payments the hospital receives for services provided to fee-for-service Medicaid recipients. Medicaid billed charges and payments will be based on a twelve consecutive-month period of fee-for-service claims data selected by HHSC; or

(B) The difference between the hospital's "hospital specific limit," as determined under §355.8065(f)(2)(E) of this chapter relating to Reimbursement to Disproportionate Share Hospitals (DSH) for DSH hospitals and the hospital's DSH payments as determined by the most recently finalized DSH reporting period.

(6) [(5)] For purposes of calculating the "hospital specific limit" in paragraph (5)[(4)](B) of this subsection, the "cost of services to uninsured patients," as defined by §355.8065(b)(5) of this chapter and "Medicaid shortfall," as defined by §355.8065(b)(16) of this chapter, will be adjusted as follows:

(A) The amount of Medicaid payments (including inpatient and outpatient supplemental payments) that exceed Medicaid cost will be subtracted from the "Medicaid shortfall."

(B) The amount of the "Medicaid shortfall," as adjusted in accordance with subparagraph (A) of this paragraph, will be subtracted from the "cost of services to uninsured patients" to ensure that, during any state fiscal year, a hospital does not receive more in total Medicaid payments (inpatient and outpatient rate payments, graduate medical education payments, supplemental payments and disproportionate share hospital payments) than its cost of serving Medicaid patients and patients with no health insurance.

(u) - (v) (No change.)

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

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

TRD-200700040

Steve Aragón

Chief Counsel

Texas Health and Human Services Commission

Earliest possible date of adoption: February 18, 2007

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



TITLE 28. INSURANCE

PART 1. TEXAS DEPARTMENT OF INSURANCE

CHAPTER 21. TRADE PRACTICES

SUBCHAPTER T. SUBMISSION OF CLEAN CLAIMS

28 TAC §21.2802, §21.2803

The Texas Department of Insurance proposes amendments to §21.2802 and §21.2803 concerning elements of a clean health care claim. In conjunction with the National Uniform Claims Committee (NUCC) and the National Uniform Billing Committee (NUBC), the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services (CMS) have identified much of the information needed to process claims. Insurance Code §1204.102 requires a provider to use one of two forms, HCFA 1500 and UB-82/HCFA, or their successor forms, for submission of certain claims. These proposed amendments are necessary to implement usage of two new successor forms, the CMS-1500 (08/05) and the UB-04 CMS-1450. These proposed amendments are also necessary to address the phase-out of the two predecessor successor forms, the CMS-1500 (12/90) and the UB-92 CMS-1450, currently required for use in filing certain claims. The proposed amendments further address changes to specified data elements necessary to accommodate revision of the information fields set forth in the two new successor forms, update internal references and references related to nonsubstantive recodification, and make minor punctuation and grammatical changes.

§21.2802. Definitions. The proposed amendment to §21.2802 adds a definition for the NPI (National Provider Identifier) number, a standard unique health identifier number for health care providers assigned pursuant to federal law for which the new successor forms have created specific information fields, and renumbers subsequent definitions accordingly.

§21.2803(a). Filing a Clean Claim. The proposed amendment to §21.2803(a)(2) corrects a reference to clarify that a physician or provider submits a clean electronic claim, including a clean electronic dental claim filed with an HMO, by providing to the specified carrier the required data elements in §21.2803(e) and (f).

§21.2803(b). Required data elements. The proposed amendments to §21.2803(b) adopt successor forms for specified claims; establish optional timeliness to allow for transition to the new forms; establish required usage dates; and establish the data elements required for a physician or provider to submit a clean claim.

§21.2803(b)(1). Successor form CMS-1500 (08/05). The proposed amendments redesignate current paragraph (b)(1) as paragraph (b)(2) and add a new paragraph (b)(1) to §21.2803. Specifically, proposed new §21.2803(b)(1) adopts successor form CMS-1500 (08/05) as the required form for physicians and noninstitutional providers for claims filed or re-filed on or after April 2, 2007, and sets forth the data elements that physicians and noninstitutional providers must complete in accordance with this paragraph for clean claims. The proposal further creates an optional transition period prior to the mandatory usage date of April 2, 2007. Upon notification by an HMO or a preferred provider carrier that it is prepared to accept claims filed or re-filed prior to April 2, 2007, using form CMS-1500 (08/05), a physician or non-institutional provider may submit claims using that successor form, subject to the data element requirements set forth in the paragraph for clean claims for form CMS-1500 (08/05). Most of the proposed data element requirements in new §21.2803(b)(1) are consistent with those data element requirements identified for use in clean claims on the predecessor form CMS-1500 (12/90). The proposal identifies the field location of those data elements on successor form CMS-1500 (08/05).

Proposed new §21.2803(b)(1)(H) - (L) and (Q) do not contain the phrase "to the HMO or preferred provider carrier." Although the current rule regarding these data elements contains this phrase, the language is unnecessary because these subparagraphs already specify that, when required according to the instructions in these subparagraphs, the physician or provider must submit with the claim documented proof that the physician or provider has made a good faith but unsuccessful attempt to obtain from the enrollee or insured any of the information needed to complete the data element. This proposed change is consistent with proposed amendments to address the corresponding data elements in §21.2803(b)(2)(H) - (L) and (Q), regarding required data elements for the CMS-1500 (12/90) during the phase-out of that form and does not substantively change requirements regarding these data elements.

Proposed new §21.2803(b)(1)(U) clarifies the circumstances in which a physician or provider must enter the name of a referring primary care physician, specialty physician, hospital, or other source of referral, and does not effect a substantive change. Proposed new §21.2803(b)(1)(V) similarly clarifies the circumstances in which a physician or provider must submit the ID Number of the referring primary care physician, specialty physician, or hospital. Because the physician or provider should already have submitted an entry affirming the nonexistence of a referring provider in field 17 when appropriate, the proposal does not require duplication of this information in field 17a.

Proposed new §21.2803(b)(1)(W) requires that, for claims filed or re-filed on or after May 23, 2007, if there is a referring physician noted in field 17, the physician or provider filing the claim must enter the NPI number of the referring primary care physician, specialty physician, or hospital, if the referring physician is eligible for an NPI number. Proposed new §21.2803(b)(1)(GG), (NN), and (PP) address similar NPI number submission requirements for rendering providers, facilities, and billing providers. This NPI number usage requirement is consistent with CMS requirements and timeliness for standard transactions and will support federal implementation of the NPI number. Further, this usage requirement allows for greater consistency between standard and nonstandard transactions and strengthens the ability of physicians and providers to submit clean electronic claims by promoting the use of the NPI number in nonstandard transactions.

Proposed new §21.2803(b)(1) further recognizes that the CMS Final Rule for HIPAA Administrative Simplification: Standard Unique Health Identifier for Health Care Providers, Subpart D, does not require a small health plan to comply with implementation specifications for use of the NPI number until May 23, 2008. Proposed new §21.2803(b)(1)(V), therefore, requires submission of the ID number of the referring primary care physician, specialty physician, or hospital as applicable. This proposal is a continuation of the requirement applicable to the predecessor form CMS-1500 (12/90) and enables small health plans to identify physicians prior to May 23, 2008. Similarly, and for the same reason, proposed new §21.2803(b)(1)(QQ) continues the required submission of the rendering provider number if the HMO or preferred provider carrier required provider numbers and notified physicians and providers of the requirement prior to June 17, 2003. Proposed new §21.2803(b)(1)(OO) and (QQ) further reflect that information currently captured together in field 33 on form CMS-1500 (12/90) now has discrete subfields in form CMS-1500 (08/05).

Consistent with usage recommendations of the NUCC in the 1500 Health Insurance Claim Form Reference Instruction Manual for 08/05 Version, proposed new §21.2803(b)(1)(MM) requires a physician or provider to submit the name and address of the facility where services are rendered, if other than home.

§21.2803(b)(2). Predecessor form CMS-1500 (12/90). The proposed amendments to redesignated §21.2803(b)(2) (paragraph (b)(1) in the current rule) address the phase-out period of form CMS-1500 (12/90) and renumber this paragraph in accord with the new structure of the section. The proposed amendments specify that physicians and noninstitutional providers filing or re-filing nonelectronic claims prior to April 2, 2007, must use predecessor form CMS-1500 (12/90), continuing the data element requirements applicable to that form for clean claims. The proposed amendments further provide that, upon notification that an HMO or preferred provider carrier is prepared to accept claims filed or re-filed on form CMS-1500 (08/05), a physician or noninstitutional provider may submit claims using form CMS-1500 (08/05) prior to the April 2, 2007, mandatory usage date, subject to the required data elements set forth in proposed new §21.2803(b)(1).

Proposed amendments throughout §21.2803 change references to CMS-1500 (12/90) to distinguish the form from successor form CMS-1500 (08/05).

The proposed amendment to §21.2803(b)(2)(U) clarifies the circumstances in which a physician or provider must enter the name of a referring primary care physician, specialty physician, hospital, or other source of referral and does not effect a substantive change. The proposed amendment to §21.2803(b)(2)(V) similarly clarifies the circumstances in which a physician or provider must submit the ID Number of the referring primary care physician, specialty physician, or hospital.

§21.2803(b)(3). Successor form UB-04 CMS-1450. The proposed amendments redesignate current paragraph (b)(2) as paragraph (b)(4) and add a new paragraph (b)(3). Proposed new §21.2803(b)(3) adopts successor form UB-04 CMS-1450 as the required form for institutional providers for nonelectronic claims filed or re-filed on or after May 23, 2007, and sets forth the data elements that institutional providers must complete in accordance with this paragraph for clean claims. The proposal further creates an optional transition period prior to the mandatory usage date of May 23, 2007. Between March 1, 2007 and May 22, 2007, upon notification from an HMO or preferred provider carrier that it is prepared to accept claims filed or re-filed on the new successor form, an institutional provider may submit claims using successor form UB-04 CMS-1450, subject to the data elements set forth in §21.2803(b)(3) for clean claims. Most of the data element requirements in new §21.2803(b)(3) are consistent with those data element requirements previously identified for use in clean claims on the predecessor form UB-92 CMS-1450.

Proposed new §21.2803(b)(3)(C) requires submission of the type of bill code, including submission of a "7" in the fourth position of UB-04 field 4 if the claim is a corrected claim. This requirement, which varies from the requirement to submit a "7" in the third position for the UB-92, is necessary because the UB-04 form now accommodates type of bill codes in the first three digits of the field and utilizes the fourth position of field 4 to report frequency of the bill.

Proposed new §21.2803(b)(3) does not set forth discrete data element requirements for covered days; non-covered days;

coinsurance days; or lifetime reserve days, as are required for the UB-92. The UB-04 form no longer contains assigned fields for these specific purposes. Instead, a clean noninstitutional provider claim must include value codes corresponding to this information as appropriate and as set forth in §21.2803(b)(3)(S).

Proposed new §21.2803(b)(3) reflects the NUBC's reorganization/renumbering of field assignments on the UB-04. The proposal does not include marital status, submission of the procedure coding method used, or signature of the provider representative as required data elements for the UB-04. While the Department requires submission of this information for clean claims on the current form, the UB-04 no longer contains assigned fields for these purposes. Because the UB-04 no longer contains a field assignment for prior patient payments, proposed new §21.2803(b)(3) does not include this data element requirement.

Proposed new §21.2803(b)(3)(CC) requires an institutional provider to submit the billing provider's NPI number for claims filed or re-filed on or after May 23, 2007 if the billing provider is eligible for an NPI number. Proposed new §21.2803(b)(3)(OO) contains a similar NPI number submission requirement for the attending physician. As stated with regard to the proposed required clean claim elements for the CMS-1500 (08/05), this NPI number usage requirement is consistent with CMS requirements and timeliness for standard transactions and will support federal implementation of the NPI number. The usage requirement further allows for greater consistency between standard and nonstandard transactions and strengthens the ability of institutional providers to submit clean electronic claims by promoting the use of the NPI number in nonstandard transactions.

Also consistent with the proposed rule regarding the required clean claim elements for the CMS-1500 (08/05), proposed new §21.2803(b)(3) recognizes that the CMS Final Rule for HIPAA Administrative Simplification: Standard Unique Health Identifier for Health Care Providers, Subpart D, does not require a small health plan to comply with its implementation specifications for use of the NPI number until May 23, 2008. Accordingly, proposed new §21.2803(b)(3)(DD) requires an institutional provider to submit the payor-designated provider number if the HMO or preferred provider carrier required provider numbers and gave notice of that requirement to physicians and providers prior to June 17, 2003. Similarly, proposed new §21.2803(b)(3)(PP) requires institutional providers to submit the payor-designated attending physician ID. These requirements are a continuation of the requirements applicable to the predecessor form UB-92 and enable small health plans to identify these providers.

§21.2803(b)(4). Predecessor claim form UB-92. The proposed amendments to redesignated §21.2803(b)(4) (paragraph (b)(2) in the current rule) address the phase-out period of form UB-92 CMS-1450. The proposed amendments specify that institutional providers filing or re-filing nonelectronic claims prior to May 23, 2007, must use predecessor form UB-92, continuing the data element requirements applicable to that form for clean claims. The proposed amendments further provide that, upon notification that an HMO or preferred provider carrier is prepared to accept claims filed or re-filed on form UB-04 earlier than the mandatory usage date, the institutional provider may submit claims using the UB-04, subject to the data element requirements established in §21.2803(b)(3), at any time between March 1, 2007 and May 22, 2007. The proposed amendment to §21.2803(b)(4)(LL) further deletes a repetitive reference.

§21.2803(d). Coordination of benefits. The proposed amendments to §21.2803(d) update internal references and identify required elements necessary for purposes of a secondary plan's claim processing according to the applicable form.

Jennifer Ahrens, Associate Commissioner for the Life, Health, and Licensing Division, has determined that, for each year of the first five years the proposed amendments will be in effect, there will be no fiscal impact to state government as a result of the enforcement or administration of the rule. There may be possible start-up costs associated with the re-programming of billing systems to local governmental units that file health care claims that may be subject to statutory requirements in Insurance Code §§843.336, 1204.102, and 1301.131 requiring that physicians and providers use specified uniform billing forms and successor forms. Such costs are the result of these statutory requirements and not the result of the adoption, administration, or enforcement of the proposed amendments. Because the NUCC, NUBC, and CMS are implementing new forms and discontinuing the forms adopted in current §21.2803, §§843.336, 1204.102, and 1301.131 of the Insurance Code require the amendments included in this proposal. There will be no measurable effect on local employment or the local economy as a result of the proposal.

Ms. Ahrens also has determined that, for each year of the first five years the proposed amendments are in effect, the public benefits anticipated as a result of the proposed amendments will be enhanced industry, physician, and provider compliance with federal HIPAA requirements, increased consistency between standard and nonstandard health care transactions, and continued streamlining and standardization of the nonelectronic claims filing and payment process. The resulting increase in efficiency will benefit HMOs, preferred provider carriers, physicians, providers, insureds, and enrollees. Proposed amendments to data elements for predecessor forms are nonsubstantive and, therefore, will not result in any new economic cost to physicians, providers, HMOs, or preferred provider carriers. The probable economic cost to persons required to comply with the proposed amendments establishing data element requirements for new successor forms is the result of the statutory requirements in Insurance Code §§843.336, 1204.102, and 1301.131 that physicians and providers use specified uniform claim billing forms and successor forms and not the result of the adoption, administration, or enforcement of the proposed amendments. The implementation of new forms and discontinuation of previous forms by the NUCC, NUBC, and CMS require the amendments included in this proposal. Insurance Code §843.336(d) and §1301.131(c) further authorize the Commissioner to adopt rules that specify the information that must be entered into the appropriate fields on the applicable claim form for a claim to be a clean claim, providing for the standardization of claims payment processes.

Although such costs stem from legislative requirements the proposal implements rather than the proposal itself, staff provides the following information relevant to implementation costs for affected parties. Estimated personnel costs for re-programming billing systems and claims processing systems for compliance with the proposed amendments are based on data from the U.S. Department of Labor, Bureau of Labor Statistics, as reported in the survey, Occupational Employment and Wages, May 2005, which indicates that the mean hourly wage for a computer programmer employed by an insurance carrier is \$32.14, and the mean hourly wage for a computer programmer in general is \$32.40. The amount of time necessary to re-program a

provider's billing system or an HMO's or preferred provider carrier's claim processing system will vary based upon the needs of the subject, but the resulting standardization should preclude any increased administrative costs that would otherwise result from billing and processing in the absence of a standardized data element set. The amount of time necessary to implement the systems changes will also vary based upon the needs of the subject; but the Department notes that the NUCC, NUBC, and CMS have undertaken educational efforts associated with implementation of the successor forms and NPI reporting requirements over the last year, putting physicians, providers, preferred provider benefit plans, and HMOs on notice of pending changes. The Department anticipates that these educational efforts have resulted in early implementation planning by some health plans and providers thereby reducing the additional time required to implement necessary changes, reducing costs associated with implementation, and generally minimizing the burden to the affected parties. Furthermore, in an effort to craft the proposal to minimize burden and cost to the affected parties, the Department on numerous occasions solicited input on significant aspects of these proposed amendments from members of the Technical Advisory Committee on Claims Processing as well as solicited informal public comment regarding the proposed changes. Provider organizations report continued educational efforts directed to physicians and providers, and HMOs and preferred provider carrier entities and representative organizations have generally indicated that carriers will be prepared to implement the changes in compliance with the proposed timeliness. The effect on small and micro-businesses should be the same as that for the larger entities. As already indicated, the costs associated with compliance with the proposed amendments will vary based upon the individual needs of the subject; but the mean hourly rate for a computer programmer should be substantially the same regardless of whether the subject is a small, micro, or large business. It is neither legal nor feasible to waive the requirements of the section for small or micro-businesses pursuant to Texas Gov't Code §2006.001. Insurance Code §1204.102 applies to all providers who seek payment or reimbursement under a health benefit plan and to all issuers of health benefit plans. The exemption of small or micro-businesses from the adoption of the proposed amendments or the adoption of separate compliance standards for small or micro-businesses would undermine the standardization of nonelectronic billing and claims payment processes achieved through the implementation of Insurance Code §§843.336, 1204.102, and 1301.131.

To be considered, written comments on the proposal must be submitted no later than 5:00 p.m. on February 20, 2007, 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 comment must be simultaneously submitted to Katrina Daniel, Special Advisor for Policy Development, Life, Health and Licensing Program, Mail Code 107-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104.

The Commissioner will consider the adoption of the proposed amendments in a public hearing under Docket Number 2664 at 10:00 a.m. on February 22, 2007, in Room 100 at the William P. Hobby, Jr. State Office Building, 333 Guadalupe Street, Austin, Texas 78701. Written and oral comments presented at the hearing will be considered.

The amendments are proposed under the Insurance Code §§843.336, 1301.131, 1204.102, and 36.001. Sections

843.336(b) and 1301.131(a) provide that nonelectronic claims by physicians and noninstitutional providers are clean claims if the claims are submitted using form CMS-1500 or, if adopted by the Commissioner by rule, a successor to that form developed by the NUCC or its successor. Sections 843.336(c) and 1301.131(b) further provide that a nonelectronic claim by an institutional provider is a clean claim if the claim is submitted using form UB-92 CMS-1450 or, if adopted by the Commissioner by rule, a successor to that form developed by the NUBC. Sections 843.336(d) and 1301.131(c) authorize the Commissioner to adopt rules that specify the information that must be entered into the appropriate fields on the applicable claim form for a claim to be a clean claim. Section 1204.102 requires a provider who seeks payment or reimbursement under a health benefit plan and the health benefit plan issuer that issued the plan to use uniform billing forms CMS-1500, UB-82 CMS-1450, or successor forms to those forms developed by the NUBC or its successor. 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.

The following statutes are affected by this proposal: Insurance Code Chapters 843 and 1301 and §1204.102.

§21.2802. *Definitions.*

The following words and terms when used in this subchapter shall have the following meanings:

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

(3) Billed charges--The charges for medical care or health care services included on a claim submitted by a physician or provider. For purposes of this subchapter, billed charges must comply with all other applicable requirements of law, including Texas Health and Safety Code §311.0025, Texas Occupations Code §105.002, and Texas Insurance Code Chapter 552 [~~Art. 21.79F~~].

(4) - (15) (No change.)

(16) NPI number--The National Provider Identifier standard unique health identifier number for health care providers assigned pursuant to 45 Code of Federal Regulations Part 162 Subpart D, or a successor rule.

(17) [~~(16)~~] Occurrence span code--The code utilized by CMS to define a specific event relating to the billing period.

(18) [~~(17)~~] Patient control number--A unique alphanumeric identifier assigned by the institutional provider to facilitate retrieval of individual financial records and posting of payment.

(19) [~~(18)~~] Patient financial responsibility--Any portion of the contracted rate for which the patient is responsible pursuant to the terms of the patient's health benefit plan.

(20) [~~(19)~~] Patient-status-at-discharge code--The code utilized by CMS to indicate the patient's status at time of discharge or billing.

(21) [~~(20)~~] Physician--Anyone licensed to practice medicine in this state.

(22) [~~(21)~~] Place of service code--The codes utilized by CMS that identify the place at which the service was rendered.

(23) [~~(22)~~] Preferred provider--

(A) with regard to a preferred provider carrier, a preferred provider as defined by Insurance Code §1301.001 (Definitions)

[Article 3.70-3C, §1(10) (Preferred Provider Benefit Plans) or Article 3.70-3C, §1(1) (Use of Advanced Practice Nurses and Physician Assistants by Preferred Provider Plans)].

(B) (No change.)

(24) [(23)] Preferred provider carrier--An insurer that issues a preferred provider benefit plan as provided by Insurance Code Chapter 1301 [Article 3.70-3C, Section 2 (Preferred Provider Benefit Plans)].

(25) [(24)] Primary plan--As defined in §3.3506 of this title (relating to Use of the Terms "Plan," "Primary Plan," "Secondary Plan," and "This Plan" in Policies, Certificates and Contracts).

(26) [(25)] Procedure code--Any alphanumeric code representing a service or treatment that is part of a medical code set that is adopted by CMS as required by federal statute and valid at the time of service. In the absence of an existing federal code, and for non-electronic claims only, this definition may also include local codes developed specifically by Medicaid, Medicare, an HMO, or a preferred provider carrier to describe a specific service or procedure.

(27) [(26)] Provider--Any practitioner, institutional provider, or other person or organization that furnishes health care services and that is licensed or otherwise authorized to practice in this state, other than a physician.

(28) [(27)] Revenue code--The code assigned by CMS to each cost center for which a separate charge is billed.

(29) [(28)] Secondary plan--As defined in §3.3506 of this title.

(30) [(29)] Source of admission code--The code utilized by CMS to indicate the source of an inpatient admission.

(31) [(30)] Statutory claims payment period--

(A) the 45-calendar-day period in which an HMO or preferred provider carrier shall make claim payment or denial, in whole or in part, after receipt of a non-electronic clean claim pursuant to Insurance Code Chapters 843 and 1301 [Article 3.70-3C, §3A (Preferred Provider Benefit Plans) and Chapter 843];

(B) the 30-calendar-day period in which an HMO or preferred provider carrier shall make claim payment or denial, in whole or in part, after receipt of an electronically submitted clean claim pursuant to Insurance Code Chapters 843 and 1301 [Article 3.70-3C, §3A (Preferred Provider Benefit Plans) and Chapter 843]; or

(C) the 21-calendar-day period in which an HMO or preferred provider carrier shall make claim payment after affirmative adjudication of an electronically submitted clean claim for a prescription benefit pursuant to Insurance Code Chapters 843 and 1301 [Article 3.70-3C, §3A(f) (Preferred Provider Benefit Plans) and §843.339], and §21.2814 of this title (relating to Electronic Adjudication of Prescription Benefits).

