
TEXAS REGISTER

Volume 32 Number 5

February 2, 2007

Pages 429 - 476



*Sarah Prowell
10th 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.

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

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

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

TEXAS REGISTER

a section of the
Office of the Secretary of State
P.O. Box 13824
Austin, TX 78711-3824
(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

IN THIS ISSUE

ATTORNEY GENERAL

Request for Opinions	433
Opinions	433

PROPOSED RULES

STATE BOARD FOR EDUCATOR CERTIFICATION

CATEGORIES OF CLASSROOM TEACHING CERTIFICATES

19 TAC §233.12	435
----------------------	-----

DISCIPLINARY PROCEEDINGS, SANCTIONS, AND CONTESTED CASES INCLUDING ENFORCEMENT OF THE EDUCATOR'S CODE OF ETHICS

19 TAC §249.14	436
19 TAC §§249.48 - 249.51	438

COMPTROLLER OF PUBLIC ACCOUNTS

CENTRAL ADMINISTRATION

34 TAC §§1.1, 1.4 - 1.7, 1.9 - 1.11, 1.14 - 1.16, 1.18, 1.20, 1.27 - 1.29, 1.33, 1.36, 1.37, 1.39, 1.41, 1.42	441
34 TAC §1.8, §1.22	449
34 TAC §§1.13, 1.21, 1.34	450
34 TAC §1.31, §1.32	450
34 TAC §1.31, §1.32	450

ADOPTED RULES

TEXAS STATE BOARD OF EXAMINERS OF DIETITIANS

DIETITIANS

22 TAC §711.17	453
----------------------	-----

RULE REVIEW

Proposed Rule Review

State Board for Educator Certification	455
--	-----

IN ADDITION

Office of the Attorney General

Notice of Award of a Major Consulting Contract	457
Texas Water Code Enforcement Settlement Notice	457

Coastal Coordination Council

Notice and Opportunity to Comment on Requests for Consistency Agreement/Concurrence Under the Texas Coastal Management Program	457
--	-----

Office of Consumer Credit Commissioner

Notice of Rate Ceilings	458
-------------------------------	-----

Credit Union Department

Applications to Expand Field of Membership	458
--	-----

Notice of Final Action Taken	458
------------------------------------	-----

East Texas Council of Governments

Public Notice for Social Services Block Grant for Emergency Disaster Relief	459
---	-----

Texas Commission on Environmental Quality

Enforcement Orders	459
Notice of District Petition	464

Texas Health and Human Services Commission

Notice of Intent to Renew Consultant Contract	464
Notice of Public Hearing on Proposed Medicaid Payment Rate	465
Notice of Public Hearing on Proposed Medicaid Payment Rates	465

Department of State Health Services

Notice of Proposed Administrative Renewal of the Radioactive Material License of Everest Exploration, Inc.	466
---	-----

Texas Department of Housing and Community Affairs

Notice of Public Hearing	467
--------------------------------	-----

Texas Lottery Commission

Public Comment Hearing	467
------------------------------	-----

Public Utility Commission of Texas

Announcement of Application for Amendment to a State-Issued Certificate of Franchise Authority	467
Announcement of Application for Amendment to a State-Issued Certificate of Franchise Authority	467
Announcement of Application for Amendment to a State-Issued Certificate of Franchise Authority	468
Announcement of Application for Amendment to a State-Issued Certificate of Franchise Authority	468
Announcement of Application for Amendment to a State-Issued Certificate of Franchise Authority	468
Announcement of Application for Amendment to a State-Issued Certificate of Franchise Authority	468
Announcement of Application for State-Issued Certificate of Franchise Authority	468
Announcement of Application for State-Issued Certificate of Franchise Authority	468
Notice of Application for Amendment for an Exchange Area Name Change	469
Notice of Application for Amendment to Service Provider Certificate of Operating Authority	469
Notice of Application for Service Provider Certificate of Operating Authority	469
Notice of Intent to File LRIC Study Pursuant to P.U.C. Substantive Rule §26.214	469
Notice of Intent to File LRIC Study Pursuant to P.U.C. Substantive Rule §26.214	470
Notice of Intent to File LRIC Study Pursuant to P.U.C. Substantive Rule §26.214	470

Notice of Intent to File LRIC Study Pursuant to P.U.C. Substantive Rule §26.214.....470

Notice of Intent to File LRIC Study Pursuant to P.U.C. Substantive Rule §26.214.....470

Notice of Intent to File LRIC Study Pursuant to P.U.C. Substantive Rule §26.214.....471

Notice of Intent to File LRIC Study Pursuant to P.U.C. Substantive Rule §26.214.....471

Notice of Intent to File LRIC Study Pursuant to P.U.C. Substantive Rule §26.214.....471

Notice of Intent to File LRIC Study Pursuant to P.U.C. Rule §26.214.....471

Notice of Intent to File LRIC Study Pursuant to P.U.C. Substantive Rule §26.215472

Texas A&M University, Board of Regents

Request for Proposals472

Request for Proposals472

Texas Department of Transportation

Notice of Request for Proposal - Workforce Transportation Projects.....473

Public Notice - Aviation.....474

Public Notice - Deadline Extended for Public Comments.....474

Public Notice of DEIS474

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-0558-GA

Requestor:

The Honorable Steve A. Keathley

Navarro County Criminal District Attorney

300 West 3rd Avenue, Suite 203

Corsicana, Texas 75110

Re: Whether a justice of the peace may administer polygraph examinations to criminal defendants subsequent to arraignment and the setting of bail (RQ-0558-GA)

Briefs requested by February 22, 2007

RQ-0559-GA

Requestor:

The Honorable D. Matt Bingham

Smith County Criminal District Attorney

Smith County Courthouse

100 North Broadway, 4th Floor

Tyler, Texas 75702

Re: Constitutionality of section 351.061, Local Government Code, which authorizes a commissioners court to contract with a nongovernmental association for the provision of county law enforcement services (Request No. 0559-GA)

Briefs requested by February 22, 2007

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

TRD-200700187

Stacey Napier

Deputy Attorney General

Office of the Attorney General

Filed: January 23, 2007



Opinions

Opinion No. GA-0499

Mr. C. Tom Clowe, Jr., Chair

Texas Lottery Commission

Post Office Box 16630

Austin, Texas 78761-6630

Re: Whether Occupations Code section 2001.458(b) prohibits a licensed authorized organization from paying or incurring an expense in connection with the conduct of bingo to provide health care insurance or a health benefit for its employees or their dependents (RQ-0499-GA)

SUMMARY

Occupations Code section 2001.458(b) prohibits an authorized organization licensed to conduct bingo games from incurring or paying from a bingo account the costs of health insurance or benefits for the organization's employees or their dependents.

Opinion No. GA-0500

The Honorable Rodney Ellis

Chair, Committee on Government Organization

Texas State Senate

Post Office Box 12068

Austin, Texas 78711-2068

Re: A school district's authority to delegate food products and supplies purchases to a food service management company (RQ-0509-GA)

SUMMARY

School districts participating in federal school nutrition programs may contract with food service management companies, which manage the district's food service operations in one or more of the district's schools, so long as the district adheres to federal and state regulations controlling such contracts. School district contract purchases, whether for goods or services, are governed by Education Code section 44.031, which does not require a school district contracting with a company for the company's services to contract separately for the underlying goods a company may use in providing its services. Further, the delegation doctrine as modified in *Boll Weevil* and its progeny does not require a school district to contract separately for underlying goods. Thus, when a school district contracts competitively with a food service management company that merely permits or requires the company to provide food as a part of its services, a school district is not violating a statutory duty or delegating a governmental function under state law.

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



TRD-200700157
Stacey Napier
Deputy Attorney General
Office of the Attorney General
Filed: January 22, 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 19. EDUCATION

PART 7. STATE BOARD FOR EDUCATOR CERTIFICATION

CHAPTER 233. CATEGORIES OF CLASSROOM TEACHING CERTIFICATES

19 TAC §233.12

The State Board for Educator Certification (SBEC) proposes an amendment to §233.12, relating to categories of classroom teaching certificates. The section addresses career and technology education (certificates not requiring experience and preparation in skills areas). The proposed amendment would establish in permanent rule the new TExES-based Business Education: Grades 6 - 12 certificate.

Texas Education Code (TEC), §21.041(b)(2), authorizes the SBEC to specify in rule the classes of educator certificates to be issued. Section 233.12, Career and Technology Education (Certificates not requiring experience and preparation in skills areas), establishes educator certificates for areas of Career and Technology Education. Section 233.12 also addresses prerequisites for teachers assigned to Career Investigation and Career Connections courses.

In January 2004, the SBEC approved, but not in rule, new TExES-based classroom teaching certificates for Agricultural Science and Technology, Business Education, Dance, Journalism, Marketing Education, Speech, and Theatre. The SBEC also took action to adopt the educator standards for these new certificates.

In December 2004, the SBEC discussed amendments to 19 TAC Chapter 233, Categories of Classroom Teaching Certificates, to establish the new certificates in rule, including the Business Education: Grades 6 - 12 certificate. In January 2005, the SBEC approved as proposed the amendments to include the new certificates in 19 TAC Chapter 233; however, due to a delay in the test development process, the Business Education: Grades 6 - 12 certificate was not included in the proposed rule changes. The TExES exam development was delayed due to stakeholder committee input to revise the test frameworks to ensure a quality exam.

Subsequent SBEC rule actions taken to adopt the new certificates were finalized in June 2006; however, the Business Education: Grades 6 - 12 certificate was not included since it was not a part of the original January 2005 proposal.

The proposed amendment to 19 TAC §233.12 would add the Business Education: Grades 6 - 12 certificate by rule and specify a date for issuance. The proposed amendment would also

include language to encourage holders of the new business education certificate to attend and participate in a career and technology education professional development conference sponsored by the Texas Education Agency (TEA) during the first year of assignment. A technical edit would also be made to update the section title.

In November 2006, the SBEC adopted on an emergency basis an amendment to 19 TAC §233.12 that established the Business Education: Grades 6 - 12 certificate by rule with an effective date of November 13, 2006. The emergency rule was published in the November 24, 2006, issue of the *Texas Register* (31 TexReg 9555). During its January 2007 meeting, the SBEC approved an extension of the emergency effectiveness for an additional 60 days. The extension of emergency effectiveness was necessary to ensure that the emergency rule remains in effect until the permanent rule would take effect.