(32) [(31)] Subscriber--If individual coverage, the individual who is the contract holder and is responsible for payment of premiums to the HMO or preferred provider carrier; or if group coverage, the individual who is the certificate holder and whose employment or other membership status, except for family dependency, is the basis for eligibility for enrollment in a group health benefit plan issued by the HMO or the preferred provider carrier.

(33) [(32)] Type of bill code--The three-digit alphanumeric code utilized by CMS to identify the type of facility, the type of care, and the sequence of the bill in a particular episode of care.

§21.2803. *Elements of a Clean Claim.*

(a) Filing a Clean Claim. A physician or provider submits a clean claim by providing to an HMO, preferred provider carrier, or any other entity designated for receipt of claims pursuant to §21.2811 of this title (related to Disclosure of Processing Procedures):

(1) (No change.)

(2) for electronic claims and for electronic dental claims filed with an HMO, the required data elements specified in subsections (e) and (f) of this section [subsection]; and

(3) (No change.)

(b) Required data elements. CMS has developed claim forms which provide much of the information needed to process claims. Insurance Code Chapter 1204 identifies two [Two] of these forms, HCFA 1500 and UB-82/HCFA, and their successor forms, [have been identified by Insurance Code Article 21.52C] as required for the submission of certain claims. The terms in paragraphs (1) - (4) [and (2)] of this subsection are based upon the terms CMS used [by CMS] on successor forms CMS-1500 (08/05), CMS-1500 (12/90), UB-04 CMS-1450, and UB-92 CMS-1450 [claim forms]. The parenthetical information following each term refers to the applicable CMS claim form [] and the field number to which that term corresponds on the CMS claim form. Mandatory form usage dates and optional form transition dates for nonelectronic claims filed or re-filed by physicians or non-institutional providers are set forth in paragraphs (1) and (2) of this subsection. Mandatory form usage dates and optional form transition dates for nonelectronic claims filed or re-filed by institutional providers are set forth in paragraphs (3) and (4) of this subsection.

(1) Required form and data elements for physicians or non-institutional providers for claims filed or re-filed on or after April 2, 2007. The CMS-1500 (08/05) and the data elements described in this paragraph are required as indicated and must be completed in accordance with the special instructions applicable to the data element for clean claims filed by physicians and noninstitutional providers. Further, upon notification that an HMO or preferred provider carrier is prepared to accept claims filed or re-filed on form CMS-1500 (08/05), a physician or noninstitutional provider may submit claims on form CMS-1500 (08/05) prior to April 2, 2007, subject to the required data elements set forth in this paragraph.

(A) subscriber's/patient's plan ID number (CMS-1500 (08/05), field 1a) is required;

(B) patient's name (CMS-1500 (08/05), field 2) is required;

(C) patient's date of birth and gender (CMS-1500 (08/05), field 3) is required;

(D) subscriber's name (CMS-1500 (08/05), field 4) is required, if shown on the patient's ID card;

(E) patient's address (street or P.O. Box, city, state, ZIP) (CMS-1500 (08/05), field 5) is required;

(F) patient's relationship to subscriber (CMS-1500 (08/05), field 6) is required;

(G) subscriber's address (street or P.O. Box, city, state, ZIP) (CMS-1500 (08/05), field 7) is required, but physician or provider may enter "same" if the subscriber's address is the same as the patient's address required by subparagraph (E) of this paragraph;

(H) other insured's or enrollee's name (CMS-1500 (08/05), field 9) is required if the patient is covered by more than one health benefit plan, generally in situations described in subsection (d) of this section. If the required data element specified in paragraph (1)(Q) of this subsection, "disclosure of any other health benefit plans,"

is answered "yes," this element is required unless the physician or provider submits with the claim documented proof that the physician or provider has made a good faith but unsuccessful attempt to obtain from the enrollee or insured any of the information needed to complete this data element;

(I) other insured's or enrollee's policy/group number (CMS-1500 (08/05), field 9a) is required if the patient is covered by more than one health benefit plan, generally in situations described in subsection (d) of this section. If the required data element specified in paragraph (1)(Q) of this subsection, "disclosure of any other health benefit plans," is answered "yes," this element is required unless the physician or provider submits with the claim documented proof that the physician or provider has made a good faith but unsuccessful attempt to obtain from the enrollee or insured any of the information needed to complete this data element;

(J) other insured's or enrollee's date of birth (CMS-1500 (08/05), field 9b) is required if the patient is covered by more than one health benefit plan, generally in situations described in subsection (d) of this section. If the required data element specified in paragraph (1)(Q) of this subsection, "disclosure of any other health benefit plans," is answered "yes," this element is required unless the physician or provider submits with the claim documented proof that the physician or provider has made a good faith but unsuccessful attempt to obtain from the enrollee or insured any of the information needed to complete this data element;

(K) other insured's or enrollee's plan name (employer, school, etc.) (CMS-1500 (08/05), field 9c) is required if the patient is covered by more than one health benefit plan, generally in situations described in subsection (d) of this section. If the required data element specified in paragraph (1)(Q) of this subsection, "disclosure of any other health benefit plans," is answered "yes," this element is required unless the physician or provider submits with the claim documented proof that the physician or provider has made a good faith but unsuccessful attempt to obtain from the enrollee or insured any of the information needed to complete this data element. If the field is required and the physician or provider is a facility-based radiologist, pathologist, or anesthesiologist with no direct patient contact, the physician or provider must either enter the information or enter "NA" (not available) if the information is unknown;

(L) other insured's or enrollee's HMO or insurer name (CMS-1500 (08/05), field 9d) is required if the patient is covered by more than one health benefit plan, generally in situations described in subsection (d) of this section. If the required data element specified in paragraph (1)(Q) of this subsection, "disclosure of any other health benefit plans," is answered "yes," this element is required unless the physician or provider submits with the claim documented proof that the physician or provider has made a good faith but unsuccessful attempt to obtain from the enrollee or insured any of the information needed to complete this data element;

(M) whether patient's condition is related to employment, auto accident, or other accident (CMS-1500 (08/05), field 10) is required, but facility-based radiologists, pathologists, or anesthesiologists shall enter "N" if the answer is "No" or if the information is not available;

(N) if the claim is a duplicate claim, a "D" is required; if the claim is a corrected claim, a "C" is required (CMS-1500 (08/05), field 10d);

(O) subscriber's policy number (CMS-1500 (08/05), field 11) is required;

(P) HMO or insurance company name (CMS-1500 (08/05), field 11c) is required;

(Q) disclosure of any other health benefit plans (CMS-1500 (08/05), field 11d) is required;

(i) if answered "yes," then:

(I) data elements specified in paragraph (1)(H) - (L) of this subsection are required unless the physician or provider submits with the claim documented proof that the physician or provider has made a good faith but unsuccessful attempt to obtain from the enrollee or insured any of the information needed to complete the data elements in paragraph (1)(H) - (L) of this subsection;

(II) the data element specified in paragraph (1)(II) of this subsection is required when submitting claims to secondary payor HMOs or preferred provider carriers;

(ii) if answered "no," the data elements specified in paragraph (1)(H) - (L) of this subsection are not required if the physician or provider has on file a document signed within the past 12 months by the patient or authorized person stating that there is no other health care coverage; although the submission of the signed document is not a required data element, the physician or provider shall submit a copy of the signed document to the HMO or preferred provider carrier upon request;

(R) patient's or authorized person's signature or notation that the signature is on file with the physician or provider (CMS-1500 (08/05), field 12) is required;

(S) subscriber's or authorized person's signature or notation that the signature is on file with the physician or provider (CMS-1500 (08/05), field 13) is required;

(T) date of injury (CMS-1500 (08/05), field 14) is required if due to an accident;

(U) when applicable, the physician or provider shall enter the name of the referring primary care physician, specialty physician, hospital, or other source (CMS-1500 (08/05), field 17); however, if there is no referral, the physician or provider shall enter "Self-referral" or "None";

(V) if there is a referring physician noted in CMS-1500 (08/05), field 17, the physician or provider shall enter the ID Number of the referring primary care physician, specialty physician, or hospital (CMS-1500 (08/05), field 17a);

(W) for claims filed or re-filed on or after May 23, 2007, if there is a referring physician noted in CMS-1500 (08/05), field 17, the physician or provider shall enter the NPI number of the referring primary care physician, specialty physician, or hospital (CMS-1500 (08/05), field 17b) if the referring physician is eligible for an NPI number;

(X) narrative description of procedure (CMS-1500 (08/05), field 19) is required when a physician or provider uses an unlisted or not classified procedure code or an NDC code for drugs;

(Y) for diagnosis codes or nature of illness or injury (CMS-1500 (08/05), field 21), up to four diagnosis codes may be entered, but at least one is required (primary diagnosis must be entered first);

(Z) verification number (CMS-1500 (08/05), field 23) is required if services have been verified pursuant to §19.1724 of this title (relating to Verification). If no verification has been provided, a prior authorization number (CMS 1500 (08/05), field 23) is required when prior authorization is required and granted;

(AA) date(s) of service (CMS-1500 (08/05), field 24A) is required;

(BB) place of service code(s) (CMS-1500 (08/05), field 24B) is required;

(CC) procedure/modifier code (CMS-1500 (08/05), field 24D) is required;

(DD) diagnosis code by specific service (CMS-1500 (08/05), field 24E) is required with the first code linked to the applicable diagnosis code for that service in field 21;

(EE) charge for each listed service (CMS-1500 (08/05), field 24F) is required;

(FF) number of days or units (CMS-1500 (08/05), field 24G) is required;

(GG) for claims filed or re-filed on or after May 23, 2007, the NPI number of the rendering physician or provider (CMS-1500 (08/05), field 24J, unshaded portion) is required if the rendering provider is not the billing provider listed in CMS-1500 (08/05), field 33, and if the rendering physician or provider is eligible for an NPI number;

(HH) physician's or provider's federal tax ID number (CMS-1500 (08/05), field 25) is required;

(II) whether assignment was accepted (CMS-1500 (08/05), field 27) is required if assignment under Medicare has been accepted;

(JJ) total charge (CMS-1500 (08/05), field 28) is required;

(KK) amount paid (CMS-1500 (08/05), field 29) is required if an amount has been paid to the physician or provider submitting the claim by the patient or subscriber, or on behalf of the patient or subscriber or by a primary plan in accordance with paragraph (1)(P) of this subsection and as required by subsection (d) of this section;

(LL) signature of physician or provider or notation that the signature is on file with the HMO or preferred provider carrier (CMS-1500 (08/05), field 31) is required;

(MM) name and address of facility where services rendered (if other than home) (CMS-1500 (08/05), field 32) is required;

(NN) for claims filed or re-filed on or after May 23, 2007, the NPI number of facility where services are rendered (other than home) is required (CMS-1500 (08/05), field 32a) if the facility is eligible for an NPI;

(OO) physician's or provider's billing name, address and telephone number (CMS-1500 (08/05), field 33) is required;

(PP) for claims filed or re-filed on or after May 23, 2007, the NPI number of billing provider (CMS-1500 (08/05), field 33a) is required if the billing provider is eligible for an NPI number; and

(QQ) provider number (CMS-1500 (08/05), field 33b) is required if the HMO or preferred provider carrier required provider numbers and gave notice of the requirement to physicians and providers prior to June 17, 2003.

(2) [(+)] Required form and data elements for physicians or noninstitutional providers for claims filed or re-filed before April 2, 2007. The CMS-1500 (12/90) and the data elements described in this paragraph are required as indicated and must be completed in accordance with the special instructions applicable to the data element for clean claims filed by physicians and noninstitutional providers. How-

ever, upon notification that an HMO or preferred provider carrier is prepared to accept claims filed or re-filed on form CMS-1500 (08/05), a physician or noninstitutional provider may submit claims on form CMS-1500 (08/05) prior to April 2, 2007, subject to the required data elements set forth in subsection (b)(1) of this section.

(A) subscriber's/patient's plan ID number (CMS-1500 (12/90) [(CMS 1500)], field 1a) is required;

(B) patient's name (CMS-1500 (12/90) [CMS 1500], field 2) is required;

(C) patient's date of birth and gender (CMS-1500 (12/90) [CMS 1500], field 3) is required;

(D) subscriber's name (CMS-1500 (12/90) [CMS 1500], field 4) is required, if shown on the patient's ID card;

(E) patient's address (street or P.O. Box, city, state, ZIP [zip]) (CMS-1500 (12/90) [CMS 1500], field 5) is required;

(F) patient's relationship to subscriber (CMS-1500 (12/90) [CMS 1500], field 6) is required;

(G) subscriber's address (street or P.O. Box, city, state, ZIP [zip]) (CMS-1500 (12/90) [CMS 1500], field 7) is required, but physician or provider may enter "same" if the subscriber's address is the same as the patient's address required by subparagraph (E) of this paragraph;

(H) other insured's or enrollee's name (CMS-1500 (12/90) [CMS 1500], field 9)[;] is required if the patient is covered by more than one health benefit plan, generally in situations described in subsection (d) of this section. If the required data element specified in paragraph (2)(Q) [(+)(Q)] of this subsection, "disclosure of any other health benefit plans," is answered "yes," this element is required unless the physician or provider submits with the claim documented proof [to the HMO or preferred provider carrier] that the physician or provider has made a good faith but unsuccessful attempt to obtain from the enrollee or insured any of the information needed to complete this data element;

(I) other insured's or enrollee's policy/group number (CMS-1500 (12/90) [CMS 1500], field 9a)[;] is required if the patient is covered by more than one health benefit plan, generally in situations described in subsection (d) of this section. If the required data element specified in paragraph (2)(Q) [(+)(Q)] of this subsection, "disclosure of any other health benefit plans," is answered "yes," this element is required unless the physician or provider submits with the claim documented proof [to the HMO or preferred provider carrier] that the physician or provider has made a good faith but unsuccessful attempt to obtain from the enrollee or insured any of the information needed to complete this data element;

(J) other insured's or enrollee's date of birth (CMS-1500 (12/90) [CMS 1500], field 9b)[;] is required if the patient is covered by more than one health benefit plan, generally in situations described in subsection (d) of this section. If the required data element specified in paragraph (2)(Q) [(+)(Q)] of this subsection, "disclosure of any other health benefit plans," is answered "yes," this element is required unless the physician or provider submits with the claim documented proof [to the HMO or preferred provider carrier] that the physician or provider has made a good faith but unsuccessful attempt to obtain from the enrollee or insured any of the information needed to complete this data element;

(K) other insured's or enrollee's plan name (employer, school, etc.) (CMS-1500 (12/90) [CMS 1500], field 9c)[;] is required if the patient is covered by more than one health benefit plan, generally in situations described in subsection (d) of this section. If the required

data element specified in paragraph (2)(Q) [(+)(Q)] of this subsection, "disclosure of any other health benefit plans," is answered "yes," this element is required unless the physician or provider submits with the claim documented proof [to the HMO or preferred provider carrier] that the physician or provider has made a good faith but unsuccessful attempt to obtain from the enrollee or insured any of the information needed to complete this data element. If the field is required and the physician or provider is a facility-based [facility based] radiologist, pathologist or anesthesiologist with no direct patient contact, the physician or provider must either enter the information or enter "NA" [NA] (not available) if the information is unknown;

(L) other insured's or enrollee's HMO or insurer name (CMS-1500 (12/90) [CMS 4500], field 9d)[;] is required if the patient is covered by more than one health benefit plan, generally in situations described in subsection (d) of this section. If the required data element specified in paragraph (2)(Q) [(+)(Q)] of this subsection, "disclosure of any other health benefit plans," is answered "yes," this element is required unless the physician or provider submits with the claim documented proof [to the HMO or preferred provider carrier] that the physician or provider has made a good faith but unsuccessful attempt to obtain from the enrollee or insured any of the information needed to complete this data element;

(M) whether patient's condition is related to employment, auto accident, or other accident (CMS-1500 (12/90) [CMS 4500], field 10) is required, but facility-based [facility based] radiologists, pathologists, or anesthesiologists shall enter "N" if the answer is "No" or if the information is not available;

(N) if the claim is a duplicate claim, a "D" is required; [;] if the claim is a corrected claim, a "C" is required (CMS-1500 (12/90) [CMS 4500], field 10d);

(O) subscriber's policy number (CMS-1500 (12/90) [CMS 4500], field 11) is required;

(P) HMO or insurance company name (CMS-1500 (12/90) [CMS 4500], field 11c) is required;

(Q) disclosure of any other health benefit plans (CMS-1500 (12/90) [CMS 4500], field 11d) is required;

(i) if answered [respond] "yes", then:

(I) data elements specified in paragraph (2)(H) - (L) [(+)(H) - (+)(L)] of this subsection are required unless the physician or provider submits with the claim documented proof [to the HMO or preferred provider carrier] that the physician or provider has made a good faith but unsuccessful attempt to obtain from the enrollee or insured any of the information needed to complete the data elements in paragraph (2)(H) - (L) [(+)(H) - (+)(L)] of this subsection;

(II) the data element specified in paragraph (2)(II) [(+)(H)] of this subsection is required when submitting claims to secondary payor HMOs or preferred provider carriers;

(ii) if answered "no", [respond "no,"] the data elements specified in paragraph (2)(H) - (L) [(+)(H) - (+)(L)] of this subsection are not required if the physician or provider has on file a document signed within the past 12 months by the patient or authorized person stating that there is no other health care coverage; although the submission of the signed document is not a required data element, the physician or provider shall submit a copy of the signed document [shall be provided] to the HMO or preferred provider carrier upon request[;]

(R) patient's or authorized person's signature or notation that the signature is on file with the physician or provider (CMS-1500 (12/90) [CMS 4500], field 12) is required;

(S) subscriber's or authorized person's signature or notation that the signature is on file with the physician or provider (CMS-1500 (12/90) [CMS 4500], field 13) is required;

(T) date of injury (CMS-1500 (12/90) [HCFA 4500], field 14) is required, if due to an accident;

(U) when applicable, the physician or provider shall enter the name of the referring primary care physician, specialty physician, hospital, or other source (CMS-1500 (12/90) field 17); [name of referring physician or other source (CMS 4500; field 17) is required for primary care physicians, specialty physicians, and hospitals;] however, if there is no referral, the physician or provider shall enter "Self-referral" or "None";

(V) the physician or provider shall enter the ID Number of the referring primary care physician, specialty physician, or hospital (CMS-1500 (12/90), field 17a); [I.D. Number of referring physician (CMS 4500; field 17a) is required for primary care physicians, specialty physicians and hospitals;] however, if there is no referral, the physician or provider shall enter "Self-referral" or "None";

(W) narrative description of procedure (CMS-1500 (12/90) [CMS 4500], field 19) is required when a physician or provider uses an unlisted or not classified procedure code or an NDC code for drugs;

(X) for diagnosis codes or nature of illness or injury (CMS-1500 (12/90) [CMS 4500], field 21), up to four diagnosis codes may be entered, but at least one is required (primary diagnosis must be entered first);

(Y) verification number (CMS-1500 (12/90) [CMS 4500], field 23)[;] is required if services have been verified pursuant to §19.1724 of this title (relating to Verification). If no verification has been provided, a prior authorization number (CMS-1500 (12/90) [CMS 4500], field 23)[;] is required when prior authorization is required and granted;

(Z) date(s) of service (CMS-1500 (12/90) [CMS 4500], field 24A) is required;

(AA) place of service code(s) (CMS-1500 (12/90) [eodes CMS 4500], field 24B) is required;

(BB) procedure/modifier code (CMS-1500 (12/90) [CMS 4500], field 24D) is required;

(CC) diagnosis code by specific service (CMS-1500 (12/90) [CMS 4500], field 24E) is required with the first code linked to the applicable diagnosis code for that service in field 21;

(DD) charge for each listed service (CMS-1500 (12/90) [CMS 4500], field 24F) is required;

(EE) number of days or units (CMS-1500 (12/90) [CMS 4500], field 24G) is required;

(FF) physician's or provider's federal tax ID number (CMS-1500 (12/90) [CMS 4500], field 25) is required;

(GG) whether assignment was accepted (CMS-1500 (12/90) [CMS 4500], field 27)[;] is required if assignment under Medicare has been accepted;

(HH) total charge (CMS-1500 (12/90) [CMS 4500], field 28) is required;

(II) amount paid (CMS-1500 (12/90) [CMS 4500], field 29)[;] is required if an amount has been paid to the physician or provider submitting the claim by the patient or subscriber, or on behalf of the patient or subscriber or by a primary plan in accordance with paragraph

(2)(P) [(1)(P)] of this subsection and as required by subsection (d) of this section;

(JJ) signature of physician or provider or notation that the signature is on file with the HMO or preferred provider carrier (CMS-1500 (12/90) [CMS 1500], field 31) is required;

(KK) name and address of facility where services rendered (if other than home or office) (CMS-1500 (12/90) [CMS 1500], field 32) is required; and

(LL) physician's or provider's billing name, address, and telephone number is required, and the provider number (CMS-1500 (12/90) [CMS 1500], field 33) is required if the HMO or preferred provider carrier required provider numbers and gave notice of that requirement to physicians and providers prior to June 17, 2003.

(3) Required form and data elements for institutional providers for claims filed or re-filed on or after May 23, 2007. The UB-04 CMS-1450 and the data elements described in this paragraph are required as indicated and must be completed in accordance with the special instructions applicable to the data elements for clean claims filed by institutional providers. Further, upon notification that an HMO or preferred provider carrier is prepared to accept claims filed or re-filed on form UB-04 CMS-1450, an institutional provider may submit claims on UB-04 CMS-1450, subject to the required data elements set forth in this paragraph, at any time between March 1, 2007 and May 22, 2007.