To address the issue of two separate standards for attending a professional development conference that exists in the emergency rule and in the proposed amendment to §233.12, the SBEC also took action at its January 2007 meeting to clarify that the proposed amendment to §233.12 as it relates to the professional development conference would apply to individuals who obtain the Business Education: Grades 6 - 12 certificate under the emergency rule. Holders of the Business Education: Grades 6 - 12 certificate issued under the emergency rule would only be encouraged and not required to attend a TEA sponsored career and technology education professional development conference.

Raymond Glynn, acting associate commissioner for educator quality and standards, has determined that for each year of the first five years the amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amendment.

Dr. Glynn has determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the amendment will be issuance of appropriate certificates to educators who demonstrate content mastery toward meeting the certification requirements. Students will also benefit by having a teacher who has met the required educator standards provide the classroom instruction. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the amendment.

Comments on the proposal may be submitted to Cristina De La Fuente-Valadez, Policy Coordination Division, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, (512) 475-1497. Comments may also be submitted electronically to sbecrules@tea.state.tx.us or faxed to (512) 463-0028. All requests for a public hearing on the proposed amendment submitted under the Administrative Procedure Act must be re-

ceived by the Department of Educator Quality and Standards, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, Attention: Raymond Glynn, not more than 15 calendar days after notice of the proposal has been published in the *Texas Register*.

The amendment is proposed under TEC, §21.041(b)(2), which requires the SBEC by rule to specify the classes of certificates to be issued.

The proposed amendment implements TEC, §21.041(b)(2).

§233.12. *Career and Technology Education (Certificates not requiring experience and preparation in a skill area [skills areas]).*

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

(g) Business Education: Grades 6 - 12. The Business Education: Grades 6 - 12 certificate may be issued no earlier than November 8, 2006. The holder of the Business Education: Grades 6 - 12 certificate may teach all Business Education courses in Grades 6 - 12. Teachers are encouraged to attend and participate in a Texas Education Agency sponsored Career and Technology Education Professional Development Conference during the first year of assignment.

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 22, 2007.

TRD-200700149

Cristina De La Fuente-Valadez

Director, Policy Coordination

State Board of Educator Certification

Earliest possible date of adoption: March 4, 2007

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



CHAPTER 249. DISCIPLINARY PROCEEDINGS, SANCTIONS, AND CONTESTED CASES INCLUDING ENFORCEMENT OF THE EDUCATOR'S CODE OF ETHICS

SUBCHAPTER B. ENFORCEMENT ACTIONS AND GUIDELINES

19 TAC §249.14

The State Board for Educator Certification (SBEC) proposes an amendment to §249.14, relating to enforcement actions and guidelines. The section addresses complaints, required reporting, investigations, and the agency's filing of petitions. The proposed amendment would update the rule to reflect statutory changes and to add clarification regarding an investigative notice that may be placed on an educator's certification records. The provisions for an investigative notice would include assignment of priority levels based on the severity of allegations in the case.

Texas Education Code (TEC), §21.041(b)(7), authorizes the SBEC to adopt rules that provide for disciplinary proceedings for certificate holders. Section 249.14, Complaint, Required Reporting, and Investigation; Agency's Filing of Petition, speci-

fies the current process to take complaints, requires reports of suspected misconduct, authorizes the investigation of certified educators, and allows the agency the ability to initiate contested case proceedings. As established in subsection (g), the rule provides staff with the ability to set priorities for its investigations based on the severity and immediacy of the allegation of misconduct as well as the likelihood of harm posed by the subject of the investigation.

The following proposed changes to 19 TAC §249.14 would improve and enhance the disciplinary investigation process.

Subsection (d) would be revised to clarify the definition of minor as a student or minor and the definition of permit as a license/permit. Proposed new subsection (d)(2)(F) would add specificity regarding the types of acts used for determining the termination of employment for a certificate holder. Subsection (g) would be revised to create a two-tiered prioritization system. Proposed new subsections (g)(1) and (2) would add specificity regarding the types of allegations and would assign a prioritization status based on the nature and severity of the allegation. Proposed new subsection (g)(3) would allow staff to change the prioritization based on information received after the investigation has been initiated and clarify that an investigative notice will not be created in response to allegations of a Priority 2 conduct. Proposed new subsection (g)(4) would add a definition for "serious testing violation."

Proposed new subsection (h) would address placement of an investigative notice on the certificate holder's certification records based on the severity of the allegations in each case.

Proposed new subsection (i) would establish the opportunity and manner through which an educator may show cause why an investigative notice should not be placed on his or her certification records. This process would include the requirement that the certificate holder be notified of an investigation at least ten days before placing a notice on his or her certification records.

Proposed new subsection (j) would establish time limits for an investigative notice and would define criminal matter for purposes of subsection (j).

Proposed new subsection (k) would specify the conditions for removal of an investigative notice.

Throughout 19 TAC §249.14, "executive director" has been changed to "Texas Education Agency staff" to reflect the assignment of the SBEC's administrative functions and services to the Texas Education Agency in TEC, §21.035. Proposed new subsection (m) has been added to track that statutory assignment. In addition, House Bill 1116, 79th Texas Legislature, Regular Session, 2005, repealed TEC, §21.039, which established the SBEC executive director position.