(A) provider's name, address, and telephone number (UB-04, field 1) is required;

(B) patient control number (UB-04, field 3a) is required;

(C) type of bill code (UB-04, field 4) is required and shall include a "7" in the fourth position if the claim is a corrected claim;

(D) provider's federal tax ID number (UB-04, field 5) is required;

(E) statement period (beginning and ending date of claim period) (UB-04, field 6) is required;

(F) patient's name (UB-04, field 8a) is required;

(G) patient's address (UB-04, field 9a - 9e) is required;

(H) patient's date of birth (UB-04, field 10) is required;

(I) patient's gender (UB-04, field 11) is required;

(J) date of admission (UB-04, field 12) is required for admissions, observation stays, and emergency room care;

(K) admission hour (UB-04, field 13) is required for admissions, observation stays, and emergency room care;

(L) type of admission (e.g., emergency, urgent, elective, newborn) (UB-04, field 14) is required for admissions;

(M) source of admission code (UB-04, field 15) is required;

(N) discharge hour (UB-04, field 16) is required for admissions, outpatient surgeries, or observation stays;

(O) patient-status-at-discharge code (UB-04, field 17) is required for admissions, observation stays, and emergency room care;

(P) condition codes (UB-04, fields 18 - 28) are required if the CMS UB-04 manual contains a condition code appropriate to the patient's condition;

(Q) occurrence codes and dates (UB-04, fields 31 - 34) are required if the CMS UB-04 manual contains an occurrence code appropriate to the patient's condition;

(R) occurrence span codes and from and through dates (UB-04, fields 35 and 36) are required if the CMS UB-04 manual contains an occurrence span code appropriate to the patient's condition;

(S) value code and amounts (UB-04, fields 39 - 41) are required for inpatient admissions. If no value codes are applicable to the inpatient admission, the provider may enter value code 01;

(T) revenue code (UB-04, field 42) is required;

(U) revenue description (UB-04, field 43) is required;

(V) HCPCS/Rates (UB-04, field 44) are required if Medicare is a primary or secondary payor;

(W) service date (UB-04, field 45) is required if the claim is for outpatient services;

(X) date bill submitted (UB-04, field 45, line 23) is required;

(Y) units of service (UB-04, field 46) are required;

(Z) total charge (UB-04, field 47) is required;

(AA) HMO or preferred provider carrier name (UB-04, field 50) is required;

(BB) prior payments-payor (UB-04, field 54) are required if payments have been made to the physician or provider by a primary plan as required by subsection (d) of this section;

(CC) for claims filed or re-filed on or after May 23, 2007, the NPI number of the billing provider (UB-04, field 56) is required if the billing provider is eligible for an NPI number;

(DD) other provider number (UB-04, field 57) is required if the HMO or preferred provider carrier, prior to June 17, 2003, required provider numbers and gave notice of that requirement to physicians and providers;

(EE) subscriber's name (UB-04, field 58) is required if shown on the patient's ID card;

(FF) patient's relationship to subscriber (UB-04, field 59) is required;

(GG) patient's/subscriber's certificate number, health claim number, ID number (UB-04, field 60) is required if shown on the patient's ID card;

(HH) insurance group number (UB-04, field 62) is required if a group number is shown on the patient's ID card;

(II) verification number (UB-04, field 63) is required if services have been verified pursuant to §19.1724 of this title. If no verification has been provided, treatment authorization codes (UB-04, field 63) are required when authorization is required and granted;

(JJ) principal diagnosis code (UB-04, field 67) is required;

(KK) diagnoses codes other than principal diagnosis code (UB-04, fields 67A - 67Q) are required if there are diagnoses other than the principal diagnosis;

(LL) admitting diagnosis code (UB-04, field 69) is required;

(MM) principal procedure code (UB-04, field 74) is required if the patient has undergone an inpatient or outpatient surgical procedure;

(NN) other procedure codes (UB-04, fields 74 - 74e) are required as an extension of subparagraph (MM) of this paragraph if additional surgical procedures were performed;

(OO) attending physician NPI number (UB-04, field 76) is required on or after May 23, 2007, if attending physician is eligible for an NPI number; and

(PP) attending physician ID (UB-04, field 76, qualifier portion) is required.

(4) [(2)] Required form and data elements for institutional providers for claims filed or re-filed before May 23, 2007. The UB-92 CMS-1450 and the data elements described in this paragraph are required as indicated and must be completed in accordance with the special instructions applicable to the data element for clean claims filed by institutional providers. However, upon notification that an HMO or preferred provider carrier will accept claims filed or re-filed on form UB-04 CMS-1450, an institutional provider may submit claims on form UB-04 CMS-1450 at any time between March 1, 2007 and May 22, 2007, subject to the required data elements set forth in subsection (b)(3) of this section.

(A) - (E) (No change.)

(F) covered days (UB-92, field 7)[;] is required if Medicare is a primary or secondary payor;

(G) noncovered days (UB-92, field 8)[;] is required if Medicare is a primary or secondary payor;

(H) coinsurance days (UB-92, field 9)[;] is required if Medicare is a primary or secondary payor;

(I) lifetime reserve days (UB-92, field 10)[;] is required if Medicare is a primary or secondary payor[;] and the patient was an inpatient;

(J) - (R) (No change.)

(S) discharge hour (UB-92, field 21)[;] is required for admissions, outpatient surgeries, or observation stays;

(T) (No change.)

(U) condition codes (UB-92, fields 24 - 30)[;] are required if the CMS UB-92 manual contains a condition code appropriate to the patient's condition;

(V) occurrence codes and dates (UB-92, fields 32 - 35)[;] are required if the CMS UB-92 manual contains an occurrence code appropriate to the patient's condition;

(W) - (Z) (No change.)

(AA) HCPCS/Rates (UB-92, field 44)[;] are required if Medicare is a primary or secondary payor;

(BB) - (EE) (No change.)

(FF) provider number (UB-92, field 51)[;] is required if the HMO or preferred provider carrier, prior to June 17, 2003, required provider numbers and gave notice of that requirement to physicians and providers.

(GG) prior payments-payor and patient (UB-92, field 54)[;] are required if payments have been made to the physician or provider by the patient or another payor or subscriber, on behalf of the patient or subscriber, or by a primary plan as required by subsection (d) of this section;

(HH) subscriber's name (UB-92, field 58)[;] is required if shown on the patient's ID card;

(II) (No change.)

(JJ) patient's/subscriber's certificate number, health claim number, ID number (UB-92, field 60)[;] is required if shown on the patient's ID card;

(KK) insurance group number (UB-92, field 62)[;] is required if a group number is shown on the patient's ID card;

(LL) verification number (UB-92, field 63)[;] is required if services have been verified pursuant to §19.1724 of this title [(relating to Verification)]. If no verification has been provided, treatment authorization codes (UB-92, field 63) are required when authorization is required and granted;

(MM) (No change.)

(NN) diagnoses codes other than principal diagnosis code (UB-92, fields 68 - 75)[;] are required if there are diagnoses other than the principal diagnosis;

(OO) (No change.)

(PP) procedure coding methods used (UB-92, field 79)[;] is required if the CMS UB-92 manual indicates a procedural coding method appropriate to the patient's condition;

(QQ) principal procedure code (UB-92, field 80)[;] is required if the patient has undergone an inpatient or outpatient surgical procedure;

(RR) other procedure codes (UB-92, field 81)[;] are required as an extension of subparagraph (QQ) of this paragraph if additional surgical procedures were performed;

(SS) - (UU) (No change.)

(c) (No change.)

(d) Coordination of benefits or non-duplication of benefits. If a claim is submitted for covered services or benefits in which coordination of benefits pursuant to §§3.3501 - 3.3511 of this title (relating to Group Coordination of Benefits) and §11.511(1) of this title (relating to Optional Provisions) is necessary, the amount paid as a covered claim by the primary plan is a required element of a clean claim for purposes of the secondary plan's processing of the claim and CMS-1500 (08/05), field 29; CMS-1500 (12/90), field 29; UB-04, field 54; [CMS 1500, field 29] or UB-92, field 54, as applicable, must be completed pursuant to subsection (b)(1)(KK), (2)(II), (3)(BB), [(b)(1)(H)] and (4)(GG) [(b)(2)(GG)] of this section. If a claim is submitted for covered services or benefits in which non-duplication of benefits pursuant to §3.3053 of this title (relating to Non-duplication of Benefits Provision) is an issue, the amounts paid as a covered claim by all other valid coverage is a required element of a clean claim and CMS-1500 (08/05), field 29; CMS-1500 (12/90), field 29; UB-04, field 54; [CMS 1500, field 29] or UB-92, field 54, as applicable, must be completed pursuant to subsection (b)(1)(KK), (2)(II), (3)(BB), [(b)(1)(H)] and (4)(GG) [(b)(2)(GG)] of this section. If a claim is submitted for covered services or benefits and the policy contains a variable deductible provision as set forth in §3.3074(a)(4) of this title (relating to Minimum Standards for Major Medical Expense Coverage), the amount paid as a covered claim by all other health insurance coverages, except for amounts paid by individually underwritten and issued hospital confinement indemnity, specified disease, or limited benefit plans of coverage, is a required element of a clean claim and CMS-1500 (08/05), field 29; CMS-1500 (12/90), field 29; UB-04, field 54; [CMS 1500, field 29] or UB-92, field 54, as applicable, must be completed pursuant to subsection (b)(1)(KK), (2)(II), (3)(BB), [(b)(1)(H)] and (4)(GG) [(b)(2)(GG)] of this section. Notwith-

standing these requirements, an HMO or preferred provider carrier may not require a physician or provider to investigate coordination of other health benefit plan coverage.

(e) - (h) (No change.)

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

Filed with the Office of the Secretary of State on January 8, 2007.

TRD-200700032

Gene Jarmon

General Counsel and Chief Clerk

Texas Department of Insurance

Earliest possible date of adoption: February 18, 2007

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



TITLE 31. NATURAL RESOURCES AND CONSERVATION

PART 1. GENERAL LAND OFFICE

CHAPTER 3. GENERAL PROVISIONS

SUBCHAPTER C. SERVICES AND PRODUCTS

31 TAC §3.31

The General Land Office (GLO) proposes the amendment of Title 31, Part 1, Chapter 3, Subchapter C, §3.31(a)(7)(D) of the Texas Administrative Code relating to Fees. The proposed amendment to §3.31(a)(7)(D) will delete redundant wording and cause no substantive change to the meaning of the rule. The General Land Office (GLO) also proposes new subsection (a)(7)(F) in Title 31, Part 1, Chapter 3, Subchapter C, §3.31 relating to Fees. The proposed new subparagraph (F) will contain the fees for copies that the GLO must make while processing a vacancy application pursuant to Tex. Nat. Res. Code Subchapter E, §§51.171 - 51.195. The amendments are proposed under Tex. Nat. Res. Code §51.174(c), which provides the GLO with the authority to adopt rules necessary and convenient to administer the Sale and Lease of Vacancies Tex. Nat. Res. Code Title 2, Subchapter E.

The proposed amendment to §3.31(a)(7)(D) will remove the word "evidence" which, upon review, staff has determined to be unnecessary. The proposed amendment to §3.31(a)(7)(F) will allow the GLO to charge between \$.10 and \$.50 per page for copies based on the size of the copy and whether it is a color copy. The proposed amendment will also allow the GLO to charge \$2.00 per linear foot for sketches, plats, and survey maps larger than 11 inches by 17 inches. This amendment is proposed to cover the cost of copies made by the GLO in accordance with the Vacancy Statutes as amended by the S.B. 1103, 79th Leg, R.S. (2005).

Mr. Bill O'Hara, Chief Surveyor of the General Land Office, has determined that during the first five-year period the proposed amendment and proposed new section are in effect, there will be no fiscal implications for state or local governments. These rules do not have any fiscal impact or affect on state or local governments; the costs of preparing and filing an application to purchase or lease vacant land are borne by the applicant and

the GLO processing of the applications are already accounted for in GLO budgeting.

Mr. O'Hara has also determined that for each year of the first five years the proposed amendment and proposed new section are in effect, the public will benefit from the establishment of reasonable fees for copies. There will be no effect on small businesses or local economies as the result of proposed amendment and proposed new section.

Comments on the proposed rulemaking may be submitted to Deborah Cantu, *Texas Register* Liaison, Texas General Land Office, P.O. Box 12873, Austin, TX 78711-2873, facsimile number (512) 463-6311, or email to deborah.cantu@glo.state.tx.us. Comments must be received by no later than thirty (30) days from the date of publication of this proposal.

These rules are proposed under the authority of Tex. Nat. Res. Code §51.174(c) (Vernon Supp. 2006), which authorizes the commissioner to adopt rules necessary and convenient to administer the vacancy subchapter.

Tex. Nat. Res. Code, Sale and Lease of Vacancies, §§51.171 - 51.195, are affected by these proposed rules.

§3.31. Fees.

(a) General.

(1) Form of payment. Fees may be paid by cash, check, or other legal means acceptable to the General Land Office. Payment by means of electronic funds transfer may be required by Texas Government Code §404.095, §9.51 of this title (relating to Royalty and Reporting Obligations to the State), or by other chapters of this title.

(2) Time for payment. Payment is generally required in advance of issuance of permits, leases and other documents and/or delivery of services and/or materials by the General Land Office.

(3) Dishonor or nonpayment by other means. In the event a fee is not paid due to dishonor, nonpayment, or otherwise, the General Land Office shall have no further obligation to issue permits, leases and other documents and/or provide services and/or materials to the permittee, lessee, or applicant.

(b) General Land Office fees. The commissioner is authorized and required to collect the following fees where applicable.

(1) Cost of land title documents.

(A) Preparation of each patent or deed of acquittance: \$100.

(B) Filing fee, original field notes: \$25.

(C) Filing fee, corrected field notes: no charge.

(D) Filing fee, other instruments required by law to be filed with the General Land Office or accepted for filing by the General Land Office: \$25 per instrument.

(E) recording fee per document, per county: the greater of \$10 or the actual amount charged by the county clerk.

(2) Certificates of facts:

(A) Narrative certificates of fact consisting of all data from the inception of chain of title to the date of perfection of title and mineral history in paragraph form, short form certificate of fact (consisting of original award date, patent, deeds of acquittance, classification, current mineral history) and supplemental or limited certificates of fact (consisting of specific information or start date for history of a specific tract land):

- (i) mineral classified land: per file: \$100;
- (ii) non-mineral classified land: per file: \$75;
- (B) Spanish documents: \$75 per document, in addition to fees due under §1.3(b)(2)(A)(i) and (ii).
- (3) Certified and non-certified classification letters:
 - (A) Certified classification letter: per file: \$50;
 - (B) Non-certified classification letter: \$10 per file.
- (4) Maps and sketches: The General Land Office, Surveying Division reserves the right to deny duplication of any map or document in the Surveying Division considered too fragile or brittle to safely copy.
 - (A) Official county maps: \$15 per map.
 - (B) Sketches (large format digital copies); per linear foot: \$2.00.
 - (C) Working sketch, per hour (\$60 minimum): \$40.
 - (D) Digitally reproduced archival map collection on special printer paper.
 - (i) 48 inches or less: \$20 per map plus \$8.00 shipping and handling;
 - (ii) greater than 48 inches: \$40 per map plus \$8.00 shipping and handling.
 - (E) Digitally reproduced archival map collection on CD-ROM/DVD-ROM.
 - (i) cost of disk: CD \$11, DVD: \$16;
 - (ii) cost per image: \$10;
 - (iii) digitization of unscanned map or sketch: \$25.
- (5) Digital mapping (GIS):
 - (A) GIS maps printed on special printer paper:
 - (i) 8.5 inch by 11 inch: \$7.00;
 - (ii) 30 inch by 36 inch: \$19;
 - (iii) 36 inch by 48 inch: \$27.
 - (B) Computer charges for GIS data placed on CD-ROM:
 - (i) cost of disk: \$11;
 - (ii) programming personnel charge: \$26 per hour;
 - (iii) computer resource charge: \$1.50 per minute.
 - (C) Postage and handling: \$15 per package.
- (6) Spanish translations:
 - (A) Original translations: \$.15 per word.
 - (B) Copies of previously translated Spanish or Mexican titles: \$2.00 per page.
- (7) Vacancies:
 - (A) Application fee: \$150.
 - (B) Filing fee for original field notes: \$25.
 - (C) Affidavit Filing Fee: \$25.

(D) Each deed, title opinion, or other document [evidence] needed to satisfy the commissioner of claimant's status. Filing fee for each document submitted as required: \$25.

(E) Petition For Disqualification of Surveyor costs associated including hearing, mailing copies, other expenses, non-refundable: \$250.

(F) Copying Fees:

(i) Black and white photocopies, per page:

(I) 8.5 inch by 11 inch: \$1.10

(II) 8.5 inch by 14 inch: \$1.10

(III) 11 inch by 17 inch: \$.25

(ii) Color photocopies, per page:

(I) 8.5 inch by 11 inch: \$.25

(II) 8.5 inch by 14 inch: \$.25

(III) 11 inch by 17 inch: \$.50

(IV) Sketches, plats and survey maps (larger than 11 inch by 17 inch): \$2.00 per linear foot.

(8) Appraisal fees. Appraisal fees are charged for appraisals required by applications for deeds of acquittance and vacancies: For each tract: \$500.

(9) Duplication fees--For purposes of this section the term Archival Records is defined as records maintained in the Archives and Records Division of the Texas General Land Office. The Archives and Records Division reserves the right to deny duplication of any document or map considered too fragile or brittle to safely copy. In addition, the Archives and Records Division reserves the right to specify what method(s) or reproduction may be used. Archival records for all original records affecting land titles, including original land grant files, Spanish Collection materials, school land and scrap files:

(A) Black and white photocopies and microfilm copies, per page:

(i) 8.5 inch by 11 inch: \$1.00;

(ii) 8.5 inch by 14 inch: \$1.00;

(iii) 11 inch by 17 inch: \$2.00.

(B) Color photocopies, per page:

(i) 8.5 inch by 11 inch: \$2.00;

(ii) 8.5 inch by 14 inch: \$2.00;

(iii) 11 inch by 17 inch: \$3.00.

(C) Recorded media:

(i) VHS videotape, each \$10.00, other video formats \$20.00 per 30 Minutes, \$30.00 per 60 Minutes;

(ii) Audio cassettes, each: \$7.50, audio transfer fee, \$25.00 per hour, 1/2 hour minimum;

(iii) Video Transfer Fee, 1/2 hour - \$25.00, 1/2 hour minimum.

(10) Genealogy search:

(A) Per name: \$10.00.

(B) Field notes research, per quarter hour (minimum \$10): \$10.

(C) Other research of the official records of the General Land Office, per hour (minimum 1/2 hour): \$25.

(11) Mailing fees:

(A) Mailing Tubes, each: \$3.00.

(B) Registered mail, each item: \$9.75 or current United States Postal Service rate.

(C) Handling and preparation for mailing, each item: \$15.00 per package (optional).

(D) Certified mail, each item; \$4.25 or current United States Postal Service rate.

(12) Certification:

(A) Individual instruments or maps: \$2.00.

(B) Contents of complete files, each file: \$25.

(C) Copy of official Spanish translations, each: \$25.

(13) Publications:

(A) Abstract volume (on microfiche): \$12.50.

(B) Abstract volume supplement (hard copy and on microfiche): \$10.

(C) Abstract volume (digital on CD) \$11.00.

(D) Abstract volume supplement (digital on CD) \$11.00.

(E) Spanish Collection Catalogue (Part I) \$15.00.

(F) Spanish Collection Catalogue (Part II) \$15.00.

(14) Submerged lease data:

(A) Annual subscription rate: \$300.

(B) Monthly rate: \$25.

(C) Single copy, subscriber: \$37.50.

(D) Single copy, non-subscriber: \$75.

(E) Energy information service, per year: \$180.

(F) Magnetic tape, per tape: \$165.

(15) Geophysical and geochemical exploration:

(A) Non-Relinquishment Act lands:

(i) permit application filing fee: \$100.

(ii) exploration and surface/bottom damage fees for unleased tracts in bays, other tideland areas, and the Gulf of Mexico.

(I) high velocity energy sources:

(-a-) \$5.00 per acre in bays and other tideland areas;

(-b-) \$2.00 per acre in the Gulf of Mexico;

(II) low velocity energy sources:

(-a-) \$2.50 per acre in bays and other tideland areas;

(-b-) \$1.00 per acre in the Gulf of Mexico;

(III) other exploration techniques: negotiable;

(iii) surface damage fees for unleased uplands:

(I) vibroseis: \$2.50 per acre;

(II) high velocity energy sources: \$5.00 per acre;

(III) gravity meter and/or magnetometer: fair market value, but not less than \$2.50 per acre;

(IV) other exploration techniques: negotiable.

(B) Relinquishment Act lands:

(i) permit application filing fee: \$100;

(ii) all fees for actual surface damages to personal property, improvements, livestock, and crops on unleased Relinquishment Act lands, if any, are to be negotiated with the surface owner. Any fees in excess of those attributable to the types of surface damages listed in this paragraph must be shared equally with the state.

(16) Miscellaneous services and fees:

(A) In-kind contract maintenance fee. Processing and accounting for in-kind oil, gas, and other related product contracts, from purchaser of state-owned products unless deemed unnecessary by the Commissioner: per barrel delivered: \$.05; per MMBTU delivered: \$.03.

(B) Relinquishment Act lease processing fee: \$100.

(C) highway right-of-way lease processing fee, including preparation of lease: \$100.

(D) pooling application processing fee, including preparation and filing of pooling agreements: \$100.

(E) oil, gas, and mineral lease application and filing fee, including processing, lease preparation, and filing of any oil, gas, or mineral lease not subject to other processing or nomination fees: \$100.

(F) tract nomination fee, oil, gas, or mineral sealed bid lease sale fee: \$100.

(G) prospect permit filing fee: \$50.

(H) insufficient check fee (for each check returned): \$25.

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

Filed with the Office of the Secretary of State on January 8, 2007.

TRD-200700030

Trace L. Finley

Policy Director

General Land Office

Earliest possible date of adoption: February 18, 2007

For further information, please call: (512) 305-8598



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 as published in 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 28. INSURANCE

PART 1. TEXAS DEPARTMENT OF INSURANCE

CHAPTER 1. GENERAL ADMINISTRATION SUBCHAPTER E. NOTICE OF TOLL-FREE TELEPHONE NUMBERS AND PROCEDURES FOR OBTAINING INFORMATION AND FILING COMPLAINTS

28 TAC §1.601

The Commissioner of Insurance adopts amendments to §1.601, concerning the appropriate wording for a notice insurers and health maintenance organizations must deliver to consumers with each insurance policy, certificate, or evidence of coverage issued or renewed in the State of Texas. The amendments are adopted with changes to the proposed text published in the September 22, 2006 issue of the *Texas Register* (31 TexReg 8074).

Currently, the notice required by §1.601 only includes the Texas Department of Insurance's mailing address and telephone number. The adopted amendments require that the notice include the Department's internet and e-mail addresses. The adopted amendments also make minor formatting changes to the notice, update obsolete statutory citations in subsection (a) as a result of the legislative enactment of the nonsubstantive Insurance Code revision, and delete subsection (e). Adding the Department's internet and e-mail addresses to the notice increases awareness of additional and useful methods of communication the public can use to contact the Department in order to make inquiries, file complaints, or gather more information about insurance topics of interest. By using the internet, consumers can have access to valuable information at any time, including much of the information that Insurance Code §521.052 requires the Department to provide, including: information collected and maintained by the Department relating to the number and disposition of complaints against an insurer, the kinds of coverage available to a consumer through any insurer writing insurance in this state, an insurer's admitted assets-to-liabilities ratio, and other appropriate information collected and maintained by the Department. Also, e-mail allows Texas consumers to send inquiries or file complaints with the Department at their convenience.

The Department's website was first published on January 23, 1997. In the agency's first year online, the website received 457,635 page hits. By 2005, the number of page hits increased by 57 times to 26,174,884. The astronomical growth in page hits indicates that more and more consumers are taking advantage of the convenience of electronic communication.

Because §1.601 was adopted and last amended before internet communication was common, the current notice requirement does not include the Department's internet or e-mail addresses. Today, as the Department's statistics suggest, internet use is becoming a preferred medium for sharing information. It is also a valuable tool for consumers that makes government more accessible; therefore, it is reasonable and necessary to notify policyholders of the Department's online presence.

The amended notice makes minor formatting changes: a colon and period have been added where appropriate, "FAX #" is replaced by "Fax:" to be consistent with the formatting of "E-mail:" and "Web:" in Item 6, and spacing is adjusted to ensure that the form will fit on a single page.

The adopted amendments also update statutory references in subsection (a). Articles 21.71, 1.35, and 1.35D were repealed by Acts 2003, 78th Legislature, Chapter 1274, §2, effective April 1, 2005, and were re-adopted as §§521.103, 521.005, and 521.056, respectively, in the same non-substantive Insurance Code revision.

The final adopted amendment deletes subsection (e), which addresses the use of existing inventories of preprinted forms because it is outdated. The subsection only applied to circumstances that could have existed prior to September 1, 1992. Therefore, subsection (e) is no longer necessary. Existing subsections (f) and (g) have been re-designated accordingly.

The Department has changed some of the language in the text of the rule as proposed. The changes, however, do not introduce new subject matter or affect persons in addition to those subject to the proposal as published. The changes are as follows. A minor spelling error has been corrected; "telephono" has been replaced by "teléfono". The references to old mail codes in §1.601(c)(2)(A) has been replaced with new mail codes. The Department has also changed the proposed effective date from January 1, 2007, to July 1, 2007, in order to allow insurers to make use of existing inventories and switch to the amended notice when the timing is most appropriate. A new subsection (g) has been added to state the new effective date. Existing notices printed according to the requirements in current §1.601 may be used through June 30, 2007. New notices can be produced in the regular course of business for use on or before July 1, 2007.

The adopted amendments to §1.601(a)(1) update obsolete statutory citations as a result of the legislative enactment of the nonsubstantive Insurance Code revision. The adopted amendments to the notice required by §1.601(a)(3) adds the Department's internet and e-mail addresses and makes minor formatting changes to the notice. Because §1.601(e) was deleted, subsections (f) and (g) have been re-designated accordingly and adopted as §1.601(e) and §1.601(f) respectively. Section 1.601(g) provides an effective date for the amendments of July 1, 2007.

The Department did not receive any comments on the proposed amendments.

The amendments are adopted under the Insurance Code, §§521.005, 521.103, 521.101, 1271.054, 1271.101, 843.151, and 36.001. Under §521.005(a), each insurance policy delivered or issued for delivery in this state must include with the policy a brief written notice that includes a suggested policyholder dispute procedure, the Department's name and address, and the Department's toll-free number. Under §521.005(b), the Commissioner is specifically charged with adopting the appropriate wording for the notice. The Commissioner is also authorized by §521.103(b) to adopt rules governing the manner in which an insurer's or HMO's toll-free telephone number appears on the insurance policy or evidence of coverage. Section 521.101 provides that the Insurance Code, Chapter 521, Subchapter C (Health Maintenance Organization or Insurer Toll-free Number for Information and Complaints) applies to a health maintenance organization authorized to engage in the business of a health maintenance organization in this state or an insurer organized to engage in the business of insurance in this state. Section 1271.054 requires that an evidence of coverage contain a clear and understandable description of the HMO's methods for resolving enrollee complaints. Section 1271.101(a) provides that an evidence of coverage or an amendment of an evidence of coverage may not be issued or delivered to a person in this state until the form of the evidence of coverage or amendment has been filed with and approved by the Commissioner. Section 843.151 authorizes the Commissioner to adopt reasonable rules as necessary and proper to implement Chapter 843 (Health Maintenance Organizations). 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.

§1.601. Notice of Toll-Free Telephone Numbers and Information and Complaint Procedures.

(a) Purpose and applicability.

(1) The purpose of this section is to provide the means by which insurers and health maintenance organizations (HMOs) may comply with the notice requirements of the Insurance Code §521.103, and the means by which insurers may comply with the notice requirements of the Insurance Code §521.005 and §521.056. Compliance with this section is deemed compliance with these notice requirements.

(2) Except as provided by subsection (b)(3), this section applies to any new or renewal insurance policy, bond, annuity contract, subscriber contract, health care plan, certificate, and evidence of coverage issued for delivery in this state on or after May 1, 1992.

(3) All policies, certificates, or evidences of coverage which are delivered, issued for delivery, or renewed in the State of Texas on or after May 1, 1992, by insurers or HMOs shall have the notice included as the first, second, or third page of the policy, certificate, evidence of coverage, or first written communication indicating renewal of coverage, pursuant to the provisions of subsection (b) of this section. The notice must appear on a full, separate page with no text other than that provided in this section. The form of the notice shall be as provided by subsection (b) of this section. The item numbers 1 - 8 in the left-hand column of this form correspond to the respective paragraphs of subsection (b) of this section, and the item numbers may be omitted from the notice.

Figure: 28 TAC §1.601(a)(3)

(b) Notice requirements. Each respectively numbered item in the notice provided in subsection (a)(3) of this section must be set out as provided in this subsection. There must be at least one blank line between each item, but the text within each item may be single-spaced. The Spanish portion of each item included in a company's notice is required only for personal automobile, homeowners, and life, accident and health policies, certificates, and evidences of coverage. Text shall be in at least 10-point type. The letterhead of the insurer or HMO and any automated form identification numbers may be included on the notice.

(1) Item 1 must be included in all notices. "Important Notice" and "Aviso Importante" must be in all capital letters and in at least 10-point boldface type. There must be at least one blank line below "Important Notice" and "Aviso Importante."

(2) Item 2 is optional. The title for the English portion may be either "agent," "third party administrator," "managing general agent," or "employee benefits coordinator." The title for the Spanish portion may be either "agente," "administrador tercero," "agente general," or "administrador de beneficios para empleados." In lieu of a specific telephone number, the insurer or HMO may refer to the applicable telephone number and where it can be found.

(3) Item 3 is required unless one of the exemptions provided in this subsection applies. For purposes of this section a toll-free telephone number is one which can be used by any covered person to obtain information or make a complaint without incurring long-distance calling expenses. The insurer's or HMO's toll-free number must appear in at least 10-point boldface type and must be preceded and followed by one blank line. Item 3 is not required for an insurer or HMO:

(A) whose gross initial premium receipts collected in this state are less than \$2 million a year;

(B) with respect to fidelity, surety, or guaranty bonds;

(C) that is a surplus lines insurer; or

(D) with respect to certificates of insurance issued under a group policy:

(i) if the insurer does not administer the group policy or determine questions of coverage; or

(ii) if the policyholder to whom the policy is issued is an employer or a labor union.

(4) Item 4 is optional. If used, the insurer's or HMO's name and address must be inserted.

(5) Item 5 is required on all notices. The toll-free number must be in at least 10-point boldface type and must be preceded and followed by one blank line.

(6) Item 6 is required on all notices.

(7) Item 7 is required on all notices except those notices provided by HMOs with evidences of coverage. "Premium or claim disputes" and "Disputas sobre primas o reclamos" must be in all capital letters and 10-point boldface type. The insurer may insert either "agent," "company," or "agent or company" and may insert either "el agente," "la compania," or "el agente o la compania."

(8) Item 8 is required on all notices. "Attach this notice to your policy" and "Una este aviso a su poliza" must be in all capital letters and 10-point boldface type.

(c) Exceptions to notice requirements for insurer's toll-free number.

(1) Requirements. Any exception claimed pursuant to subsection (b)(3)(A) of this section for a policy, certificate, or evidence of coverage delivered, issued for delivery, or renewed in a given year must be based on gross initial premium receipts collected in Texas during the previous calendar year. Any insurer or health maintenance organization claiming an exception must provide to the Texas Department of Insurance, at a minimum, the following information:

(A) a statement reciting the statutory basis for the exception;

(B) a statement detailing the amount of gross initial premium receipts collected in this state for the calendar year immediately preceding the calendar year for which an exception is claimed; and

(C) an affirmation by the chief executive officer or chief financial officer of the insurer or health maintenance organization certifying that he or she has reviewed the information and that such filed information is true, accurate, and complete, based upon that person's best knowledge, information, and belief.

(2) Procedure. This statement must be filed separately from all other forms and exception statements filed with respect to other matters pending before the department. Claims for exception must be addressed to the appropriate regulatory division within the department.

(A) Mail codes for the respective divisions are as follows:

- (i) Life, Accident, and Health 106-1A;
- (ii) Property and Casualty (including Workers' Compensation) 104-3B;
- (iii) Title 106-2T;
- (iv) Risk Retention Groups 305-2C;
- (v) HMO 106-1E.

(B) Exception statements should be filed with the Texas Department of Insurance, (Name of Division), (Mail Code #), P.O. Box 149104, Austin, Texas 78714-9104.

(3) Duration of exception. Exceptions remain in effect for one year. The information required by paragraph (1) of this subsection must be provided to the department no later than May 1, 1992, for calendar year 1992, and no later than March 15 of any subsequent year for which an exception is claimed.

(4) Policy and form filings. When an insurer or health maintenance organization files a policy form or evidence of coverage with the department for information or review, any exception to the requirements of this section pertaining to the insurer's toll-free telephone number must be noted in the filing. If a prior exception has not been granted, the documentation required by paragraph (1) of this subsection must be filed.

(5) Records maintenance. Except as specifically provided in subparagraphs (A) and (B) of this paragraph, beginning with calendar year 1993, any insurer or health maintenance organization claiming an exception must maintain a system by which information pertaining to receipt of initial premiums is tracked on a calendar year basis. This information shall include for each new policy written during a calendar year the following: the policy number; the effective date of the policy; and the amount of initial premium received, including any membership fees, assessments, dues, and any other considerations for such insurance. Such information and any other data upon which the company relied in making the determination that it was entitled to the exception shall be made available to the department upon request and is subject

to examination by the department. Failure by any insurer or HMO to maintain the information required in this paragraph or to provide such information to the department upon request constitutes grounds for disciplinary action which may result in the cancellation, revocation, or suspension of such insurer's or HMO's certificate of authority.

(A) Any insurer or HMO which is authorized to write business in Texas and which claims an exception to the maintenance of a toll-free telephone number for a calendar year is not required to maintain information pertaining to initial premium receipts as set out in this paragraph in order to claim the exception if the exception is based on the criteria set out in any of clauses (i) - (iv) of this subparagraph, as follows:

(i) such insurer or HMO claims the exception based on receipt of gross premiums of less than \$2 million for the prior calendar year for business written in this state, as reported on its annual statement;

(ii) such insurer or HMO claims the exception based on receipt of gross first-year premiums of less than \$2 million for the prior calendar year for all business, as reported on its annual statement;

(iii) such insurer or HMO writes business only in Texas and claims the exception based on receipt of gross first-year premiums of less than \$2 million for the prior calendar year, as reported on its annual statement; or

(iv) such insurer or HMO claims the exception based on receipt of gross initial first-year premiums of less than \$2 million for business written in Texas, as reported on its annual statement.

(B) Any insurer or HMO which is authorized to write business in Texas, but which does not meet the criteria of subparagraph (A) of this paragraph and which claims an exception based on receipt of gross first-year premiums of less than \$2 million for business written in this state must maintain a system by which information pertaining to receipt of first-year premiums for Texas business is tracked on a calendar year basis. This information shall include for each new policy written during a calendar year the following: the policy number; effective date of the policy; and amount of the first-year premium received, including any membership fees, assessments, dues, and any other considerations for such insurance.

(d) Policies in force prior to May 1, 1992, and renewed on or after May 1, 1992. The notice required to be provided by this section shall be provided with the first premium notice, or other communication indicating renewal of the coverage mailed or delivered after May 1, 1992.

(1) For all policies, certificates or evidences of coverage in force prior to May 1, 1992, and renewed by any insurer or health maintenance organization on or after May 1, 1992, the notice required to be provided by this section shall either be mailed or be personally delivered to the policyholder, certificate holder, or enrollee, except as provided by paragraph (2) of this subsection.

(2) For all group policies in force prior to May 1, 1992, and renewed by any insurer or health maintenance organization on or after May 1, 1992, the notice required to be provided by this section may be provided to the group policyholder for delivery to each certificate holder or enrollee under the group policy, or it may be mailed directly to each certificate holder or enrollee by the insurer or health maintenance organization.

(e) Policies, bonds, annuity contracts, and certificates. Policies, bonds, annuity contracts, and certificates subject to the provisions of this section which required prior approval and were approved or filed

prior to May 1, 1992, may be delivered or issued for delivery with the notice required by this section without refiling for approval.

(f) Additions to group coverage. When an individual is added as a certificate holder, annuitant, or enrollee to a policy or plan issued, delivered, or renewed on or after May 1, 1992, the notice required by this section must be included as the first, second, or third page of the certificate, annuity contract, or evidence of coverage.

(g) These amendments are effective July 1, 2007.

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

Filed with the Office of the Secretary of State on January 2, 2007.

TRD-200700001

Gene C. Jarmon

General Counsel and Chief Clerk

Texas Department of Insurance

Effective date: January 22, 2007

Proposal publication date: September 22, 2006

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

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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 §15.6

The General Land Office (GLO) adopts an amendment to §15.6 relating to Concurrent Dune Protection and Beachfront Construction Standards without changes to the proposed text as published in the November 3, 2006, issue of the *Texas Register* (31 TexReg 8962).

The amendment to §15.6(f)(4) allows a local government to permit the construction of a storage area or areas with breakaway or louvered walls in eroding areas if such construction is consistent with the requirements of the National Flood Insurance Program (NFIP) and not otherwise restricted by the local government's dune protection and beach access plan. The 300-square foot maximum dimension for such storage areas is deleted. The amendment would also allow a local government to permit enclosures as required by local building or safety codes.

COMMENT SUMMARY

The Land Office received one comment from a representative of Texas Commission on Environmental Quality stating that the consistency determination reflected in the preamble for the proposed rule amendment in the November 3, 2006, issue of the *Texas Register* (31 TexReg 8962) was insufficient because it did not give the reasoned justification for the determination. The Land Office agrees with the comment and provides the following reasoned justification.

REASONED JUSTIFICATION - RESPONSE TO COMMENT

The amendment to permit local governments to establish construction guidelines for storage areas is subject to the Texas Coastal Management Program (CMP) pursuant to 31 TAC §505.11(b)(4) because it governs individual agency actions listed in Texas Natural Resources Code §33.2053(a)(10) and 31 TAC §505.11(a)(1)(J). The proposed rule amendment must be consistent with applicable CMP goals and policies. The applicable CMP goals and policies related to this proposed rulemaking are found in 31 TAC §501.26, relating to Policies for Construction in the Beach/Dune System. The Land Office finds the proposed amendment to be consistent with the applicable goals and policies of the CMP related to construction in the beach/dune system because it does not authorize or permit any activity that will result in a material weakening of dunes or damage to any dune vegetation. Enclosed storage areas will be reviewed for compliance as a part of the dune construction permitting process.

REASONED JUSTIFICATION - FACTUAL BASIS

The NFIP was created in 1968 to provide previously unavailable flood insurance protection to property owners in flood-prone areas. 44 Code of Federal Regulations (CFR) §59.2(a). To qualify for the NFIP, a community must adopt flood plain management regulations, satisfying at a minimum the criteria set forth in 44 CFR Part 60, relating to Criteria for Land Management and Use. The criteria in Part 60 are designed to reduce or avoid future flood, mudslide or flood-related erosion damages. 44 CFR §59.2(b).

The NFIP regulations designate the land in the flood plain within a community subject to a 1 percent or greater chance of flooding in any given year an A Zone on a community's Flood Hazard Boundary Map (FHBM). 44 CFR §59.1. An A Zone can then be subdivided on the FHBM into a number of subzones, including a V Zone in a coastal area. V Zones are described as those areas along the coast where water depth and other conditions would support at least a 3-foot wave height. For new or substantially improved buildings in V Zones, a local government's development regulations, such as zoning rules or building codes, must require, among other things, the ground level must be free of obstructions, or any enclosure must be constructed with non-load bearing breakaway walls, that meet NFIP criteria. Any such enclosures may be used only for the parking of vehicles, building access, or storage. 44 CFR §60.3(e)(5).

The 77th Texas Legislature passed H.B. 1018, which requires that each Texas community to adopt floodplain management plans to become eligible for the NFIP. Water Code §16.3145. The Texas Commission on Environmental Quality coordinates the NFIP in Texas.

The intent of this rulemaking is to make the requirements of the Beach Dune Rules relating to ground-level enclosures consistent with the requirements of the NFIP. The passage of H.B. 1018 and its implementation in 2001 requires that each community comply with these standards. Such a requirement was not in effect in 1996 when the existing §15.6(f) was adopted. 21 TexReg 3004 (Apr. 5, 1996). The NFIP requirements ensure that debris and beach obstruction caused by building collapse in storm events will be minimized. These are also the objectives of §15.6(f). The extensive scrutiny given to international building codes and model flood ordinances adopted by local governments to comply with the requirements of FEMA and the National Flood Insurance Program ensures that allowing storage areas or multiple enclosures promotes the maintenance of safe, accessible beaches.

The amendment will allow local governments to respond to updates to international building codes and model flood ordinances in a manner consistent with requirements of FEMA and the National Flood Insurance Program to promote maintenance of safe, accessible beaches.

MAJOR ENVIRONMENTAL RULE ANALYSIS

The Land Office 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 of which the specific intent is to protect the environment or reduce risks to human health from environmental exposures 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 amendment 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 because the adopted rulemaking implements legislative requirements in Texas Natural Resources Code §61.011, which provides the GLO with the authority to adopt rules to preserve and enhance the public's right to use and have access to and from the public beaches of Texas.

STATUTORY AUTHORITY

The amendment is adopted under the Texas Natural Resources Code, §61.011(d)(2) and (6) which provides the Land Commissioner with the authority to adopt rules concerning protection of the public beach easement from erosion or reduction caused by development or other activities on adjacent land, and construction on land adjacent to and landward of public beaches; and Texas Natural Resources Code §63.121 which provides the Land Office with authority to adopt rules for protection of critical dune areas.

Texas Natural Resources Code, §61.011 and §63.121 are affected by the adopted amendment.

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

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

TRD-200700026

Trace Finley

Policy Director

General Land Office

Effective date: January 25, 2007

Proposal publication date: November 3, 2006

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



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 1. TEXAS DEPARTMENT OF PUBLIC SAFETY

CHAPTER 4. COMMERCIAL VEHICLE REGULATIONS AND ENFORCEMENT PROCEDURES

SUBCHAPTER A. REGULATIONS GOVERNING HAZARDOUS MATERIALS

37 TAC §4.1

The Texas Department of Public Safety (Department) adopts amendments to Chapter 4, Subchapter A, §4.1, concerning Regulations Governing Hazardous Materials, without changes to the proposed text as published in the November 24, 2006, issue of the *Texas Register* (31 TexReg 9569).

Adopted amendments to §4.1 are necessary in order to ensure that the Federal Hazardous Material Regulations, incorporated by reference in the section, reflect all amendments and interpretations issued through November 1, 2006.

On November 30, 2006, the Department held a public hearing to receive comments from all interested persons regarding adoption of the amendments. No comments were received regarding adoption of the amendments.

The amendments are adopted pursuant to Texas Government Code, §411.018, which authorizes the director to adopt all or part of the federal hazardous materials rules by reference and Texas Transportation Code, §644.051, which authorizes the director to adopt all or part of the federal safety regulations by reference.

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

Filed with the Office of the Secretary of State on January 8, 2007.

TRD-200700027

Thomas A. Clark, Jr.

Director

Texas Department of Public Safety

Effective date: January 28, 2007

Proposal publication date: November 24, 2006

For further information, please call: (512) 424-2135



SUBCHAPTER B. REGULATIONS GOVERNING TRANSPORTATION SAFETY

37 TAC §§4.11 - 4.13

The Texas Department of Public Safety (Department) adopts amendments to Chapter 4, Subchapter B, §§4.11 - 4.13, concerning Regulations Governing Transportation Safety, without changes to the proposed text as published in the November 24, 2006, issue of the *Texas Register* (31 TexReg 9570).

Adopted amendments to §4.11(a) are necessary in order ensure that the Federal Motor Carrier Safety Regulations, incorporated by reference in the section, reflect all amendments and interpretations issued through November 1, 2006. The adopted amendment to §4.11(c)(2) is necessary so that the language in this provision is consistent with amended language recently made in Title 49, Code of Federal Regulations, Part 392.9a, to which it refers.

Adopted amendments to §4.12 are necessary in order to correct inaccuracies in citing certain parts of Title 49, Code of Federal Regulations.

Adopted amendments to §4.13 are necessary in order to clarify the certification requirements for inspections conducted on passenger vehicles and on vehicles transporting hazardous materials in Other Bulk Packaging.

On November 30, 2006, the Department held a public hearing to receive comments from all interested persons regarding the adoption of the amendments. No comments were received regarding adoption of the amendments.

The amendments are adopted pursuant to Texas Transportation Code, §644.051, which authorizes the director to adopt rules regulating the safe transportation of hazardous materials and the safe operation of commercial motor vehicles and authorizes the director to adopt all or part of the federal safety regulations, by reference.

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

Filed with the Office of the Secretary of State on January 8, 2007.

TRD-200700028

Thomas A. Davis, Jr.

Director

Texas Department of Public Safety

Effective date: January 28, 2007

Proposal publication date: November 24, 2006

For further information, please call: (512) 424-2135



REVIEW OF AGENCY RULES

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

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

Proposed Rule Reviews

Texas Department of Insurance, Division of Workers' Compensation

Title 28, Part 2

The Texas Department of Insurance, Division of Workers' Compensation (Division) files this notice of intention to review the rules contained in Chapter 156 concerning Representation of Parties Before the Agency--Carrier's Austin Representative. This review is pursuant to the General Appropriations Act, Article IX, §167, 75th Legislature; the General Appropriations Act, Section 9 - 10, 76th Legislature; and Texas Government Code, §2001.039 as added by SB 178, 76th Legislature.

The Division's reason for adopting the following rule contained in this chapter continues to exist, and it proposes to readopt this rule:

§156.1, Carrier's Austin Representative

Comments regarding whether the reason for adopting these rules continues to exist must be received by 5:00 p.m. on February 19, 2007 and submitted to Victoria Ortega, Legal Services, MS 4-D, Texas Department of Insurance, Division of Workers' Compensation, 7551 Metro Center Drive, Suite 100, MS-4D, Austin, Texas 78744-1609.

TRD-200700022

Norma Garcia

General Counsel

Texas Department of Insurance, Division of Workers' Compensation

Filed: January 4, 2007



The Texas Department of Insurance, Division of Workers' Compensation (Division) files this notice of intention to review the rules contained in Chapter 160 concerning Workers' Health and Safety--General Provisions. This review is pursuant to the General Appropriations Act, Article IX, §167, 75th Legislature; the General Appropriations Act, Section 9 - 10, 76th Legislature; and Texas Government Code, §2001.039 as added by SB 178, 76th Legislature.

The Division's reason for adopting the following rule contained in this chapter continues to exist, and it proposes to readopt these rules:

§160.2, Non-Subscribing Employer's Report of Injury

§160.3, Subscribing Employer's Report of Injury

Comments regarding whether the reason for adopting these rules continues to exist must be received by 5:00 p.m. on February 19, 2007, and submitted to Victoria Ortega, Legal Services, MS 4-D, Texas Depart-

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)

ment of Insurance, Division of Workers' Compensation, 7551 Metro Center Drive, Suite 100, MS-4D, Austin, Texas 78744-1609.

TRD-200700023

Norma Garcia

General Counsel

Texas Department of Insurance, Division of Workers' Compensation

Filed: January 4, 2007



Adopted Rule Reviews

Texas Department of Insurance, Division of Workers' Compensation

Title 28, Part 2

Pursuant to the notice of proposed rule review published in the August 4, 2006, issue of the *Texas Register* (31 TexReg 6243), the Texas Department of Insurance, Division of Workers' Compensation has reviewed and considered for readoption, revision or repeal all sections as they existed on August 4, 2006, of the following chapters of Title 28, Part 2 of the Texas Administrative Code, in accordance with Texas Government Code §2001.039: Chapter 47, Employee Notice of Injury or Death and Claim for Benefits.

The Department considered, among other things, whether the reasons for adoption of these rules continue to exist. The Department received no written comments regarding the review of its rules.

The Department has determined that the reasons for adopting the remaining sections continue to exist and those sections are retained in their present form. However, other sections that were reviewed may be subsequently revised in accordance with the Department's internal procedures. Any such revisions will be accomplished in accordance with the Texas Administrative Procedure Act.