Existing subsection (h), relating to filing a petition, would be designated as new subsection (l) with technical edits made to the rule text.

Other technical edits including changing the section title to reflect the addition of an investigative notice provision would be proposed in 19 TAC §249.14.

Raymond Glynn, acting associate commissioner for educator quality and standards, has determined that, for each year of the first five years the amendment is in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the amendment. The proposed amendment would establish a process by which an investigative notice would

be placed on an educator's certification records. The TEA currently performs this function; therefore, this is not a new function that would require a change in funding to accomplish.

Dr. Glynn has determined that, for each year of the first five years the amendment is in effect, the public benefit anticipated as a result of enforcing the amendment will be adding clarity and specificity to the procedures that occur when an educator's certification record is under investigation. These rule changes would specify the type of conduct that indicates a potential risk to the health, safety, or welfare of students. Where this type of conduct may have occurred, the rules would provide for the prioritization and quick resolution of the allegations, while also providing the public school system with the information necessary to protect their students while the investigation is ongoing. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the amendment.

Comments on the proposal may be submitted to Cristina De La Fuente-Valadez, Policy Coordination Division, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, (512) 475-1497. Comments may also be submitted electronically to sbecrules@tea.state.tx.us or faxed to (512) 463-0028. All requests for a public hearing on the proposed amendment submitted under the Administrative Procedure Act must be received by the Department of Educator Quality and Standards, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, Attention: Raymond Glynn, not more than 15 calendar days after notice of the proposal has been published in the *Texas Register*.

The amendment is proposed under TEC, §21.041(b)(7), which requires the SBEC by rule to provide for disciplinary proceedings, including the suspension or revocation of an educator certificate, as provided by Chapter 2001, Government Code.

The proposed amendment implements TEC, §21.041(b)(7).

§249.14. Complaint, Required Reporting, and Investigation; Investigative Notice; [Agency's] Filing of Petition.

(a) The Texas Education Agency (TEA) staff [Staff] may obtain and investigate information concerning alleged improper conduct by an educator, applicant, examinee, or other person subject to this chapter that would warrant the board denying relief to or taking disciplinary action against the person or certificate.

(b) (No change.)

(c) The TEA staff [~~executive director and staff~~] may also obtain and act on other information providing grounds for investigation and possible action under this chapter.

(d) A person who serves as the superintendent of a school district or the director of an open-enrollment charter school, private school, regional education service center, or shared services arrangement shall promptly notify in writing the board by filing a report with the TEA staff [~~executive director~~] within seven calendar days of the date the person first obtains or has knowledge of information indicating any of the following circumstances:

(1) (No change.)

(2) that a certificate holder was terminated from employment based on a determination that he or she committed any of the following acts:

(A) sexually or physically abused a student or minor or engaged in any other illegal conduct with a student or minor;

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

(D) attempted by fraudulent or unauthorized means to obtain or to alter any certificate or license/permit [~~permit~~] that would entitle the individual to be employed in a position requiring such certificate or license/permit [~~permit~~] or to receive additional compensation associated with a position; [~~or~~]

(E) (No change.)

(F) solicited or engaged in sexual conduct or a romantic relationship with a student or minor; or

(3) that a certificate holder resigned and reasonable evidence supported a recommendation by the person to terminate a certificate holder because he or she committed one of the acts specified in paragraph (2) of this subsection.

(A) Before accepting an employee's resignation that, under this paragraph, requires a person to notify the board by filing a report with the TEA staff [~~executive director~~], the person shall inform the certificate holder in writing that such a report will be filed and sanctions against his or her certificate may result as a consequence.

(B) A person required to comply with paragraph (3) of this subsection shall notify the governing body of the employing school district before filing the report with the TEA staff [~~executive director~~].

(e) (No change.)

(f) The TEA staff [~~agency~~] shall not pursue sanctions against an educator who is alleged to have abandoned his or her contract in violation of the Texas Education Code (TEC), §§21.105(c), 21.160(c), or 21.210(c), [~~of the Act~~] unless the board of trustees of the employing school district:

(1) renders a finding that good cause did not exist under the TEC, §§21.105(c)(2), 21.160(c)(2), or 21.210(c)(2) [~~of the Act~~]; and

(2) submits a written complaint to the TEA staff [~~agency~~] within 30 calendar days after the educator separates from employment.

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

(1) Priority 1: conduct that indicates a risk to the health, safety, or welfare of a student or minor, parent of a student, fellow employee, or professional colleague, including but not limited to the following:

(A) any conduct constituting a felony criminal offense;

(B) indecent exposure;

(C) public lewdness;

(D) child abuse and/or neglect;

(E) possession of a weapon on school property;

(F) drug offenses occurring on school property;

(G) sale to or making alcohol or other drugs available to a student or minor;

(H) sale, distribution, or display of harmful material to a student or minor;

(I) certificate fraud;

(J) serious testing violations;

(K) deadly conduct; and

(L) conduct that involves soliciting or engaging in sexual conduct or a romantic relationship with a student or minor.

(2) Priority 2: other conduct including but not limited to the following:

(A) any conduct constituting a misdemeanor criminal offense or testing violation which is not described as Priority 1 under paragraph (1) of this subsection;

(B) contract abandonment; and

(C) code of ethics violations.

(3) An investigative notice will not be placed on an educator's certification records on the basis of an allegation of Priority 2 conduct. The TEA staff may change a case's priority at any time based on information received.

(4) For purposes of this subsection, a serious testing violation is a failure to observe the requirements of test administration established by the commissioner of education in a manner that involves dishonesty or intent to affect the test score of a student or action that is calculated to effect the accountability rating of a school district or campus.

(h) After accepting a case for investigation, the TEA staff may place an investigative notice on the certificate holder's certification records stating that the certificate holder is currently under investigation for conduct described in subsection (g)(1) of this section. The placement of an investigative notice must follow the procedures set forth in subsection (i) of this section.

(i) Prior to placing an investigative notice on an educator's certification records, the TEA staff shall serve the certificate holder with a letter informing the educator of the investigation and the basis of the complaint.

(1) At least ten days before placing an investigative notice on the educator's certification records, the letter notifying the certificate holder of the investigation shall be mailed to the address provided to the TEA staff pursuant to the requirements set forth in §230.431 of this title (relating to Procedures in General).

(2) The letter notifying the certificate holder of the investigation shall include a statement of the alleged conduct which forms the basis for the investigative notice and shall provide the certificate holder the opportunity to show cause within ten days why the notice should not be placed on the educator's certification records.

(3) The TEA staff shall determine whether or not to place an investigative notice on the educator's certification records, taking into account the educator's response, if any, to the letter notifying the certificate holder of the investigation.

(j) An investigative notice is subject to the following time limits.

(1) An investigative notice may remain on the certification records of a certificate holder for a period not to exceed 240 calendar days.

(2) The TEA staff may toll this time limit if information is received indicating that there is a pending criminal matter related to the alleged act of misconduct that gives rise to the investigative notice. Upon receiving notice that the criminal matter has been resolved the tolling period shall end. For purposes of this subsection, a criminal matter includes an arrest, an investigation, or a prosecution by a criminal law enforcement agency.

(3) The TEA staff may toll this time limit if the matter is referred for a contested case hearing.

(k) The TEA staff shall remove an investigative notice from the certification records in the following situations.

(1) When a case's final disposition occurs within the time limits established in subsection (j) of this section, an investigative notice shall be removed.

(2) If the time limits for an investigative notice have been exceeded; and

(A) the certificate holder has made a written demand to the TEA staff that the investigative notice be removed because the time limits have been exceeded; and

(B) the TEA staff has failed to refer the matter to the State Office of Administrative Hearings for a contested case hearing within 30 calendar days from the date of receipt of the written demand to remove the investigative notice.

(l) ~~(h)~~ Only the TEA staff [agency] may file a petition seeking sanctions under §249.15 of this title (relating to Disciplinary Action by Board) [chapter]. Prior to [the agency's] filing a petition, the TEA staff [agency] shall mail to the certificate holder [person] affected by written notice of the facts or conduct alleged to warrant the intended action and shall provide the certificate holder [person] an opportunity to show compliance with all requirements of law [for the retention of the certificate or other enjoyment].

(m) For purposes of this section, "TEA staff" means staff of the Texas Education Agency assigned by the commissioner of education to perform the board's administrative functions and services.

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 22, 2007.

TRD-200700150

Cristina De La Fuente-Valadez

Director, Policy Coordination

State Board for Educator Certification

Earliest possible date of adoption: March 4, 2007

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



SUBCHAPTER F. ENFORCEMENT OF THE EDUCATOR'S CODE OF ETHICS

19 TAC §§249.48 - 249.51

The State Board for Educator Certification (SBEC) proposes amendments to §§249.48 - 249.51, relating to enforcement of the educator's code of ethics. The sections establish provisions relating to time for filing of complaint, form of complaint, required service, local resolution, grounds for dismissal of a complaint by executive director or review committee, and executive director's review and notice. The proposed amendments would update the current rules to reflect statutory changes and allow the Texas Education Agency (TEA) staff assigned to handle the complaints on behalf of the SBEC the option to dismiss complaints by declining to pursue sanctions or by issuing a letter of caution.

Texas Education Code (TEC), §21.041(b)(7) and (8), authorize the SBEC to adopt rules providing for disciplinary proceedings and enforcing the educator's code of ethics. The rules in 19 TAC

Chapter 249, Subchapter F, Enforcement of the Educator's Code of Ethics, specify the current process to resolve ethical disputes.

Currently, §249.48, Time for Filing of Complaint, establishes the time limit for the filing of an educator's code of ethics complaint as 90 calendar days after the date of the last act giving rise to the complaint. Section 249.49, Form of Complaint; Required Service; Local Resolution, specifies the information that must be included in a code of ethics complaint and verified by affidavit. This section also specifies that the complaint filed with the executive director must also be served on the educator at the same time via certified mail and that the superintendent or president of the board of trustees shall resolve a code of ethics complaint within 45 calendar days after receiving the notice in writing. Section 249.50, Grounds for Dismissal of a Complaint by Executive Director or Review Committee, establishes the grounds for dismissing all or part of a code of ethics complaint. Section 249.51, Executive Director's Review and Notice, establishes the requirements, including timelines, for reviewing code of ethics complaints.