This concludes the Department's review of Chapter 47. The completion of the review of these chapters concludes the rule review process.

TRD-200700088

Norma Garcia

General Counsel

Texas Department of Insurance, Division of Workers' Compensation

Filed: January 10, 2007



Pursuant to the notice of proposed rule review published in the July 21, 2006, issue of the *Texas Register* (31 TexReg 5813), the Texas Department of Insurance, Division of Workers' Compensation has reviewed and considered for readoption, revision or repeal all sections as they

existed on July 21, 2006, of the following chapters of Title 28, Part 2 of the Texas Administrative Code, in accordance with Texas Government Code §2001.039: Chapter 51, Award of the Board; Chapter 61, Prehearing Conferences.

The Department considered, among other things, whether the reasons for adoption of these rules continue to exist. The Department received no written comments regarding the review of its rules.

The Department has determined that the reasons for adopting the remaining sections continue to exist and those sections are retained in their present form. However, other sections that were reviewed may be subsequently revised in accordance with the Department's internal procedures. Any such revisions will be accomplished in accordance with the Texas Administrative Procedure Act.

This concludes the Department's review of Chapters 51 and 61. The completion of the review of these chapters concludes the rule review process.

TRD-200700087

Norma Garcia

General Counsel

Texas Department of Insurance, Division of Workers' Compensation

Filed: January 10, 2007



Texas Real Estate Commission

Title 22, Part 23

The Texas Real Estate Commission (TREC) adopts the review of Chapters 534 and 537 in accordance with the Texas Government Code, §2001.039. The proposed notice of review was published in the September 8, 2006, issue of the *Texas Register* (31 TexReg 7583).

In conjunction with this review, the agency adopted amendments to Chapter 537. The amendments update the rules for consistency and clarity with the underlying and related statutory provisions. The agency has determined that with this change, the reasons for adopting the sections in Chapters 534 and 537 continue to exist.

No comments were received in response to the notice of the proposed rule review as published in the above-referenced issue of the *Texas Register*.

This concludes the review of Chapter 534, General Administration and Chapter 537, Professional Agreements and Standard Contracts.

TRD-200700014

Loretta R. DeHay

General Counsel

Texas Real Estate Commission

Filed: January 3, 2007



TABLES &

GRAPHICS

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

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

Figure: 28 TAC §1.601(a)(3)

1 IMPORTANT NOTICE

To obtain information or make a complaint:

2 You may contact your (title) at (telephone number).

3 You may call (company)'s toll-free telephone number for information or to make a complaint at:

1-XXX-XXX-XXXX

4 You may also write to (company) at:

5 You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights or complaints at:

1-800-252-3439

6 You may write the Texas Department of Insurance:

P.O. Box 149104
Austin, TX 78714-9104
Fax: (512) 475-1771
Web: <http://www.tdi.state.tx.us>
E-mail: ConsumerProtection@tdi.state.tx.us

7 PREMIUM OR CLAIM DISPUTES:

Should you have a dispute concerning your premium or about a claim you should contact the (agent) (company) (agent or the company) first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

8 ATTACH THIS NOTICE TO YOUR POLICY:

This notice is for information only and does not become a part or condition of the attached document.

AVISO IMPORTANTE

Para obtener informacion o para someter una queja:

Puede comunicarse con su (title) al (telephone number).

Usted puede llamar al numero de telefono gratis de (company)'s para informacion o para someter una queja al:

1-XXX-XXX-XXXX

Usted tambien puede escribir a (company):

Puede comunicarse con el Departamento de Seguros de Texas para obtener informacion acerca de companias, coberturas, derechos o quejas al:

1-800-252-3439

Puede escribir al Departamento de Seguros de Texas:

P.O. Box 149104
Austin, TX 78714-9104
Fax: (512) 475-1771
Web: <http://www.tdi.state.tx.us>
E-mail: ConsumerProtection@tdi.state.tx.us

DISPUTAS SOBRE PRIMAS O RECLAMOS:

Si tiene una disputa concerniente a su prima o a un reclamo, debe comunicarse con el (agente) (la compania) (agente o la compania) primero. Si no se resuelve la disputa, puede entonces comunicarse con el departamento (TDI).

UNA ESTE AVISO A SU POLIZA:

Este aviso es solo para proposito de informacion y no se convierte en parte o condicion del documento adjunto.

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.

Office of the Attorney General

Texas Water Code Enforcement Settlement Notice

Notice is hereby given by the State of Texas of the following proposed resolution of an environmental enforcement lawsuit under Texas Water Code §7.110. Before the State may settle a judicial enforcement action under Chapter 7 of the Texas Water Code, the State shall permit the public to comment in writing on the proposed judgment. The Attorney General will consider any written comments and may withdraw or withhold consent to the proposed agreed judgment if the comments disclose facts or considerations that indicate that the consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Code.

Case Title and Court: Harris County, Texas and The State of Texas v. Exxon Mobile Corp. dba Exxon Mobile Refining & Supply Co., Cause No. 2006-50292, in the 333rd Judicial District Court, Harris County, Texas.

Nature of Defendant's Operations: Defendant, Exxon Mobile Corp. dba Exxon Mobile Refinery & Supply Co., owns and operates the refinery located at 5000 Bayway Drive, Baytown, Harris County, Texas. Harris County's petition alleges that on January 26, 2006, process gas from a tank at the refinery owned and operated by the defendant, spilled onto the ground. An oily mist from this material engulfed nearby Archia Courts public housing neighborhood, adhering to cars and homes. The unauthorized emission was in such a concentration and of such duration as to create a nuisance, interfering with normal use and enjoyment of property and adversely affecting human health, in violation of 30 TAC §101.4. Defendant also violated 30 TAC §116.715, Tex. Health & Safety Code §382.085(a) & (b), 30 TAC §327.3(e), and general and special conditions of TCEQ permit No. 18287.

Proposed Agreed Judgment: The proposed agreed judgment contains civil penalties and attorney's fees. In the proposed settlement, Defendants agree to pay a civil penalty of \$75,000.00 in civil penalties to be divided equally between the State and Harris County. The proposed judgment awards attorney's fees of \$1,000 to Harris County and \$750 to the State. Defendant is liable for monetary awards in the judgment.

For a complete description of the proposed settlement, the complete proposed Amended Agreed Final Judgment should be reviewed. Requests for copies of the judgment, and written comments on the proposed settlement should be directed to Laura E. Miles-Valdez, Assistant Attorney General, Office of the Texas Attorney General, P.O. Box 12548, Austin, Texas 78711-2548, (512) 463-2012, facsimile (512) 320-0052. Written comments must be received within 30 days of publication of this notice to be considered.

For information regarding this publication, you may contact Lauri Saathoff, Agency Liaison, at (512) 463-2096.

TRD-200700077

Stacey Napier
Deputy Attorney General
Office of the Attorney General
Filed: January 10, 2007

Texas Department of Banking

Correction of Error

Finance Commission of Texas, on behalf of the Texas Department of Banking, proposed amendments to 7 TAC §25.10, concerning record-keeping requirements for insurance-funded contracts. The notice was published in the December 29, 2006 issue of the *Texas Register* (31 TexReg 10473).

On page 10474, the preamble states incorrectly that comments concerning the proposed amendments must be submitted within 30 days of publication. This sentence should read as follows.

"To be considered, comments concerning the proposed amendments must be submitted within 45 days of publication to Sarah Shirley, General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Suite 300, Austin, Texas 78705-4294 or by email to sarah.shirley@banking.state.tx.us."

TRD-200700044

Texas Building and Procurement Commission

Request for Proposal

The Texas Building and Procurement Commission (TBPC), on behalf of the Texas Council for Purchasing from People with Disabilities (TCPPD), announces the issuance of a Request for Proposal (RFP) #303-7-10740. Contract Name: Services of a Central Non-Profit Agency. Proposals for this service will be received until 3:00 p.m., Tuesday, February 20, 2007, at Bid Services, Lobby, Room 100, 1711 San Jacinto, Austin, TX 78701. See the RFP for other delivery methods.

Bid documents are available on the *Electronic State Business Daily* website referenced below. Non-Mandatory Pre-Proposal Conference is scheduled for January 25, 2007 at 11:00 a.m. at TBPC, 1711 San Jacinto, Room 200b, Austin, Texas. A copy of the RFP may be obtained by contacting TBPC Statewide Procurement, Attn: David Bennett, (fax) (512) 236-6161, david.bennett@tbpc.state.tx.us or through the ESBD: <http://esbd.tbpc.state.tx.us/>. Enter Req. No. "303-7-10740" in the blank provided and click FIND.

TRD-200700025

Ingrid K. Hansen
General Counsel
Texas Building and Procurement Commission
Filed: January 5, 2007

Coastal Coordination Council

Notice and Opportunity to Comment on Requests for Consistency Agreement/Concurrence Under the Texas Coastal Management Program

On January 10, 1997, the State of Texas received federal approval of the Coastal Management Program (CMP) (62 Federal Register pp. 1439-1440). Under federal law, federal agency activities and actions affecting the Texas coastal zone must be consistent with the CMP goals and policies identified in 31 TAC Chapter 501. Requests for federal consistency review were deemed administratively complete for the following project(s) during the period of December 29, 2006, through January 4, 2007. As required by federal law, the public is given an opportunity to comment on the consistency of proposed activities in the coastal zone undertaken or authorized by federal agencies. Pursuant to 31 TAC §§506.25, 506.32, and 506.41, the public comment period for these activities extends 30 days from the date published on the Coastal Coordination Council web site. The notice was published on the web site on January 10, 2007. The public comment period for these projects will close at 5:00 p.m. on February 9, 2007.

FEDERAL AGENCY ACTIONS:

Applicant: Aransas County Navigation District; Location: The project is located on State Highway 35 at the base of the Copano Bay Causeway (south side) in Fulton, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: Rockport, Texas. Approximate UTM Coordinates in NAD 27 (meters): Zone 14; Easting: 693979; Northing: 3111137. Project Description: The applicant proposes to revitalize an existing boat ramp facility, build a new breakwater (for erosion control), construct a parking lot, new boat ramp and attendant docks/piers, dredge the existing channel, install revetments (for erosion protection), conduct repairs to existing pavement, and add a fish cleaning station and picnic area. The dredging of the existing channel (approx. 3,000 cubic yards of material) will be carried out with silt screen fencing protection in order to alleviate re-suspension of sediments in the area. The revetments will be placed to prevent encroachment of wetlands. The applicant states that no wetlands will

be filled, although revetments and a boat ramp (approx. 4,196 square feet) will be placed in waters of the United States. The applicant has also indicated that no seagrasses or other Special Aquatic Sites are present in the project area. CCC Project No.: 07-0070-F1; Type of Application: U.S.A.C.E. permit application #24423 is being evaluated under §10 of the Rivers and Harbors Act of 1899 (33 U.S.C.A. §403) and §404 of the Clean Water Act (33 U.S.C.A. §1344).

Pursuant to §306(d)(14) of the Coastal Zone Management Act of 1972 (16 U.S.C.A. §§1451-1464), as amended, interested parties are invited to submit comments on whether a proposed action is or is not consistent with the Texas Coastal Management Program goals and policies and whether the action should be referred to the Coastal Coordination Council for review.

Further information on the applications listed above may be obtained from Tammy Brooks, Consistency Review Coordinator, Coastal Coordination Council, P.O. Box 12873, Austin, Texas 78711-2873, or tammy.brooks@glo.state.tx.us. Comments should be sent to Ms. Brooks at the above address or by fax at (512) 475-0680.

TRD-200700029

Larry L. Laine

Chief Clerk/Deputy Land Commissioner, General Land Office
Coastal Coordination Council

Filed: January 8, 2007

◆ ◆ ◆
Comptroller of Public Accounts

Local Sales Tax Rate Changes Effective January 1, 2007

The one percent local sales and use tax will become effective January 1, 2007 in the city listed below.

<u>CITY NAME</u>	<u>LOCAL CODE</u>	<u>NEW RATE</u>	<u>TOTAL RATE</u>
Mountain City (Hays Co)	2105102	.010000	.077500

TRD-200700015

Martin Cherry

Chief Deputy General Counsel
Comptroller of Public Accounts

Filed: January 4, 2007

TRD-200700013

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: January 3, 2007

◆ ◆ ◆
Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in §303.003 and §303.009, Tex. Fin. Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 01/08/07 - 01/14/07 is 18% for Consumer¹/Agricultural/Commercial² credit thru \$250,000.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 01/08/07 - 01/14/07 is 18% for Commercial over \$250,000.

¹Credit for personal, family or household use.

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

◆ ◆ ◆
Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in §303.003 and §303.009, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 01/15/07 - 01/21/07 is 18% for Consumer¹/Agricultural/Commercial²/credit through \$250,000.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 01/15/07 - 01/21/07 is 18% for Commercial over \$250,000.

¹Credit for personal, family or household use.

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

TRD-200700042

Leslie L. Pettijohn
Commissioner
Office of Consumer Credit Commissioner
Filed: January 9, 2007



Texas Commission on Environmental Quality

Notice of District Petition

Notice issued December 27, 2006

TCEQ Internal Control No. 12112006-D07; Lake Houston Scanlan, L.P. (Petitioner) filed a petition for creation of Harris County Municipal Utility District No. 499 (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, Section 59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states the following: (1) the Petitioner is the owner of a majority in value of the land to be included in the proposed District; (2) there is one lienholder, Citibank Texas, N.A., on the property to be included in the proposed District, and the Petitioner has provided the TCEQ with a certificate evidencing its consent to the creation of the proposed District, (3) the proposed District will contain approximately 67.08 acres located within Harris County, Texas; and (4) the proposed District is within the corporate boundaries of the City of Houston, Texas, and no portion of land within the proposed District is within the corporate limits or extraterritorial jurisdiction of any other city, town or village in Texas. By Ordinance No. 2006-1067, effective October 30, 2006, the City of Houston, Texas, gave its consent to the creation of the proposed District. According to the petition, the Petitioner has conducted a preliminary investigation to determine the cost of the project, and from the information available at the time, the cost of the project is estimated to be approximately \$5,400,000.

INFORMATION SECTION

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

239-0200. General information regarding TCEQ can be found at our web site at www.tceq.state.tx.us.

TRD-200700075
LaDonna Castañuela
Chief Clerk
Texas Commission on Environmental Quality
Filed: January 10, 2007



Notice of Water Quality Applications

The following notices were issued during the period of December 15, 2006 through January 8, 2007.

The following require the applicants to publish notice in a newspaper. Public comments, requests for public meetings, or requests for a contested case hearing may be submitted to the Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087, WITHIN 30 DAYS OF THE DATE OF NEWSPAPER PUBLICATION OF THE NOTICE.

ANGELINA COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 3 has applied for a renewal of TPDES Permit No. 14201-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 60,000 gallons per day. The facility is located 10,450 feet north of the intersection of U.S. Highway 59 and Farm-to-Market Road 2021 and 22,700 feet east of the intersection of U.S. Highway 59 and Farm-to-Market Road 2021 in Angelina County, Texas.

AZTEC COVE PROPERTY OWNERS ASSOCIATION, INC. has applied for a renewal of TPDES Permit No. 11831-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 7,500 gallons per day. The facility is located approximately seven miles east of the City of Trinity on the north side of Farm-to-Market Road 356, approximately 2,000 feet west of the bridge over the White Rock Creek Arm of Lake Livingston in Trinity County, Texas.

CACHAREL TEXAS HAWAII, LTD. has applied for a renewal of Permit No. 14046-001, which authorizes the disposal of treated domestic wastewater at a daily average flow not to exceed 7,900 gallons per day via subsurface drainfields with a minimum area of 80,000 square feet. The facility and disposal site are located approximately 800 feet east-northeast of the intersection of Nine Mile Bridge Road and Nine Mile Azle Road at the north and east side of the Country Oaks Mobile Home Park in Tarrant County, Texas.

CITY OF DECATUR has applied for a renewal of TPDES Permit No. WQ0010009001, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 1,200,000 gallons per day. The facility is located approximately 1,300 feet east of Farm-to-Market Road 51, approximately one mile south of the intersection of Farm-to-Market Road 51 and U.S. Highway 81 in Wise County, Texas.

DH/JB PARTNERSHIP, LTD. has applied for a new permit, Proposed Permit No. WQ0014733001, to authorize the disposal of treated domestic wastewater at a daily average flow not to exceed 75,000 gallons per day via public access subsurface drip irrigation system with a minimum area of 750,000 square feet. This permit will not authorize a discharge of pollutants into waters in the State. The facility and disposal site will be located north of the intersection of Farm-to-Market Road 1863 and U.S. Highway 281, approximately 0.7 mile north of Farm-to-Market Road 1863 and 0.5 mile east of U.S. Highway 281 in Comal County, Texas.

CITY OF FARMERSVILLE has applied for a renewal of TPDES Permit No. WQ0010442001, which authorizes the discharge of treated do-

mestic wastewater at a daily average flow not to exceed 225,000 gallons per day. The facility is located approximately 1,600 feet south of the intersection of State Highway 78 and U.S. Highway 380 in the southwest corner of the City of Farmersville in Collin County, Texas.

HARRIS COUNTY has applied for a renewal of TPDES Permit No. 12858-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 26,000 gallons per day. The facility is located within the confines of George Bush Park, near the confluence of Buffalo Bayou and the original bed of Long Point Slough, at a point approximately 6,000 feet west of BarkerClodine Road and 900 feet north of the Fort Bend County line in Harris County, Texas.

HARRIS COUNTY FRESH WATER SUPPLY DISTRICT NO. 61 has applied for a renewal of TPDES Permit No. 10876-002, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 3,000,000 gallons per day. The facility is located on the southern bank of Whiteoak Bayou, approximately 2,000 feet north of Farm-to-Market Road 1960 and 6,000 feet east of Huffmeister Road in Harris County, Texas.

HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 400 has applied for a minor amendment to the Texas Pollutant Discharge Elimination System (TPDES) permit to authorize the addition of interim II phase with a daily average flow of 600,000 gallons per day and deletion of the interim and final phases with a daily average flow of 200,000 gallons per day and 1,000,000 gallons per day respectively. The facility is located approximately 0.7 miles east of the intersection of Wilson Road and Beltway 8 in Harris County, Texas.

CITY OF HOUSTON has applied for a major amendment to TPDES Permit No. WQ0010495112 to authorize an increase in the discharge of treated domestic wastewater from an daily average flow not to exceed 820,000 gallons per day to an annual average flow not to exceed 1,500,000 gallons per day. The facility is located south of Huffman-Eastgate Road, approximately 6,500 feet west of the intersection of Farm-to-Market Road 1960 and Huffman-Eastgate Road in Harris County, Texas.

LEON INDEPENDENT SCHOOL DISTRICT has applied for a new permit, Proposed Permit No. WQ0014659001, to authorize the disposal of treated domestic wastewater at a daily average flow not to exceed 15,000 gallons per day via surface irrigation of 33 acres of non-public access agricultural land. The draft permit authorizes the disposal of treated domestic wastewater at a daily average flow not to exceed 3,230 gallons per day via surface irrigation of 10.6 acres within the 33 acres of non-public access agricultural land. This permit will not authorize a discharge of pollutants into waters in the State. Authorization to discharge was previously permitted by expired Permit No. 12542-001. The facility and disposal site are located on the west side of County Road 350 approximately 1,000 feet north-northwest of the intersection of County Road 350 and U.S. Highway 79 in Leon County, Texas. The disposal site is located on the east side of County Road 350 approximately 1,000 feet north-northwest of the intersection of County Road 350 and U.S. Highway 79 in Leon County, Texas. The disposal site is located in the drainage area of Navasota River Below Lake Limestone in Segment No. 1209 of the Brazos River Basin.

CITY OF LUFKIN has applied for a renewal of TPDES Permit No. 10214-001, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 11,300,000 gallons per day. The facility is located approximately 1,600 feet northwest of the point where Hurricane Creek intersects Farm-to-Market Road 324 and south of the City of Lufkin in Angelina County, Texas.

MARC ROGER MEEKER has applied for a renewal of TPDES Permit No. WQ0013601001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 8,500 gal-

lons per day. The facility is located on Highway 75, approximately 0.7 mile north of the intersection of Highway 75 and Shepard Hill Road in Montgomery County, Texas.

MONARCH UTILITIES I L.P. has applied for a renewal of TPDES Permit No. 11506-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 100,000 gallons per day. The facility is located approximately 7 miles south of the City of Eustace on the north shoreline of Cedar Creek Reservoir at a point approximately 2 miles west of State Highway 198 and 5 miles north of State Highway 31 in Henderson County, Texas.

MONARCH UTILITIES I L.P. has applied to the for a renewal of TPDES Permit No. WQ0013547001, 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 0.25 mile north of Farm-to-Market Road 356 and approximately 0.4 mile west of the intersection of Farm-to-Market Road 356 and Farm-to-Market Road 355 in Trinity County, Texas.

MONARCH UTILITIES I L.P. has applied for a renewal of TPDES Permit No. WQ0013879001, 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 approximately 0.3 mile south of the State Highway 198 and 1.5 miles west of the intersection of State Highway 198 and Farm-to-Market Road 316 in Henderson County, Texas.

MARY ANN MOORE has applied for a renewal of TPDES Permit No. WQ0011465001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 15,000 gallons per day. The facility is located approximately 1250 feet north of Farm-to-Market Road 2457 at a point approximately 3 miles west of the intersection of Farm-to-Market Road 2457 and U.S. Highway 190, near the east shore of Lake Livingston in Polk County, Texas.

CITY OF NAPLES, P.O. Box 340, Naples, Texas 75568, has applied for a renewal of TPDES Permit No. 10230-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 250,000 gallons per day. The facility is located approximately 0.5 miles southeast of the intersection of State Highway 77 and State Highway 338 in Morris County, Texas.

NEWPORT MUNICIPAL UTILITY DISTRICT has applied to the TCEQ for a major amendment to TPDES Permit No. WQ0011329001 to authorize an increase in the discharge of treated domestic wastewater from a daily average flow not to exceed 990,000 gallons per day to an annual average flow not to exceed 1,300,000 gallons per day. The facility is located west of the confluence of Gum Gully and Jackson Bayou, approximately 1.8 miles northwest of the intersection of Farm-to-Market Road 2100 and U.S. Highway 90 in Harris County, Texas.

CITY OF ORE CITY has applied for a renewal of TPDES Permit No. 14389-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 218,000 gallons per day. The facility is located approximately 4300 feet northeast of the intersection of U.S. Highway 259 and Farm-to-Market Road 450 in Upshur County, Texas.

PINEYWOODS BAPTIST ENCAMPMENT has applied for a renewal of Permit No. 11775-001, which authorizes the disposal of treated domestic wastewater at a daily average flow not to exceed 10,000 gallons per day via surface irrigation of 3 acres of restricted access land. This permit will not authorize a discharge of pollutants into waters in the State. The facility and disposal site are located approximately 2,000 feet south of U.S. Highway 287 at Woodlake, approximately 6.0 miles east of the City of Groveton in Trinity County, Texas.

ANTHONY JOHN RIEDEL has applied for a renewal of TPDES Permit No. 3939-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 3,000 gallons per day. The facility is located approximately 400 feet north of 8038 Fallbrook Drive, at a point approximately 1.25 miles west of State Highway 249 in Harris County, Texas.

ROCKY POINT ESTATES LAND TRUST has applied for a renewal of TPDES Permit No. 13732-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 60,000 gallons per day. The facility is located at 4601 Shiloh Road in the Town of Flower Mound in Denton County, Texas.