The proposed amendments to 19 TAC Chapter 249, Subchapter F, Enforcement of the Educator's Code of Ethics, would modify the current resolution process for code of ethics complaints to address the following issues and to allow for a more efficient resolution.

The current resolution process in rule is cumbersome and inefficient, resulting in a backlog of complaints. Many of the complaints could have been resolved on the local level, through another governmental entity that is responsible for the alleged violation, or could have been dismissed early if the alleged ethical violation did not rise to the level that would justify a sanction.

The educator's code of ethics also requires processing of complaints that claim violation of any state or federal statute or regulation. Many of these statutes and regulations are enforced by another state or federal agency, but the code of ethics processes do not require the complainant to resolve their complaint at the appropriate agency as a prerequisite to seeking sanctions against a certified educator. As a result, the SBEC is called on to interpret and make rulings on areas of the law outside of its subject matter expertise or responsibility.

Currently, the educator's code of ethics also does not allow for an expedited disposition when the alleged ethical violation is one that does not rise to the level that requires a state-issued sanction. The TEA staff should have the ability to dismiss complaints where staff has decided, as a matter of policy, that the alleged unethical behavior is not worthy of a sanction. For the purpose of efficiency, the TEA staff should be able to do this without requesting a response from the educator or making factual and legal findings.

In response to these issues, the following amendments are proposed to 19 TAC Chapter 249, Subchapter F, §§249.48 - 249.51.

Section 249.48 would be amended to modify the time limit for filing an educator's code of ethics complaint by allowing complaints to be filed after the date on which the complainant knew or should have known the date of the last act giving rise to the complaint.

Section 249.49 would be amended to add language to subsection (b) that would authorize staff to limit the volume of exhibits and require a clear reference to exhibits in a code of ethics complaint. This section would also be amended to add new subsection (e) to establish that TEA staff would be able to suspend con-

sideration of a complaint pending resolution of a separate complaint by another agency with appropriate jurisdiction. Additional non-substantive, technical edits are also made to this section for clarity.

Section 249.50 would be amended to add new paragraph (5) to revise the factors used to determine dismissal of all or part of a code of ethics complaint to include allegations that do not warrant a sanction or only warrant a letter of caution. Additional non-substantive, technical edits are also made to this section for clarity.

Section 249.51 would be amended to add new subsection (e) to allow TEA staff to dismiss a code of ethics complaint if the alleged conduct warrants no sanctions or only a letter of caution to the educator. Additional non-substantive, technical edits are also made to this section for clarity.

Throughout 19 TAC §§249.48 - 249.51, "executive director" has been changed to "Texas Education Agency staff" to reflect the assignment of the SBEC's administrative functions and services to the TEA in TEC, §21.035. Proposed new subsection (g) has been added to track that statutory assignment. In addition, House Bill 1116, 79th Texas Legislature, Regular Session, 2005, repealed TEC, §21.039, which established the SBEC executive director position.

Raymond Glynn, acting associate commissioner for educator quality and standards, has determined that, for each year of the first five years the amendments are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the amendments, although modifying the current process for resolving ethical disputes would result in a more efficient resolution process with the staff resources available.

Dr. Glynn has determined that, for each year of the first five years the amendments are in effect, the public benefit anticipated as a result of enforcing the amendments will be implementing a more efficient and less costly process for resolving less serious educator misconduct complaints and redirecting resources to deal with more serious disciplinary complaints against educators. The proposed amendments would also support resolution of the code of ethics complaint at the local level. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the amendments.

Comments on the proposal may be submitted to Cristina De La Fuente-Valadez, Policy Coordination Division, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, (512) 475-1497. Comments may also be submitted electronically to sbecrules@tea.state.tx.us or faxed to (512) 463-0028. All requests for a public hearing on the proposed amendment submitted under the Administrative Procedure Act must be received by the Department of Educator Quality and Standards, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, Attention: Raymond Glynn, not more than 15 calendar days after notice of the proposal has been published in the *Texas Register*.

The amendments are proposed under the following Texas Education Code sections: §21.041(b)(7), which requires the SBEC by rule to provide for disciplinary proceedings, including the suspension or revocation of an educator certificate, as provided by Chapter 2001, Government Code and §21.041(b)(8), which requires the SBEC by rule to provide for the adoption, amendment, and enforcement of an educator's code of ethics.

The proposed amendments implement Texas Education Code, §21.041(b)(7) and (8).

§249.48. *Time for Filing of Complaint.*

A complaint under this subchapter shall be filed with the Texas Education Agency staff [executive director] no later than 90 calendar days after the date of the last act giving rise to the complaint or the date on which the complainant knew or should have known of the act, whichever is later.

§249.49. *Form of Complaint; Required Service; Local Resolution.*

(a) A complaint shall be verified by affidavit and shall include the information specified by this subsection:

(1) - (5) (No change.)

(6) a declaration that the complainant has informed in writing the educator against whom the complaint is being made as well as the superintendent or the president of the board of trustees of the district employing that educator, as appropriate under subsection (c) of this section, of the nature of the complaint, and providing the date [dates] upon which such written notification [notifications] occurred; and[;]

(7) (No change.)