THE TEXAS PARKS AND WILDLIFE DEPARTMENT has applied to the Texas Commission on Environmental Quality (TCEQ) for a major amendment to TPDES Permit No. WQ0011718001 to change the method of treatment from an activated sludge mechanical plant to a facultative lagoon with constructed wetlands. The existing facility is located 500 feet east of Park Road 48 and approximately 3,500 feet due south of the intersection of U.S. Highway 190 and Park Road 48 in Jasper County, Texas. The proposed facility will be located 500 feet due south of the intersection of U.S. Highway 190 and Park Road 48 in Jasper County, Texas.

TEXAS YOUTH COMMISSION has applied for a renewal of TPDES Permit No. 10651-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 24,000 gallons per day. The current permit authorizes the land application of sewage sludge for beneficial use on 6.5 acres. The facility and disposal site are located adjacent to the south side of Farm-to-Market Road 433 and approximately 2.3 miles east of Farm-to-Market Road 2074 in Wilbarger County, Texas.

THE CITY OF TRINIDAD has applied for a renewal of TPDES Permit No. 10467-002, 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 southeast of the City of Trinidad, approximately 1.2 miles south of the intersection of Farm-to-Market Road 1667 and U.S. Highway 31 in Henderson County, Texas.

TRINITY @ WINDFERN LLC has applied for a renewal of TPDES Permit No. 13509-001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 40,000 gallons per day. The facility is located at 9401 Windfern Road approximately 300 feet south of Zaka Road and approximately 3 miles north of the intersection of Windfern Road and U.S. Highway 290 in Harris County, Texas.

TRINITY RIVER AUTHORITY OF TEXAS has applied for a major amendment to TPDES Permit No. 10303-001 to authorize an increase in the discharge of treated domestic wastewater from an annual average flow not to exceed 162,000,000 gallons per day to an annual average flow not to exceed 189,000,000 gallons per day and to remove the monitoring requirements from four groundwater monitoring wells east of the east landfill site. The draft permit authorizes the removal of the monitoring requirements from two groundwater monitoring wells east of the east landfill site. The current permit authorizes marketing and distribution and monofill of sewage sludge. The applicant has also applied to the TCEQ for approval of a substantial modification to its pretreatment program under the TPDES program. The facility is located approximately 6,000 feet northwest of the intersection of Interstate Highway 30 and Loop 12, at the confluence of the West Fork Trinity River and Mountain Creek in Dallas County, Texas. The sludge treatment works and the sludge disposal site are on the same site as the wastewater treatment facility.

WARREN INDEPENDENT SCHOOL DISTRICT has applied for a renewal of TPDES Permit No. 11308-001, which authorizes the dis-

charge of treated domestic wastewater at a daily average flow not to exceed 15,000 gallons per day. The facility is located approximately 0.7 mile southwest of the intersection of U.S. Highway 69 and Farm-to-Market Road 1943 in Tyler County, Texas.

THE CITY OF WHARTON has applied for a renewal of TPDES Permit No. 10381-002, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 500,000 gallons per day. The facility is located approximately 0.8 mile due north of the intersection of U.S. Highway 59 and Farm-to-Market Road 102, 1.8 miles northwest of the intersection of Richmond Road (State Highway 60) and Ogden Street (Farm-to-Market Road 102) in Wharton County, Texas.

WHITE OAK BEND MUNICIPAL UTILITY DISTRICT has applied for a renewal of TPDES Permit No. WQ0011979002, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 400,000 gallons per day. The facility is located at 10200 Autumn Meadow Lane approximately 1.25 miles south of Farm-to-Market Road 1960 and 0.35 mile east of Jones Road in Harris County, Texas.

INFORMATION SECTION

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

If you need more information about these permit applications or the permitting process, please call the TCEQ Office of Public Assistance, Toll Free, at 1-800-687-4040. General information about the TCEQ can be found at our web site at www.TCEQ.state.tx.us. Si desea información en Español, puede llamar al 1-800-687-4040.

TRD-200700074

LaDonna Castañuela

Chief Clerk

Texas Commission on Environmental Quality

Filed: January 10, 2007



Texas Health and Human Services Commission

Notice of Extension of Comment Period and Notice of Hearing on Proposed Integrated Care Management Rules

Extension of Comment Period. The Texas Health and Human Services Commission (HHSC) has extended the comment period for a proposed amendment to rule 1 TAC §353.2, Definitions, and for proposed new rules 1 TAC §§353.701 - 353.703, Integrated Care Management. The proposed amendment and new rules, which are effective July 1, 2007, implement the Integrated Care Management (ICM) Program, a non-capitated managed care model for aged, blind, and disabled Medicaid clients in the Dallas service area. The proposed amendment and new rules were published for the required 30-day public comment period in the December 29, 2006, issue of the *Texas Register* (31 TexReg 10450). HHSC has extended the comment period until 5:00 p.m. on January 29, 2007.

Public Hearing. As published in the December 29, 2006, issue of the *Texas Register*, HHSC will conduct a public hearing to receive public comment on the proposed amendment to rule 1 TAC §353.2 and on the proposed new rules 1 TAC §§353.701 - 353.703. The public hearing will be held on January 29, 2007, from 9:30 a.m. to 10:30 a.m. in the Lone Star Conference Room of the Braker Center, Building H, at 11209 Metric Boulevard, Austin, Texas 78758-4021. Entry is through

Security at the entrance of 11209 Metric Boulevard. Persons requiring further information, special assistance, or accommodations should contact Meisha Spencer at (512) 491-1453.

Written Comments. Written comments regarding the proposed amendment and new rules may be submitted in lieu of testimony until 5:00 p.m. the day of the hearing. Written comments may be sent by U.S. mail to the attention of Gary Young, Medicaid/CHIP, MC H-320, P.O. Box 85200, Austin, Texas 78708-5200 or by e-mail to gary.young@hhsc.state.tx.us. Alternatively, written comments may be sent via facsimile to Mr. Young at (512) 491-1969.

TRD-200700070

Steve Aragón

Chief General Counsel

Texas Health and Human Services Commission

Filed: January 9, 2007



Notice of Public Hearing on Proposed Rule Amendments Involving Payments for Outpatient and Inpatient Hospital Services

The Health and Human Services Commission (HHSC) will conduct a hearing to receive public comment on the proposed amendments to Title 1 of the Texas Administrative Code (TAC) Chapter 355, §355.8061, Payment for Hospital Services, and §355.8063, Reimbursement Methodology for Inpatient Hospital Services. Section 355.8061 establishes the methodology HHSC will use to distribute supplemental payments for outpatient services to private hospitals. Section 355.8063 establishes the methodology HHSC will use to distribute supplemental payments for inpatient services to private hospitals.

The proposed rule amendments will implement Medicaid Upper Payment Limit (UPL) supplemental payments to privately-owned and operated hospitals in Hidalgo, Webb, Maverick, Montgomery, Travis, and Bexar counties effective June 11, 2005, and Medicaid UPL payments to privately-owned and operated hospitals in all other Texas counties effective November 12, 2005. The privately-owned and operated hospitals must be affiliated with a hospital district or other state or local governmental entity to be eligible for supplemental payments. The hospital district or state or local government entity will, thru intergovernmental transfers, or in the case of a state entity, general revenue transfers, provide the non-federal share of the supplemental payments. The full text of the amendments is published in this issue of the *Texas Register* in the "Proposed Rules" section.

A public hearing on the proposed amendments to 1 TAC §355.8061 and §355.8063 will be held on February 1, 2007, from 10:00 a.m. to 11:30 a.m. in the Lone Star Conference Room of the Braker Center, Building H, located at 11209 Metric Boulevard, Austin, Texas. Entry is through Security at the entrance of 11209 Metric Boulevard. Persons requiring further information, special assistance, or accommodations should contact Meisha Spencer at (512) 491-1453.

TRD-200700090

Steve Aragón

Chief Counsel

Texas Health and Human Services Commission

Filed: January 10, 2007



Department of State Health Services

Licensing Actions for Radioactive Materials

The Department of State Health Services has taken actions regarding Licenses for the possession and use of radioactive materials as listed in the tables. The subheading "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout Texas" indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.

NEW LICENSES ISSUED:

Location	Name	License #	City	Amend-ment #	Date of Action
Austin	Central Texas Veterinary Specialty Hospital	L06022	Austin	00	12/29/06
Beaumont	Wayne S Margolis MD PA	L06049	Beaumont	00	12/20/06
Cleburne	Cleburne Cancer Center	L06023	Cleburne	00	12/28/06
Throughout TX	Jetstar Energy Services Inc	L06034	Dallas	00	12/19/06
Throughout TX	Lowther Consulting Inc	L06042	Dublin	00	12/18/06
Wichita Falls	Andre P Desire PA	L06043	Wichita Falls	00	12/21/06

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License #	City	Amend-ment #	Date of Action
Abilene	ARMC LP DBA Abilene Regional Medical Center	L02126	Abilene	17	12/28/06
Abilene	Texas Oncology PA DBA Texas Cancer Center Abilene	L05127	Abilene	11	12/22/06
Arlington	Dallas Cardiology Associates PA DBA Heart Place of Arlington	L05855	Arlington	02	12/27/06
Austin	Columbia St Davids Healthcare System LP DBA South Austin Hospital	L03273	Austin	71	12/18/06
Austin	Daughters of Charity Health Services of Austin DBA Brackenridge Hospital	L00268	Austin	91	12/28/06
Austin	Heart Hospital IV LP DBA Heart Hospital of Austin	L05215	Austin	22	12/22/06
Austin	St Davids Healthcare Partnership LP LLP DBA St Davids Medical Center	L00740	Austin	96	12/27/06
Baytown	Exxonmobil Refining and Supply Company	L01134	Baytown	62	12/22/06
Beeville	Christus Spohn Health System Corporation DBA Christus Spohn Hospital Beeville	L04510	Beeville	23	12/27/06
Bellaire	Mammography & Ultrasound Specialists	L05926	Bellaire	01	12/15/06
Bryan	St Joseph Regional Health Center	L00573	Bryan	68	12/14/06
Burnet	Daughters of Charity Health Services of Austin DBA Seton Highland Lakes	L03515	Burnet	32	12/19/06
Carrollton	Medical Edge Healthcare Group PA DBA Heart First	L05555	Carrollton	11	12/27/06
Cleveland	Cleveland Regional Medical Center LP	L02055	Cleveland	36	12/18/06
Clifton	CLSW LTD DBA Chemical Lime Company	L02461	Clifton	13	12/18/06
Corsicana	Navarro Hospital Inc LP DBA Navarro Regional Hospital	L02458	Corsicana	30	12/22/06
Dallas	Baylor College of Dentistry	L00323	Dallas	37	12/27/06
Dallas	Baylor Radiosurgery Center DBA Baylor University Medical Center	L05842	Dallas	07	12/22/06
Dallas	Cardinal Health	L02048	Dallas	121	12/19/06
Dallas	Cooper Medical Imaging LLP	L05138	Dallas	10	12/22/06
Dallas	Pet Net Pharmaceuticals Inc	L05193	Dallas	23	12/21/06
Dallas	Tenet Health System Hospitals Dallas Inc DBA RHD Memorial Medical Center	L02314	Dallas	53	12/27/06
Dallas	Texas Oncology PA DBA Sammons Cancer Center	L04878	Dallas	35	12/18/06

AMENDMENTS TO EXISTING LICENSES ISSUED CONTINUED:

Location	Name	License #	City	Amendment #	Date of Action
Dallas	The Center for Molecular Imaging LP DBA Southwest Diagnostic Center for Molecular Imaging	L05715	Dallas	04	12/22/06
Dallas	The University of Texas Southwestern Medical Center at Dallas	L00384	Dallas	94	12/14/06
Denton	Trace Life Sciences Inc	L05435	Denton	13	12/27/06
Denton	TTHR Limited Partnership DBA Presbyterian Hospital of Denton	L04003	Denton	42	12/27/06
Denton	TTHR Limited Partnership DBA Presbyterian Hospital of Denton	L04003	Denton	43	12/27/06
El Paso	El Paso Heart Center	L04828	El Paso	16	12/27/06
Ferris	Fred Maese MD PA DBA Ferris Heart Center	L05409	Ferris	05	12/22/06
Fort Worth	Adventist Health System DBA Huguley Health System	L02920	Fort Worth	28	12/22/06
Fort Worth	Fort Worth Heart PA	L05480	Fort Worth	21	12/21/06
Friendswood	Raj K Bhalla MD PA	L05469	Friendswood	03	12/27/06
Galveston	The University of Texas Medical Branch	L01299	Galveston	73	12/14/06
Harlingen	Cockins Kim A MD FACC Cardiac Imaging Associates	L05845	Harlingen	03	12/28/06
Houston	American Diagnostic Tech LLC	L05514	Houston	31	12/14/06
Houston	American Diagnostic Tech LLC	L05514	Houston	32	12/21/06
Houston	American Diagnostic Tech LLC	L05514	Houston	33	12/27/06
Houston	Antoine G Younis MD PA	L05313	Houston	08	12/22/06
Houston	Cardinal Health	L01911	Houston	138	12/19/06
Houston	Goodyear Tire & Rubber Company	L00264	Houston	28	12/22/06
Houston	Memorial Hermann Hospital System DBA Memorial Hospital Southwest	L00439	Houston	120	12/14/06
Houston	Methodist Health Center DBA Methodist Willowbrook Hospital	L05472	Houston	24	12/22/06
Houston	Nuclear Imaging Services LLC	L05775	Houston	23	12/19/06
Houston	River Oaks Imaging and Diagnostic LP DBA River Oaks Imaging and Diagnostic	L04342	Houston	54	12/29/06
Houston	South Texas Nuclear Pharmacy	L05304	Houston	07	12/18/06
Houston	The Methodist Hospital	L00457	Houston	146	12/20/06
Houston	UT Physicians	L05465	Houston	05	12/22/06
Houston	Veterinary Cancer Associates DBA Gulf Coast Vet Oncology DBA Gulf Coast Vet Diagnostic Imaging	L04803	Houston	13	12/18/06
Houston	Wyle Laboratories Inc	L04813	Houston	07	12/22/06
Kaufman	Presbyterian Hospital of Kaufman	L03337	Kaufman	16	12/28/06
Kingsville	Christus Spohn Health System DBA Christus Spohn Hospital Kleberg	L02917	Kingsville	42	12/18/06
La Porte	Cardiorad Inc	L05755	La Porte	10	12/27/06
Livingston	Memorial Hospital of Polk County DBA Memorial Medical Center Livingston	L05552	Livingston	07	12/14/06
Llano	Llano County Hospital Authority DBA Llano Memorial Healthcare System	L04438	Llano	22	12/27/06
Longview	Good Shepherd Medical Center	L02411	Longview	78	12/27/06
Longview	King Tool Company	L05142	Longview	07	12/27/06
Longview	Texas Oncology PA DBA East Texas PET Imaging	L05489	Longview	16	12/27/06
Lubbock	Covenant Health System DBA Covenant Medical Center – Lakeside	L01547	Lubbock	86	12/27/06
Lubbock	Lubbock Heart Hospital LP	L05742	Lubbock	03	12/20/06

AMENDMENTS TO EXISTING LICENSES ISSUED CONTINUED:

Location	Name	License #	City	Amendment #	Date of Action
Lubbock	Radiation Oncology of the South Plains PA DBA Lubbock Cancer Center	L05484	Lubbock	10	12/28/06
Lubbock	Texas Tech University	L01536	Lubbock	78	12/28/06
Lufkin	Temple Imaging Center	L05839	Lufkin	03	12/28/06
Lufkin	The Heart Institute of East Texas PA	L04147	Lufkin	15	12/29/06
McAllen	Texas Oncology PA DBA South Texas PET Imaging	L05485	McAllen	07	12/22/06
McKinney	Cancer Center Associates DBA Rena Tarbet Cancer Center	L05952	McKinney	02	12/28/06
McKinney	Columbia Medical Center of McKinney Subsidiary LP DBA Medical Center of McKinney	L02415	McKinney	34	12/15/06
Mesquite	Saleem Mallick MD PA	L05132	Mesquite	13	12/27/06
Mexia	Parkview Regional Hospital	L05144	Mexia	21	12/19/06
Nacogdoches	The Heart Doctor Imaging Center	L05894	Nacogdoches	02	12/27/06
Plano	Baylor Regional Medical Center of Plano	L05844	Plano	05	12/27/06
Plano	Presbyterian Hospital of Plano	L04467	Plano	44	12/29/06
Port Arthur	The Premcor Refining Group Inc Port Arthur Refinery	L04871	Port Arthur	11	12/21/06
Richmond	Matrix Metals LLC DBA Richmond Foundry	L00312	Richmond	46	12/22/06
San Antonio	Cancer Therapy and Research Center Research Foundation DBA Institute for Drug Development	L03350	San Antonio	38	12/22/06
San Antonio	Heart Hospital of San Antonio LP DBA Texsan Heart Hospital	L05722	San Antonio	07	12/22/06
San Antonio	Methodist Healthcare System of San Antonio DBA Methodist Hospital	L00594	San Antonio	222	12/18/06
San Antonio	Methodist Healthcare System of San Antonio DBA Methodist Hospital	L00594	San Antonio	223	12/19/06
San Antonio	Methodist Healthcare System of San Antonio DBA Methodist Hospital	L00594	San Antonio	224	12/28/06
San Antonio	Petnet Pharmaceuticals Inc DBA Petnet San Antonio	L05569	San Antonio	13	12/19/06
Sherman	David F Davis MD FACC PA	L05477	Sherman	03	12/22/06
Sherman	Texas Oncology PA DBA North Texas PET Imaging	L05502	Sherman	11	12/22/06
Texas City	Sid Acharya MD PA DBA Cardiovascular Specialists of Texas	L05714	Texas City	04	12/22/06
The Woodlands	Memorial Hospital The Woodlands	L03772	The Woodlands	50	12/27/06
The Woodlands	St Lukes Community Medical Center The Woodlands	L05763	The Woodlands	07	12/14/06
Throughout TX	TEAM Industrial Services Inc	L00087	Alvin	155	12/29/06
Throughout TX	Houston Inc	L04362	Andrews	10	12/22/06
Throughout TX	ECS-Texas LLP	L05319	Austin	04	12/28/06
Throughout TX	Gulf Coast Weld Spec	L05426	Beaumont	51	12/29/06
Throughout TX	RK Hall Construction LTD	L04886	Brashear	10	12/20/06
Throughout TX	N-Spec Quality Services Inc	L05113	Corpus Christi	27	12/19/06
Throughout TX	Baylor University Medical Center	L01290	Dallas	79	12/27/06
Throughout TX	Precision Energy Services Inc	L04286	Fort Worth	65	12/19/06
Throughout TX	Allied Testing Laboratories Inc	L00880	Houston	43	12/19/06
Throughout TX	Ground Technology Inc	L05125	Houston	10	12/22/06
Throughout TX	Halliburton Energy Services Inc	L02113	Houston	107	12/19/06
Throughout TX	Lone Star Testing Laboratories	L04013	Houston	13	12/22/06
Throughout TX	Mandes Inspection & Testing Services Inc	L05220	Houston	58	12/19/06
Throughout TX	Pathfinder Energy Services Inc	L05236	Houston	13	12/21/06

AMENDMENTS TO EXISTING LICENSES ISSUED CONTINUED:

Location	Name	License #	City	Amendment #	Date of Action
Throughout TX	Petrochem Inspection Services Inc	L04460	Houston	75	12/28/06
Throughout TX	Goolsby Testing Laboratories Inc	L03115	Humble	84	12/27/06
Throughout TX	Tracer-Tech Services	L05375	Midland	07	12/19/06
Throughout TX	Big State X-Ray	L02693	Odessa	58	12/18/06
Throughout TX	Techcorr USA LLC	L05972	Pasadena	15	12/24/06
Throughout TX	Apex Geoscience Inc	L04929	Tyler	27	12/27/06
Tyler	Nutech Inc	L04274	Tyler	57	12/18/06
Tyler	Sigal Heart Center	L05704	Tyler	03	12/22/06
Waco	Baylor University	L00343	Waco	19	12/21/06
Waxahachie	Baylor Medical Center at Waxahachie	L04536	Waxahachie	29	12/28/06

RENEWAL OF LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Austin	Eye Physicians of Austin PA	L00570	Austin	20	12/09/06
Dallas	Texas Oncology PA DBA Sammons Cancer Center	L04878	Dallas	36	12/21/06
Edna	Jackson County Hospital District DBA Jackson Healthcare Center	L04842	Edna	10	12/19/06
El Paso	Sunbelt Laboratories Inc	L03926	El Paso	14	12/27/06
Electra	Electra Hospital District DBA Electra Memorial Hospital	L03227	Electra	14	12/29/06
Houston	CHCA Womans Hospital LP DBA The Womens Hospital of Texas	L04834	Houston	14	12/20/06
Richardson	Richardson Hospital Authority DBA Richardson Regional Medical Center	L02336	Richardson	47	12/21/06
Throughout TX	Cardinal Health	L01911	Houston	137	12/15/06
Throughout TX	Zachry Construction Corporation San Antonio	L05230	San Antonio	14	12/18/06

TERMINATIONS OF LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Corpus Christi	Corpus Christi Eye Institute	L00506	Corpus Christi	17	12/27/06
Iowa City	Excel Imaging Inc	L05277	Iowa City	03	12/18/06
Throughout TX	Holmes Wireline Service	L02562	Odessa	26	12/28/06

In issuing new licenses, amending and renewing existing licenses, or approving license exemptions, the Department of State Health Services (department), Radiation Safety Licensing Branch, has determined that the applicant has complied with the applicable provisions of Title 25 Texas Administrative Code (TAC) Chapter 289 regarding radiation control. In granting termination of licenses, the department has determined that the licensee has complied with the applicable decommissioning requirements of 25 TAC Chapter 289. In denying the application for a license, license renewal or license amendment, the department has determined that the applicant has not met the applicable requirements of 25 TAC Chapter 289.

This notice affords the opportunity for a hearing on written request of a person affected within 30 days of the date of publication of this notice. A person affected is defined as a person who demonstrates that the person has suffered or will suffer actual injury or economic damage and, if the person is not a local government, is (a) a resident of a county, or a county adjacent to the county, in which radioactive material is or will be located, or (b) doing business or has a legal interest in land in the county or adjacent county. A person affected may request a hearing by writing Richard A. Ratliff, Radiation Program Officer, Department of State Health Services, 1100 West 49th Street, Austin, Texas 78756-3189. For information call (512) 834-6688.

TRD-200700039
Cathy Campbell
General Counsel
Department of State Health Services
Filed: January 8, 2007



Notice of Agreed Orders

Notice is hereby given that the Department of State Health Services (department) issued Agreed Orders to the following registrants:

Provision Imaging, L.L.C. (Registration #R28589) of Beaumont. A total penalty of \$1,000 shall be paid by registrant for violations of 25 Texas Administrative Code, Chapter 289. The registrant shall also comply with additional settlement agreement requirements.

Hector Ubaldo, M.D., P.A. (License #L05876) of Katy. A total penalty of \$6,500 shall be paid by registrant for violations of 25 Texas Administrative Code, Chapter 289. The registrant shall also comply with additional settlement agreement requirements.

Big State X-Ray (License #L02693) of Chickasha, OK. A total penalty of \$5,000 was paid by registrant for violations of 25 Texas Administrative Code, Chapter 289. The registrant shall also comply with additional settlement agreement requirements.

E/Tex Dental, Inc. (Registration #R20005) of Tyler. The registrant shall modify the certificate of x-ray registration for violations of 25 Texas Administrative Code, Chapter 289. The registrant shall also comply with additional settlement agreement requirements.

A copy of all relevant material is available, by appointment, for public inspection at the Department of State Health Services, Exchange Building, 8407 Wall Street, Austin, Texas, telephone (512) 834-6688, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

TRD-200700038
Cathy Campbell
General Counsel
Department of State Health Services
Filed: January 8, 2007



Notice of Certification of Non-profit Hospitals or Hospital Systems for Limited Liability

The Hospital Survey Unit in the Center for Health Statistics, Department of State Health Services (department), has completed its analysis of hospital data for the purpose of certifying non-profit hospitals or hospital systems for limited liability in accordance with the Health and Safety Code, §311.0456. We received requests for certification from 15 hospitals. We will notify each hospital by mail that is certified in accordance with §311.0456. Therefore, if you have any comments or questions about the following certification results, please contact Dwayne Collins of the department's Center for Health Statistics.

Certified. Six non-profit hospitals were determined to be eligible for certification based on information that they provided 8 percent or more of their net patient revenue as charity care and provided 40 percent or more of the charity care in their counties:

1. Christus Spohn Hospital Beeville in Bee County;
2. East Texas Medical Center Athens in Henderson County;
3. Christus Jasper Memorial Hospital in Jasper County;

4. Christus Hospital (Christus St. Elizabeth Hospital and Christus St. Mary Hospital) in Jefferson County;
5. Christus Spohn Hospital Kleberg in Kleberg County; and
6. Daughters of Charity Health Services--Brackenridge Hospital in Travis County.

Not Certified. Nine non-profit hospitals were not certified because, based on their survey data, they did not provide 8 percent of their net patient revenue as charity care:

1. Christus Santa Rosa Children's Hospital in Bexar County;
2. Christus Santa Rosa Hospital in Bexar County;
3. Christus St. Michael Health System in Bowie County;
4. Christus St. Michael Rehabilitation Hospital in Bowie County;
5. Wilson N. Jones Medical Center in Grayson County;
6. Christus St. John Hospital in Harris County;
7. Christus St. Joseph Hospital in Harris County;
8. Christus Spohn Hospital Alice in Jim Wells County; and
9. Christus Spohn Hospital Corpus Christi in Nueces County.

For further information concerning this report, please contact Dwayne Collins or JaNell Jenkins in the Center for Health Statistics, Department of State Health Services, 1100 West 49th Street, Austin, Texas at (512) 458-7261.

TRD-200700094
Cathy Campbell
General Counsel
Department of State Health Services
Filed: January 10, 2007



Texas Department of Insurance

Third Party Administrator Applications

The following third party administrator applications have been filed with the Texas Department of Insurance and are under consideration.

Application of PEROT SYSTEMS BUSINESS PROCESS SOLUTIONS INDIA PRIVATE LIMITED, a foreign third party administrator. The home office is CHENNAI, INDIA.

Application of CO-ORDINATED BENEFIT PLANS, INC. (using the assumed name of CBPI, INC.), a foreign third party administrator. The home office is TAMPA, FLORIDA.

Application of SRONAPA RISK SERVICES, INC., a foreign third party administrator. The home office is NAPA, CALIFORNIA.

Any objections must be filed within 20 days after this notice is published in the *Texas Register*, addressed to the attention of Matt Ray, MC 107-1A, 333 Guadalupe, Austin, Texas 78701.

TRD-200700089
Gene C. Jarmon
Chief Clerk and General Counsel
Texas Department of Insurance
Filed: January 10, 2007



Texas State Library and Archives Commission

Notice of Consultant Contract Award

In compliance with the provisions of Chapter 2254, Subchapter B, Texas Government Code, Texas State Library and Archives Commission furnishes this notice of consultant contract award. The consultant will conduct an evaluation of the Library Systems and Technology Act five-year plan. The Request for Consulting Services was published in the November 17, 2006, issue of the *Texas Register* (31 TexReg 9522).

The contract was awarded to EGS Research & Consulting, 6106 Ledge Mountain, Austin, Texas 78731, in the amount of \$59,840.00. The beginning date of the contract is December 20, 2006 and the ending date is March 28, 2007.

For further information, please call the State Library Purchasing Department at (512) 463-5443.

TRD-200700031

Edward Seidenberg

Assistant State Librarian

Texas State Library and Archives Commission

Filed: January 8, 2007



Texas Lottery Commission

Instant Game Number 786 "\$1 Million Cash Blast"

1.0 Name and Style of Game.

A. The name of Instant Game No. 786 is "\$1 MILLION CASH BLAST". The play style for Game 1 is "key number match". The play style for Game 2 is "3 in a line" with prize box". The play style for Game 3 is "key symbol match". The play style for Game 4 is "key number match with multiplier".

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 786 shall be \$20.00 per ticket.

1.2 Definitions in Instant Game No. 786.

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: \$2.00, \$3.00, \$5.00, \$8.00, \$10.00, \$20.00, \$40.00, \$50.00, \$80.00, \$100, \$200, \$400, \$1,000, \$10,000, \$ONE MILL, CLOVER SYMBOL, STAR SYMBOL, BELL SYMBOL, DIAMOND SYMBOL, GOLD BAR SYMBOL, DOLLAR BILL SYMBOL, MONEY BAG SYMBOL, COIN SYMBOL, HORSE SHOE SYMBOL, DOLLARS SIGN SYMBOL, TOP HAT SYMBOL, 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 and 10X 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. 786 - 1.2D

PLAY SYMBOL	CAPTION
\$2.00	TWO\$
\$3.00	THREE\$
\$5.00	FIVE\$
\$8.00	EIGHT\$
\$10.00	TEN\$
\$20.00	TWENTY
\$40.00	FORTY
\$50.00	FIFTY
\$80.00	EIGHTY
\$100	ONE HUND
\$200	TWO HUND
\$400	FOR HUND
\$1,000	ONE THOU
\$10,000	10 THOU
\$ONE MILL	ONE MIL
CLOVER SYMBOL	CLVR
STAR SYMBOL	STAR
BELL SYMBOL	BELL
DIAMOND SYMBOL	DMND
GOLD BAR SYMBOL	BAR
DOLLAR BILL SYMBOL	DOLR
MONEY BAG SYMBOL	BAG
COIN SYMBOL	COIN
HORSE SHOE SYMBOL	SHOE
DOLLAR SIGN SYMBOL	MONEY
TOP HAT SYMBOL	TPHAT
1	ONE
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
7	SVN
8	EGT
9	NIN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
10X SYMBOL	WINx10

E. Retailer Validation Code - Three (3) letters found under the removable scratch-off covering in the play area, which retailers use to verify and validate instant winners. These three (3) small letters are for val-

idation purposes and cannot be used to play the game. The possible validation codes are:

Figure 2: GAME NO. 786 - 1.2E

CODE	PRIZE
TWN	\$20.00

Low-tier winning tickets use the required codes listed in Figure 2. Non-winning tickets and high-tier tickets use a non-required combination of the required codes listed in Figure 2 with the exception of Ø, which will only appear on low-tier winners and will always have a slash through it.

F. Serial Number - A unique 13 (thirteen) digit number appearing under the latex scratch-off covering on the front of the ticket. There is a boxed four (4) digit Security Number placed randomly within the Serial Number. The remaining nine (9) digits of the Serial Number are the Validation Number. The Serial Number is positioned beneath the bottom row of play data in the scratched-off play area. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

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

H. Mid-Tier Prize - A prize of \$30.00, \$40.00, \$50.00, \$80.00, \$100, \$200 or \$400.

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

J. Bar Code - A 22 (twenty-two) character interleaved two (2) of five (5) bar code which will include a three (3) digit game ID, the seven (7) digit pack number, the three (3) digit ticket number and the nine (9) digit Validation Number. The bar code appears on the back of the ticket.

K. Pack-Ticket Number - A 13 (thirteen) digit number consisting of the three (3) digit game number (786), a seven (7) digit pack number, and a three (3) digit ticket number. Ticket numbers start with 001 and end with 025 within each pack. The format will be: 786-0000001-001.

L. Pack - A pack of "\$1 MILLION CASH BLAST" Instant Game tickets contains 25 tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). The packs will alternate. One will show the front of ticket 001 and back of 025 while the other fold will show the back of ticket 001 and front of 025.

M. Non-Winning Ticket - A ticket which is not programmed to be a winning ticket or a ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

N. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "\$1 MILLION CASH BLAST" Instant Game No. 786 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 "\$1 MILLION CASH BLAST" Instant Game is determined once the latex on the ticket is scratched off to expose 55 (fifty-five) play symbols. For GAME 1, if a player matches any of YOUR AMOUNTS play symbols to the LUCKY AMOUNT play symbol, the player wins that amount. For GAME 2, if a player reveals three (3) star play symbols in any one row, column or diagonal, the player

wins prize shown in PRIZE BOX. For GAME 3, if a player reveals three (3) matching play symbols across in the same play, the player wins prize shown in legend. For GAME 4, if a player matches any of YOUR NUMBERS play symbols to either WINNING NUMBER play symbol, the player wins prize shown for that number. If a player reveals a "10X" play symbol, the player wins ten (10) the prize shown instantly. No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly 55 (fifty-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 55 (fifty-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 55 (fifty-five) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures.

17. Each of the 55 (fifty-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 will not have identical play data, spot for spot.

B. GAME 1: No duplicate non-winning play symbols.

C. GAME 2: Only the STAR play symbol will appear 3 times in a row, column or diagonal.

D. GAME 2: There will be a minimum of 4 star play symbols.

E. GAME 3: No duplicate non-winning PLAYs in any order.

F. GAME 3: There will be many near wins (2 matching symbols within a play).

G. GAME 3: No duplicate non-winning prize symbols.

H. GAME 3: Non-winning prize symbols will never be the same as the winning prize symbol(s).

I. GAME 3: There will be no three like non-winning play symbols in a horizontal row which consists of two plays.

J. GAME 4: No duplicate WINNING NUMBERS play symbols.

K. GAME 4: No duplicate non-winning YOUR NUMBERS play symbols.

L. GAME 4: No duplicate non-winning prize symbols in this game.

M. GAME 4: No prize amount in a non-winning spot will correspond with the YOUR NUMBERS play symbol (i.e. 10 and \$10).

N. GAME 4: Non-winning prize symbols will never be the same as the winning prize symbol(s) in this game.

O. GAME 4: The "10X" symbol (win times 10) will only appear as dictated by the prize structure.

P. GAME 4: Each Winning Number location will be approximately evenly used as the basis for a match.

2.3 Procedure for Claiming Prizes.

A. To claim a "\$1 MILLION CASH BLAST" Instant Game prize of \$20.00, \$30.00, \$40.00, \$50.00, \$80.00, \$100, \$200 or \$400, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, make payment of the amount due the claimant and physically void the ticket; provided that the Texas Lottery Retailer may, but is not, in some cases, required to pay a \$30.00, \$40.00, \$50.00, \$80.00, \$100, \$200 or \$400 ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "\$1 MILLION CASH BLAST" Instant Game prize of \$1,000 or \$10,000, 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. To claim a "\$1 MILLION CASH BLAST" top level prize of \$1,000,000, 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.

D. As an alternative method of claiming a "\$1 MILLION CASH BLAST" 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.

E. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;

2. delinquent in making child support payments administered or collected by the Attorney General; or

3. delinquent in reimbursing the Texas Health and Human Services Commission for a benefit granted in error under the food stamp pro-

gram 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.

F. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "\$1 MILLION CASH BLAST" 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 "\$1 MILLION CASH BLAST" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code Section 466.408. Any prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed. An Instant Game ticket may continue to be sold even when all the top prizes have been claimed.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 3,000,000 tickets in the Instant Game No. 786. The approximate number and value of prizes in the game are as follows:

Figure 3: GAME NO. 786 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in**
\$20.00	450,000	6.67
\$30.00	300,000	10.00
\$40.00	90,000	33.33
\$50.00	60,000	50.00
\$80.00	90,000	33.33
\$100	40,000	75.00
\$200	9,875	303.80
\$400	2,825	1,061.95
\$1,000	800	3,750.00
\$10,000	50	60,000.00
\$1,000,000	3	1,000,000.00

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

**The overall odds of winning a prize are 1 in 2.87. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Instant Game. The Executive Director may, at any time, announce a closing date (end date) for the Instant Game No. 786 without advance notice, at which point no further tickets in that game may be sold.

6.0 Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game No. 786, 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-200700078
Kimberly Kiplin
General Counsel
Texas Lottery Commission
Filed: January 10, 2007

Texas Parks and Wildlife Department

Notice of Request for Proposals

Section 6 Competitive ("Nontraditional") Grants (FY2007)

The Texas Parks and Wildlife Department (TPWD) is announcing the Fiscal Year 2007 Request for Proposals (RFP) for Competitive ("Nontraditional") Section 6 funds. These are funds made available to state wildlife agencies through the Cooperative Endangered Species Conservation Fund (CESCF) from Section 6 of the Endangered Species Act (Department of Interior, U.S. Fish and Wildlife Service - (Service)) for the conservation of threatened and endangered species. The CESCF programs are authorized through Endangered Species Act of 1973, 16 U.S.C. 1361 et seq., as amended. The codified program regulations can be found at 50 CFR 81.

These are competitive, nationwide (U.S.) funds - there are **no funds directly earmarked for Texas**. All proposals will compete with other proposals regionally and nationally.

Funding (approx. \$80 million for FY07, total) is available for the following programs:

1. Habitat Conservation Planning (HCP) Assistance Grants - Through the development of regional Habitat Conservation Plans (HCPs), local governments incorporate species conservation into local land use planning, which streamlines the project approval process and facilitates economic development. The Habitat Conservation Planning Assistance Grants program provides funding to States to support the development of HCPs. Planning assistance grants may support planning activities such as document preparation, outreach, and baseline surveys and inventories.

2. Habitat Conservation Plan (HCP) Land Acquisition Grants - The HCP Land Acquisition program was established by Congress in fiscal year 1997. This program was designed to reduce conflicts between the conservation of listed species and land uses on specific parcels of land. Under this program, the Service provides grants to States for land acquisitions that are associated with approved HCPs. The Service considers the use of Federal acquisition dollars by States for habitat protection within and adjacent to HCP areas to be an important and effective mechanism to promote the recovery of threatened and endangered species. The HCP Land Acquisition program has three primary purposes: 1) to fund land acquisitions that complement, but do not replace, private mitigation responsibilities contained in HCPs, 2) to fund land acquisitions that have important benefits for listed, proposed, and

candidate species, and 3) to fund land acquisitions that have important benefits for ecosystems that support listed, proposed and candidate species.

3. Recovery Land Acquisition Grants - Loss of habitat is the primary threat to most listed species and land acquisition is often the most effective and efficient means of protecting habitats essential for recovery of listed species before development or other land use changes impair or destroy key habitat values. Land acquisition is costly and often neither the Service nor the States individually have the necessary resources to acquire habitats essential for recovery of listed species. Recovery Land Acquisition grant funds are matched by States and non-federal entities to acquire these habitats from willing sellers in support of approved species recovery plans. Because the existing HCP Land Acquisition Grants Program provides substantial funding for land acquisitions associated with HCPs, the Recovery Land Acquisition Grants Program will not be used to fund land acquisitions associated with permitted HCPs.

These funds are not directly available to individual organizations, but are indirectly available through partnership with TPWD. **In Texas, all proposals must be submitted through Texas Parks and Wildlife Department.**

The grant requires a 75:25 cost share, so applicants will need to provide the 25% match. The match is based upon total project costs, and must be from non-federal funding sources. The recipient is reimbursed based on the cost-sharing formula in the agreement.

Complete information regarding the federal FY2006 RFP and related Competitive Section 6 materials can be accessed at: <http://www.fws.gov/endangered/grants/section6/index.html>, but there are additional requirements relative to grant applications made through TPWD, which are explained fully in guidance documents available from the department (see contact information at the end of this document). Application proposals to TPWD should strictly follow the guidelines. Project descriptions that clearly address the specific ranking criteria in an organized manner will facilitate proposal review and scoring. If you have any questions regarding organization and structuring of your proposal please do not hesitate to contact us. **Failure to follow guidelines and format instructions will automatically disqualify the application package.**

Awards for these CESCF "Nontraditional" grants (i.e., Competitive Section 6) will be announced through a national press release and a memorandum to the Regional Directors of the Service for further notification of the applicants' selection for an award. The final exact amount of funds, the scope of work, and terms and conditions of a successful award will be determined in pre-award negotiations between the prospective recipient and the Service's representatives. The prospective recipient will be asked to sign an agreement that specifies the project requirements, such as the cost share, the project design, the time commitment for maintaining the project's benefits, and the reporting requirements, and that provides for Service access to the project area in order to check on its progress.

Deadline for receipt of proposals in January 29, 2007.

Proposal package (project statement and related materials, if any) should be emailed in Microsoft Word, or compatible (no .pdf), format to craig.farquhar@tpwd.state.tx.us. If the entire electronic project statement exceeds 2 Mb it will need to be delivered by surface mail to: Dr. Craig Farquhar, Section 6 Coordinator, Wildlife Diversity Program, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, TX 78744 (512) 389-4933. For further information concerning Section 6 processes and procedures, please contact Dr. Farquhar.

TRD-200700043
Ann Bright
General Counsel
Texas Parks and Wildlife Department
Filed: January 9, 2007

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Public Utility Commission of Texas

Notice of Application for Approval of Depreciation Rate Change

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on December 27, 2006, for approval of adoption of a new depreciation rate of 11.0% for a new class of property, Satellite Network Equipment pursuant to §52.252 and §53.056, of the Public Utility Regulatory Act, Texas Utilities Code Annotated (Vernon 1998 & Supp. 2006) (PURA). A summary of the application follows.

Docket Title and Number: Application of Big Bend Telephone Company, Incorporated (Big Bend) for Approval to Adopt a New Depreciation Rate Pursuant to P.U.C. Substantive Rule §26.206, Docket Number 33680.

The Application: Big Bend filed with the Public Utility Commission of Texas an application for approval of adoption of a new depreciation rate of 11.0% for a new class of property, Satellite Network Equipment, effective January 1, 2006.

Persons who wish to intervene in the proceeding or comment upon the action sought should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, 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. All correspondence should refer to Docket Number 33680.

TRD-200700017
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: January 4, 2007

◆ ◆ ◆
Notice of Application for Approval of Depreciation Rate Change

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on December 27, 2006, for approval of an increased depreciation rate of 13.75% for digital central office equipment pursuant to §52.252 and §53.056, of the Public Utility Regulatory Act, Texas Utilities Code Annotated (Vernon 1998 & Supp. 2006) (PURA). A summary of the application follows.

Docket Title and Number: Application of Mid-Plains Rural Telephone Cooperative, Incorporated (Mid-Plains) for Approval of a Revised Depreciation Rate Pursuant to P.U.C. Substantive Rule §26.206, Docket Number 33681.

The Application: Mid-Plains filed with the Public Utility Commission of Texas an application for approval of a 13.75% depreciation rate for digital central office equipment, effective January 1, 2006.

Persons who wish to intervene in the proceeding or comment upon the action sought should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, 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. All correspondence should refer to Docket Number 33681.

TRD-200700018
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: January 4, 2007

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Notice of Application for Approval of Depreciation Rate Change

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on December 27, 2006, for approval of increased depreciation rates to 11.73% for digital switching equipment and to 11.05% for subscriber carrier circuit equipment pursuant to §52.252 and §53.056, of the Public Utility Regulatory Act, Texas Utilities Code Annotated (Vernon 1998 & Supp. 2006) (PURA). A summary of the application follows.

Docket Title and Number: Application of Hill Country Telephone Cooperative, Incorporated (Hill Country) for Approval of a Revised Depreciation Rate Pursuant to P.U.C. Substantive Rule §26.206, Docket Number 33682.

The Application: Hill Country filed with the Public Utility Commission of Texas an application for approval of increased depreciation rates to 11.73% for digital switching equipment and to 11.05% for subscriber carrier circuit equipment with a proposed effective date of January 1, 2006.

Persons who wish to intervene in the proceeding or comment upon the action sought should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, 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. All correspondence should refer to Docket Number 33682.

TRD-200700019
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: January 4, 2007

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Notice of Application for Approval of Depreciation Rate Change

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on December 27, 2006, for approval of an increased depreciation rate of 16.35% for digital central office switching equipment pursuant to §52.252 and §53.056, of the Public Utility Regulatory Act, Texas Utilities Code Annotated (Vernon 1998 & Supp. 2006) (PURA). A summary of the application follows.

Docket Title and Number: Application of Coleman County Telephone Cooperative, Incorporated (Coleman) for Approval of a Revised Depreciation Rate Pursuant to P.U.C. Substantive Rule §26.206, Docket Number 33683.

The Application: Coleman filed with the Public Utility Commission of Texas an application for approval of a 16.35% depreciation rate for digital central office switching equipment, effective January 1, 2006.

Persons who wish to intervene in the proceeding or comment upon the action sought should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, 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. All correspondence should refer to Docket Number 33683.

TRD-200700020
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: January 4, 2007



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 December 27, 2006, for a service provider certificate of operating authority (SPCOA), pursuant to §§54.151 - 54.156 of the Public Utility Regulatory Act (PURA). A summary of the application follows.

Docket Title and Number: Application of First Communications, LLC, doing business as Ohio First Communications, LLC, for a Service Provider Certificate of Operating Authority, Docket Number 33684 before the Public Utility Commission of Texas.

Applicant intends to provide plain old telephone service, Switch 56 KBPS, Frame Relay and long distance services. Applicant's requested SPCOA geographic area includes the area of Texas currently served by AT&T Texas.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477 no later than January 24, 2007. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All comments should reference Docket Number 33684.

TRD-200700021
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: January 4, 2007



Notice of Application to Amend a Certificate of Convenience and Necessity for a Proposed Transmission Line in Van Zandt County, Texas

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) an application on December 22, 2006, to amend a certificate of convenience and necessity for a proposed transmission line in Van Zandt County, Texas.

Docket Style and Number: Application of Trinity Valley Electric Cooperative, Incorporated. to Amend a Certificate of Convenience and Necessity (CCN) for a Proposed Transmission Line in Van Zandt County, Texas. Docket Number 33525.

The Application: The application of Trinity Valley Electric Cooperative, Inc. (TVEC) for a proposed transmission line is designated as the North Texas Municipal Water District (NTMWD) Lake Tawakoni 138-kV Transmission Line Project. TVEC stated that the proposed

transmission line is needed to provide service to a raw-water pump station on Lake Tawakoni Reservoir for the NTMWD. The new transmission line will be approximately 1.8 miles long and parallels an existing water pipeline right-of-way. The estimated date to energize facilities is January 2008.

Persons wishing to intervene or comment on the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free at 1-888-782-8477. The deadline for intervention in this proceeding is February 5, 2007. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or use Relay Texas (toll-free) 1-800-735-2989. All comments should reference Docket Number 33525.

TRD-200700016
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: January 4, 2007



Notice of Application to Amend Certificated Service Area Boundaries in Wharton County, Texas

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application filed on January 4, 2007, for an amendment to certificated service area boundaries within Wharton County, Texas.

Docket Style and Number: Joint Application of Wharton County Electric Cooperative, Inc. and AEP Texas Central Company to Amend a Certificate of Convenience and Necessity for Service Area Boundaries within Wharton County. Docket Number 33699.

The Application: Wharton County Electric Cooperative, Inc. (WCEC) and AEP Texas Central Company (TCC) have agreed to amend their certificated service area boundary to allow WCEC to provide electric service to a new junior high school in the El Campo Independent School District. TCC is in full agreement with the territory amendment.

Persons wishing to comment on the action sought or intervene should contact the Public Utility Commission of Texas no later than January 26, 2007 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 33699.

TRD-200700072
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: January 9, 2007



Notice of Intent to File LRIC Study Pursuant to P.U.C. Substantive Rule §26.214

Notice is given to the public of the filing on January 4, 2007, with the Public Utility Commission of Texas (commission), a notice of intent to file a long run incremental cost (LRIC) study pursuant to P.U.C. Substantive Rule §26.214. The Applicant will file the LRIC study on January 16, 2007.

Docket Title and Number: Application of CenturyTel of Lake Dallas, Incorporated for Approval of LRIC Study for 90-Day Promotion of

Services Pursuant to P.U.C. Substantive Rule §26.214, Docket Number 33695.

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 33695. Written comments or recommendations should be filed no later than 45 days after the date of a sufficient study and should be filed at the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All comments should reference Docket Number 33695.

TRD-200700034
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: January 8, 2007



**Notice of Intent to File LRIC Study Pursuant to P.U.C.
Substantive Rule §26.214**

Notice is given to the public of the filing on January 4, 2007, with the Public Utility Commission of Texas (commission), a notice of intent to file a long run incremental cost (LRIC) study pursuant to P.U.C. Substantive Rule §26.214. The Applicant will file the LRIC study on January 16, 2007.

Docket Title and Number: Application of CenturyTel of San Marcos, Incorporated for Approval of LRIC Study for 90-Day Promotion of Services Pursuant to P.U.C. Substantive Rule §26.214, Docket Number 33696.

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 33696. Written comments or recommendations should be filed no later than 45 days after the date of a sufficient study and should be filed at the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All comments should reference Docket Number 33696.

TRD-200700035
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: January 8, 2007



**Notice of Intent to File LRIC Study Pursuant to P.U.C.
Substantive Rule §26.214**

Notice is given to the public of the filing on January 4, 2007, with the Public Utility Commission of Texas (commission), a notice of intent to file a long run incremental cost (LRIC) study pursuant to P.U.C. Substantive Rule §26.214. The Applicant will file the LRIC study on January 16, 2007.

Docket Title and Number: Application of CenturyTel of Port Aransas, Incorporated for Approval of LRIC Study for 90-Day Promotion of Services Pursuant to P.U.C. Substantive Rule §26.214, Docket Number 33697.

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 33697. Written comments or recommendations should be filed no later than 45 days after the date of a sufficient study and should be filed at the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All comments should reference Docket Number 33697.

TRD-200700036
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: January 8, 2007



**Notice of Intent to File LRIC Study Pursuant to P.U.C.
Substantive Rule §26.214**

Notice is given to the public of the filing on January 4, 2007, with the Public Utility Commission of Texas (commission), a notice of intent to file a long run incremental cost (LRIC) study pursuant to P.U.C. Substantive Rule §26.214. The Applicant will file the LRIC study on January 16, 2007.

Docket Title and Number: Application of CenturyTel of Northwest Louisiana, Incorporated for Approval of LRIC Study for 90-Day Promotion of Services Pursuant to P.U.C. Substantive Rule §26.214, Docket Number 33698.

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 33698. Written comments or recommendations should be filed no later than 45 days after the date of a sufficient study and should be filed at the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All comments should reference Docket Number 33698.

TRD-200700037
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: January 8, 2007



**Notice of Petition for Waiver of Denial of Request for
Additional Resources**

Notice is given to the public of the filing with the Public Utility Commission of Texas of a petition on January 5, 2007, for waiver of denial by the North American Numbering Plan Administration (NANPA) Pooling Administrator (PA) of Southwestern Bell Telephone, L.P. d/b/a AT&T Texas' (AT&T) request for additional non-extended metropolitan service (EMS) numbering resources in the Roanoke rate center.

Docket Title and Number: Request for Waiver of Denial of Numbering Resources - Roanoke Rate Center. Docket Number 33709.

The Application: AT&T does not have two thousand-blocks in the Roanoke rate center inventory to satisfy its customer's request.

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 January 24, 2007. 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 33709.

TRD-200700071
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: January 9, 2007



Public Notice of Workshop on Demand-Response Programs in the ERCOT Market

The staff of the Public Utility Commission of Texas (commission) will hold workshops regarding Demand-Response Programs in the ERCOT Market on Monday, January 29, 2007 and Tuesday, January 30, 2007 beginning at 10:00 a.m. each day in the Commissioner's Hearing Room, located on the 7th floor of the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701. Project Number 32853, Evaluation of Demand-Response Programs in the Competitive Electric Market has been established for this proceeding.

Questions concerning the workshop or this notice should be referred to Shawnee Claiborn-Pinto, Electric Industry Oversight Division, (512) 936-7388. An agenda will be posted to the project website no later than one week prior to the workshops. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136.

TRD-200700079
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: January 10, 2007



Request for Proposals to Assist the Public Utility Commission of Texas by Providing Financial Advisory Services

The Public Utility Commission of Texas (commission or PUCT) is issuing a Request for Proposals (RFP) to assist the PUCT by providing financial advisory services. The financial advisor will assist the commission with preparing a financing order authorizing recovery of hurricane reconstruction costs through securitization financing and with the subsequent issuance of hurricane cost recovery bonds to ensure compliance with Chapter 39, Subchapters G and J of the Public Utility Regulatory Act (PURA) and consistency with the terms of the financing order. This RFP is being undertaken pursuant to the commission's statutory responsibility as provided for in the Public Utility Regulatory Act (PURA) §§39.458 - 39.463.

To be considered, the proposals must arrive at the PUCT on or before the deadline stated on the RFP. This deadline is available on the PUCT website (www.puc.state.tx.us). The vendor must be prepared to begin providing services on February 26, 2007.

Entities that meet the definition of a historically underutilized business (HUB), as defined in Chapter 2161, §2161.001 of the Texas Government Code, are encouraged to submit a proposal or to submit a proposal jointly with a non-HUB entity.

Project Description. The financial advisor will assist the commission with preparing a financing order authorizing recovery of hurricane reconstruction costs through securitization financing and with the subsequent issuance of hurricane cost recovery bonds to ensure compliance with Chapter 39, Subchapters G and J of the Public Utility Regulatory Act (PURA) and consistency with the terms of the financing order. The financial advisor will assist the commission in discharging its mandate to ensure that the securitization of hurricane reconstruction costs provides greater tangible and quantifiable benefits to ratepayers than would have been achieved without issuance of transition bonds. PURA §39.458(2). The financial advisor will advise the commission in making decisions with respect to structuring, pricing, and marketing of the Transition Bonds.

Selection Criteria. A proposal will be selected based on the ability of the proposer to demonstrate its knowledge, competence, and qualifications to provide the requested services; the proposer's previous history, if any, working with the PUCT; and issues related to conflicts of interest. In addition, the PUCT will consider the reasonableness of the proposed fee.

Requesting the Proposal. A complete copy of the RFP may be obtained by written request to Ben Delamater, Purchaser, Public Utility Commission of Texas, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701, or by fax (512) 936-7058, or by e-mail ben.delamater@puc.state.tx.us. You may also download the RFP from the PUC website www.puc.state.tx.us, by choosing "Procurement/HUB" from the menu on the right, and from the Electronic Business Daily website at <http://esbd.tbpc.state.tx.us>.

Deadline for Receipt of Proposals. Proposals must be received on or before the deadline stated on the RFP in the Public Utility Commission of Texas Central Records Division. Proposals received after the deadline will not be considered. Proposals may be received in Central Records between 9:00 a.m. and 5:00 p.m., Monday through Friday, except on holidays. In determining the time and date of receipt, the commission will rely solely on the time/date stamp of Central Records.

TRD-200700033
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: January 8, 2007



Texas Department of Transportation

2007 Program Call - Safe Routes to School Program

In accordance with 43 TAC §§25.500 - 25.505, the Texas Department of Transportation (department) issues this 2007 Program Call for the proposed projects of the department's Safe Routes to School Program.

The Safe Routes to School Program is a comprehensive program designed to improve the bicycle and pedestrian safety of school age children; encourage a healthy and active lifestyle from an early age; enable and encourage children, including those with disabilities, to walk and bicycle to school; and facilitate projects and activities that will improve safety and reduce traffic, fuel consumption, and air pollution in the vicinity of schools.

Projects eligible to receive funding under this program include those involving both infrastructure related and non-infrastructure related activities.

For infrastructure projects, the department will accept applications from state agencies and political subdivisions as defined in 43 TAC §25.501.

Eligible types of infrastructure projects are defined in 43 TAC §25.502(b) as:

- (1) sidewalk improvements such as new sidewalks, widened sidewalks, sidewalk gap closures, sidewalk repairs, curb cuts for ramps, and the construction of curbs and gutters;
- (2) pedestrian/bicycle crossing improvements such as new or upgraded traffic signals, crosswalks, median refuges, pavement markings, traffic signs, pedestrian or bicycle over-crossings and under-crossings, flashing beacons, traffic signal phasing extensions, bicycle sensitive actuation devices, pedestrian activated signal upgrades, and sight distance improvements;
- (3) on-street bicycle facilities such as new or upgraded bicycle lanes, widened outside lanes or roadway shoulders, geometric improvements, turning lanes, channelization and roadway realignment, traffic signs, and pavement markings;
- (4) traffic diversion improvements including separation of pedestrians and bicycles from vehicular traffic adjacent to school facilities and traffic diversion away from school zones or designated routes to a school;
- (5) off-street bicycle and pedestrian facilities including exclusive multi-use bicycle or pedestrian trails and pathways;
- (6) traffic calming measures for off-system roads such as roundabouts, traffic circles, curb extensions at intersections that reduce curb-to-curb roadway travel widths, center islands, full and half-street closures, and other speed reduction techniques;
- (7) secure bicycle parking facilities; and
- (8) other projects that promote pedestrian and bicycle safety of children in and around school areas.

To nominate an infrastructure project, the eligible political subdivision must file its application, in the form prescribed by the department, with the district engineer of the district office responsible for the area in which the proposed Safe Routes to School project will be constructed. The address and telephone number of each district office may be obtained through the following web site under "Local Information" or by contacting the Traffic Operations Division at (512) 416-3118:

http://www.txdot.gov/local_information/

http://www.dot.state.tx.us/local_information.

Completed applications must be received by the department no later than 5:00 p.m., Friday, May 25, 2007.

For non-infrastructure projects, the department will accept applications from state agencies, political subdivisions, schools, school districts, non-profit organizations, and for-profit organizations or any combination of these entities as defined in 43 TAC §25.501.

Eligible types of non-infrastructure projects are defined in 43 TAC §25.502(c) as:

- (1) public awareness campaigns and outreach efforts to the news media and community leaders;
- (2) traffic education and enforcement in the vicinity of schools;
- (3) providing student education on bicycle and pedestrian safety, health, and the environment; and
- (4) other projects that promote pedestrian and bicycle safety of children in and around school areas.

To nominate a non-infrastructure project, the eligible applicant must file its application, in the form prescribed by the department, to the Traffic Operations Division (TRF). The address and telephone number for TRF is Texas Department of Transportation, Traffic Operations Di-

vision, 125 East 11th Street, Austin, Texas 78701, (512) 416-3118, or information may be obtained through the following web site:

http://www.txdot.gov/contact_us/traffic_operations.htm

http://www.dot.state.tx.us/contact_us/traffic_operations.htm

Completed applications must be received by the department no later than 5:00 p.m., Friday, May 25, 2007.

Information regarding the program, program guide and application forms are available from the department's district offices by contacting the Traffic Operations Division at (512) 416-3118, by the web site:

http://www.txdot.gov/services/traffic_operations/safe_routes_to_school/default.htm

http://www.dot.state.tx.us/services/traffic_operations/safe_routes_to_school/default.htm, or by E-mail at: trftepgm@dot.state.tx.us.

TRD-200700081

Bob Jackson

General Counsel

Texas Department of Transportation

Filed: January 10, 2007



Public Notice - Deadline Extended for Public Comments

In the December 1, 2006, issue of the *Texas Register* (31 TexReg 9693), the Texas Department of Transportation proposed amendments and new sections to Chapter 27, Toll Projects, Subchapter A, Comprehensive Development Agreements, §§27.2 - 27.5 and §§27.7 - 27.9.

The deadline for receipt of comments on the proposed amendments and new sections was originally set for January 2, 2007. This notice is to extend the public comment period to 5:00 p.m. on January 29, 2007. Additional information may be obtained from Phillip Russell, Director, Texas Turnpike Authority Division, 125 E. 11th Street, Austin, Texas 78701-2483.

TRD-200700082

Bob Jackson

General Counsel

Texas Department of Transportation

Filed: January 10, 2007



Request for Proposals for Aviation Engineering Services - Sulphur Springs Municipal Airport

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

Airport Sponsor: The City of Sulphur Springs, Sulphur Springs Municipal Airport, TxDOT CSJ No. 0601SULPH. Scope: Provide engineering/design services to improve pavements and markings to Runway 18-36, taxiways A-F, hangar access taxiways, terminal apron, and north apron; install new MIRL system including signage updates; install PAPI-4 Runway 18-36; install REIL Runway 36; and improve airport drainage at the Sulphur Springs Municipal Airport.

The DBE goal is set for the design at 0%. TxDOT Project Manager is John Wepryk, P.E.

To assist in your proposal preparation the most recent Airport Layout Plan, 5010 drawing and project narrative are available online by selecting "Sulphur Springs" at:

<http://www.dot.state.tx.us/avn/avninfo/notice/consult/index.htm>

<http://www.txdot.gov/avn/avninfo/notice/consult/index.htm>

Interested firms shall utilize the latest version of Form AVN-550, titled "Aviation Engineering Services Proposal." The form may be requested from TxDOT, Aviation Division, 125 E. 11th Street, Austin, Texas 78701-2483, phone number, 1-800-68-PILOT (74568). The form may be E-mailed by request or downloaded from the TxDOT web site, URL address:

<http://www.dot.state.tx.us/avn/avn550.doc>

<http://www.txdot.gov/avn/avn550.doc>

The form may not be altered in any way. All printing must be in black on white paper, except for the optional illustration page. Firms must carefully follow the instructions provided on each page of the form. Proposals may not exceed the number of pages in the proposal format. The proposal format consists of seven pages of data plus two optional pages consisting of an illustration page and a proposal summary page. Proposals shall be stapled but not bound in any other fashion. **PROPOSALS WILL NOT BE ACCEPTED IN ANY OTHER FORMAT.**

ATTENTION: To ensure utilization of the latest version of Form AVN-550, firms are encouraged to download Form AVN-550 from the TxDOT website as addressed above. Utilization of Form AVN-550 from a previous download may not be the exact same format. Form AVN-550 is an MS Word Template.

Please note:

Six completed, unfolded copies of Form AVN-550 must be received by TxDOT, Aviation Division at 150 East Riverside Drive, 5th Floor, South Tower, Austin, Texas 78704 no later than February 13, 2007, 4:00 p.m. (CDST). Electronic facsimiles or forms sent by E-mail will not be accepted. Please mark the envelope of the forms to the attention of Sheri Quinlan.

The Consultant Selection Committee (committee) will be composed of local government members. The final selection by the committee will generally be made following the completion of review of proposals. The committee will review all proposals and rate and rank each. The criteria for evaluating engineering proposals can be found at:

<http://www.dot.state.tx.us/business/avnconsultinfo.htm>

<http://www.txdot.gov/business/avnconsultinfo.htm>

All firms will be notified and the top rated firm will be contacted to begin fee negotiations. The committee does, however, reserves the right to conduct interviews of the top rated firms if the committee deems it necessary. If interviews are conducted, selection will be made following interviews.

If there are any procedural questions, please contact Sheri Quinlan, Grant Manager at (512) 416-4517, or for technical questions contact, Project Manager, John Wepryk, P.E. at 1-800-68-PILOT (74568).

TRD-200700083

Bob Jackson

General Counsel

Texas Department of Transportation

Filed: January 10, 2007



Request for Proposals for Aviation Engineering Services - Winkler County Airport

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

Airport Sponsor: Winkler County, Winkler County Airport, TxDOT CSJ No.:0706WINKL. Scope: Provide engineering/design services to replace medium intensity runway lights, runway 13-31, and runway 4-22.

The DBE goal is race neutral. TxDOT Project Manager is Clayton Bridwell.

To assist in your proposal preparation, the most recent Airport Layout Plan and 5010 drawing are available online by selecting "Winkler County Airport." at:

<http://www.dot.state.tx.us/avn/avninfo/notice/consult/index.htm>

<http://www.txdot.gov/avn/avninfo/notice/consult/index.htm>

Interested firms shall utilize the latest version of Form AVN-550, titled "Aviation Engineering Services Proposal." The form may be requested from TxDOT, Aviation Division, 125 E. 11th Street, Austin, Texas 78701-2483, phone number, 1-800-68-PILOT (74568). The form may be E-mailed by request or downloaded from the TxDOT web site, URL address:

<http://www.dot.state.tx.us/forms/aviation/550.doc>

<http://www.txdot.gov/avn/avn550.doc>

The form may not be altered in any way. All printing must be in black on white paper, except for the optional illustration page. Firms must carefully follow the instructions provided on each page of the form. Proposals may not exceed the number of pages in the proposal format. The proposal format consists of seven pages of data plus two optional pages consisting of an illustration page and a proposal summary page. Proposals shall be stapled but not bound in any other fashion. **PROPOSALS WILL NOT BE ACCEPTED IN ANY OTHER FORMAT.**

ATTENTION: To ensure utilization of the latest version of Form AVN-550, firms are encouraged to download Form AVN-550 from the TxDOT website as addressed above. Utilization of Form AVN-550 from a previous download may not be the exact same format. Form AVN-550 is an MS Word Template.

Please note:

Four completed, unfolded copies of Form AVN-550 must be received by TxDOT, Aviation at 150 E. Riverside Drive, 5th Floor, South Tower, Austin, Texas 78704 no later than February 13, 2007, 4:00 p.m. (CDST). Electronic facsimiles or forms sent by E-mail will not be accepted. Please mark the envelope of the forms to the attention of Amy Slaughter.

The Consultant Selection Committee (committee) will be composed of Aviation Division staff members. The final selection by the committee will generally be made following the completion of review of proposals. The committee will review all proposals and rate and rank each. The criteria for evaluating engineering proposals can be found at:

<http://www.dot.state.tx.us/services/aviation/consultant.htm>

<http://www.txdot.gov/services/aviation/consultant.htm>

All firms will be notified and the top rated firm will be contacted to begin fee negotiations. The committee does, however, reserve the right

to conduct interviews for the top rated firms if the committee deems it necessary. If interviews are conducted, selection will be made following interviews.

If there are any procedural questions, please contact Amy Slaughter, Grant Manager, or Clayton Bridwell, Project Manager, for technical questions at 1-800-68-PILOT (74568).

TRD-200700084

Bob Jackson
General Counsel

Texas Department of Transportation

Filed: January 10, 2007

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University of Houston

Consultant Contract Award Notice

In compliance with the provisions of Chapter 2254, Subchapter B, Texas Government Code, The University of Houston furnishes this notice of consultant contract award. The consultant will provide services in the development of a strategic licensing plan for its Center for Superconductivity. The Notice of Request for Proposal was published in the November 10, 2006, issue of the *Texas Register* (31 TexReg 9420).

The contract was awarded to Alan Lauder, Inc., 706 Wickersham Lane, Kennett Square, Pennsylvania 19348, for a amount of \$30,000.

The beginning date of the contract is December 15, 2006 and the ending date is March 15, 2007.

For further information, please call (713) 743-8201.

TRD-200700024

Brian S. Nelson
Executive Director and Associate General Counsel
University of Houston
Filed: January 5, 2007

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Workforce Solutions Brazos Valley

Notice of Release of Request for Quote for Video Production Service

On January 11, 2007, the Workforce Solutions Brazos Valley Board (WSBVB) will release a Request for Quote (RFQ) for video production services. Video production services are needed to produce one or more videos for the education of the public about Workforce services in the Brazos Valley. The Workforce Center system serves Brazos, Washington, Robertson, Burleson, Madison, Leon, and Grimes counties. An original and four copies of a written quote are due to the Board's offices no later than 4:00 p.m., February 10, 2007. No responses will be accepted after this deadline.

Potential respondents may view and print the RFQ from the Internet on www.bvjobs.org. The contact person for this RFQ is Michael Rendón, mrendon@bvcog.org (979) 595-2801, ext. 2013.

TRD-200700080
Tom Wilkinson
Executive Director
Workforce Solutions Brazos Valley
Filed: January 10, 2007

How to Use the Texas Register

Information Available: The 14 sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

Governor - Appointments, executive orders, and proclamations.

Attorney General - summaries of requests for opinions, opinions, and open records decisions.

Secretary of State - opinions based on the election laws.

Texas Ethics Commission - summaries of requests for opinions and opinions.

Emergency Rules- sections adopted by state agencies on an emergency basis.

Proposed Rules - sections proposed for adoption.

Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

Adopted Rules - sections adopted following public comment period.

Texas Department of Insurance Exempt Filings - notices of actions taken by the Texas Department of Insurance pursuant to Chapter 5, Subchapter L of the Insurance Code.

Texas Department of Banking - opinions and exempt rules filed by the Texas Department of Banking.

Tables and Graphics - graphic material from the proposed, emergency and adopted sections.

Transferred Rules- notice that the Legislature has transferred rules within the *Texas Administrative Code* from one state agency to another, or directed the Secretary of State to remove the rules of an abolished agency.

In Addition - miscellaneous information required to be published by statute or provided as a public service.

Review of Agency Rules - notices of state agency rules review.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative quarterly and annual indexes to aid in researching material published.

How to Cite: Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words "TexReg" and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 30 (2005) is cited as follows: 30 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written "30 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 30 TexReg 3."

How to Research: The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, Room 245, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code*, section numbers, or TRD number.

Both the *Texas Register* and the *Texas Administrative Code* are available online through the Internet. The address is: <http://www.sos.state.tx.us>. The *Register* is available in an .html

version as well as a .pdf (portable document format) version through the Internet. For website subscription information, call the Texas Register at (800) 226-7199.

Texas Administrative Code

The *Texas Administrative Code (TAC)* is the compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the *TAC*.

The *TAC* volumes are arranged into Titles and Parts (using Arabic numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency.

The complete TAC is available through the Secretary of State's website at <http://www.sos.state.tx.us/tac>. The following companies also provide complete copies of the TAC: Lexis-Nexis (1-800-356-6548), and West Publishing Company (1-800-328-9352).

The Titles of the *TAC*, and their respective Title numbers are:

1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

How to Cite: Under the *TAC* scheme, each section is designated by a *TAC* number. For example in the citation 1 TAC §27.15: 1 indicates the title under which the agency appears in the *Texas Administrative Code*; TAC stands for the *Texas Administrative Code*; §27.15 is the section number of the rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).

How to update: To find out if a rule has changed since the publication of the current supplement to the *Texas Administrative Code*, please look at the *Table of TAC Titles Affected*. The table is published cumulatively in the blue-cover quarterly indexes to the *Texas Register* (January 21, April 15, July 8, and October 7, 2005). If a rule has changed during the time period covered by the table, the rule's *TAC* number will be printed with one or more *Texas Register* page numbers, as shown in the following example.

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

40 TAC §3.704.....950, 1820

The *Table of TAC Titles Affected* is cumulative for each volume of the *Texas Register* (calendar year).