(b) The Texas Education Agency (TEA) staff [executive director] may develop a complaint form that complies with subsection (a) of this section. The TEA staff may limit the length and size of exhibits initially filed with a complaint and shall require specific citations to any voluminous exhibits.

(c) A complaint shall be filed with the TEA staff [executive director] and, at the time of filing, served on the educator accused of having violated the code of ethics and the superintendent of the school district employing the accused educator by certified United States mail, return receipt requested. If the superintendent is the educator alleged to have violated the code of ethics, then the complainant shall notify the president of the board of trustees of the district employing the accused superintendent. The agency shall also notify the accused educator of the filing of a complaint against him or her.

(d) (No change.)

(e) The TEA staff may suspend consideration of a complaint that the educator violated a state or federal statute or regulation pending resolution of a complaint by the TEA or another agency with jurisdiction over that statute or regulation.

§249.50. *Grounds for Dismissal of a Complaint by Texas Education Agency Staff [Executive Director] or Review Committee.*

Under §249.51 of this title (relating to Texas Education Agency Staff Review and Notice) and §249.52 of this title [subchapter] (relating to [Executive Director's Review and Notes and] Appeal; Review Committee), the Texas Education Agency (TEA) staff [executive director] or the review committee may dismiss all or part of a complaint only based on a determination that:

(1) the commissioner of education or commissioner's designee, [executive director,] review committee, State Office of Administrative Hearings [office], or board or a court of competent jurisdiction has previously disposed of a similar complaint or petition based on the same alleged facts;

(2) - (3) (No change.)

(4) the complaint was not timely filed; [ø]

(5) the allegations in the complaint do not warrant a sanction, or only warrant a letter of caution; or

(6) [(5)] the complaint is frivolous as defined by §249.53 of this title [subchapter] (relating to Frivolous Complaints);

§249.51. *Texas Education Agency Staff [Executive Director's] Review and Notice.*

(a) The Texas Education Agency (TEA) staff [executive director] shall review a complaint filed under this subchapter for possible dismissal. In conducting this review, the TEA staff [executive director] shall consider the complaint, a single response by the accused educator, and any additional information he or she may have requested from the complainant or the staff.

(b) Not later than 60 days after being notified of a complaint against him or her under §249.49(d) [(e)] of this title [subchapter] (relating to Form of Complaint; Required Service; Local Resolution), the accused educator or his or her representative may file with the TEA staff [executive director] a single submission responding to the complaint.

(c) Not later than 130 calendar days after receiving a complaint filed under this subchapter, the TEA staff [executive director] shall notify appropriate staff, the complainant, and the accused educator of his or her disposition in accordance with the following:

(1) (No change.)

(2) approval of the complaint in whole or in part and ordering staff to file an appropriate petition on behalf of the complainant with the State Office of Administrative Hearings [office] within 90 days of the notice provided under this subsection.

(d) The TEA staff [executive director] may issue such further orders as are necessary to accomplish his or her intended disposition, including requiring the complainant to supplement the complaint and establishing consequences for failure to comply. The TEA staff [executive director] shall set a reasonable deadline for staff and the complainant to comply with an order under this subsection.

(e) The TEA staff may dismiss a complaint based on a determination that the conduct alleged in the complaint does not warrant a sanction. The TEA staff may also dismiss a complaint with a letter of caution to the educator that additional allegations of a similar nature could result in the approval of a complaint. A letter of caution provides guidance to the educator and is not a disciplinary action or sanction, may not be considered proof of the conduct alleged in any subsequent proceeding, and does not constitute a determination of the facts underlying the complaint.

(f) [(e)] The TEA staff [executive director] shall send a notice of disposition with related orders to the complainant and the accused educator by certified United States mail, return receipt requested. A notice reflecting a dismissal shall specify which of the grounds set out in §249.50 of this title (relating to Grounds for Dismissal of a Complaint by Texas Education Agency Staff [Executive Director] or Review Committee) the TEA staff [executive director] relied upon in making his or her decision.

(g) For purposes of this section, "TEA staff" means staff of the Texas Education Agency assigned by the commissioner of education to perform the board's administrative functions and services.

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 22, 2007.

TRD-200700151

Cristina De La Fuente-Valadez
Director, Policy Coordination
State Board for Educator Certification
Earliest possible date of adoption: March 4, 2007
For further information, please call: (512) 475-1497



TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 1. CENTRAL ADMINISTRATION

SUBCHAPTER A. PRACTICE AND

PROCEDURES

DIVISION 1. PRACTICE AND PROCEDURES

34 TAC §§1.1, 1.4 - 1.7, 1.9 - 1.11, 1.14 - 1.16, 1.18, 1.20, 1.27 - 1.29, 1.33, 1.36, 1.37, 1.39, 1.41, 1.42

The Comptroller proposes amendments to §1.1, concerning the intent, scope, and construction of rules (subsections (b) and (c) were added to explain the function of these rules and SOAH's involvement), §1.4, concerning representation and participation (this section was amended to reflect SOAH's involvement in the hearings process), §1.5, concerning initiation of a hearing (the amendments to this section are non-substantive corrections), §1.6, concerning extension of time for initiating hearing process (subsection (b) was deleted to avoid duplication with §1.20), §1.7, concerning content of statement of grounds and preliminary conference (this section was amended to elaborate on the taxpayer's responsibilities when submitting a statement of grounds, and to eliminate provisions no longer necessary), §1.9, concerning the position letter (subsection (b) was deleted because it is covered in §1.28, new subsection (b) was added to address the 180-day requirement previously in §1.15), §1.10, concerning acceptance or rejection of the position letter (this section was amended to address the new procedures required because of the involvement of SOAH), §1.11, concerning modification of the position letter (this section was amended so the it corresponds to the new procedures in §1.10), §1.14, concerning notice of setting for certain cigarette, cigar, and tobacco cases (this section was amended to limit it to certain types of cases), §1.15, concerning reply to the position letter (subsection (b) was moved to §1.14, subsection (d) was moved to §1.9, the remaining amendments to this section are to clarify the new procedures), §1.16, concerning response of the administrative hearings section (this section was amended to reflect the new procedures), §1.18, concerning filing of documents (this section was amended to reflect the change in procedure due to the involvement of SOAH), §1.20, concerning continuances (this section was amended to reflect the change in procedure due to the involvement of SOAH), §1.27, concerning proposal for decision (this section was amended to reflect the change in procedure due to the involvement of SOAH), §1.28, concerning comptroller's decision (this section was amended to reflect the change in procedure due to the involvement of SOAH), §1.29, concerning motions for rehearing (this amendment is non-substantive and reflects the new procedure), §1.33, concerning discovery (this section was amended to denote that SOAH's rules for discovery will be followed; Most of the previous rule was deleted as unnecessary, conflicting, and duplicative),

§1.36, concerning interested parties (this section was amended to clarify the procedure for interested parties to be admitted), §1.37, concerning joint hearings and severance (this section was amended due to the transfer of the administrative law judges), §1.39, concerning dismissal of cases (this section was amended to delete unnecessary provisions due to the transfer to SOAH), §1.41, concerning ex parte communications (this section was amended to clarify the ex parte prohibition), and §1.42, concerning definitions (this section was amended to add definitions for new terms resulting from the transfer of functions to SOAH).

John Heleman, Chief Revenue Estimator, has determined that for the first five-year period the rule will be in effect, there will be no significant revenue impact on the state or units of local government.

Mr. Heleman also has determined that for each year of the first five years the rule is in effect, it would benefit the public by clarifying to taxpayers the comptroller's office practices and procedures subsequent to the transfer of hearings to SOAH. This rule is adopted under Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to individuals who are required to comply with the proposed rule.

Comments on the proposals may be submitted to Rick Budd, Deputy General Counsel, General Counsel Division, Administrative Hearings Section, P.O. Box 13528, Austin, Texas 78711.

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

The amendments implement Tax Code §§111.001, 111.009, and 111.105, which provide for the collection of taxes, redetermination and refund hearings.

§1.1. Intent, Scope, and Construction of Rules.

(a) The Rules of Practice and Procedure are intended to provide fair methods for hearing and resolving a taxpayer's disagreements with certain official actions of the Comptroller of Public Accounts. These rules govern all contested case proceedings within the agency [before the administrative law judges].

(b) These rules address those parts of the administrative process during which the parties attempt to resolve a case by agreement as well as those parts of the administrative process of an appellate nature subsequent to the receipt of a proposal for decision from an administrative law judge.

(c) After a determination has been made that a case cannot be resolved without a hearing or when prehearing matters cannot be resolved, the agency will docket the case with SOAH for a hearing or resolution of any such prehearing matters. These rules will not apply to any matters before SOAH. Instead, SOAH Rules of Procedure (1 TAC Chapter 155) will apply to those aspects of the case.

(d) [(b)] These rules will be given their most reasonable meaning taken in their total context, and will be construed to secure a just resolution or decision for every controversy. They will not be construed to limit or repeal rights afforded or requirements imposed by law. Unless otherwise expressly provided, the past, present, or future tense each includes the other; the masculine, feminine, or neuter gender each includes the other; and the singular and plural number each includes the other. Definitions of some of the words used in these rules are contained in §1.42 of this title (relating to Definitions).

§1.4. Representation and Participation.

A taxpayer may represent himself at any stage of a contested case or he may be represented by an authorized representative, such as an attorney, accountant, or other person of his choice. Hearings at SOAH on contested cases are not open to the public. Any person desiring to observe or participate at any stage of a contested case who is not a party, not employed by a party, or not called as a witness, must obtain ~~the permission of the assigned administrative law judge and~~ the agreement of all parties.

§1.5. Initiation of a Hearing.

(a) Redetermination hearing. If a taxpayer disagrees with the agency's deficiency or jeopardy determination, the taxpayer may request a redetermination hearing by timely submitting to the agency a written request for redetermination. This written request must include a Statement of Grounds [statement of grounds] that complies with the requirements set forth by §1.7 of this title (relating to Content of Statement of Grounds; Preliminary Conference). To be considered timely, the request for a hearing must be filed within 30 days from the date of the deficiency determination or within 20 days from the date of the jeopardy determination. If the written request with the Statement of Grounds [statement of grounds] cannot be submitted within the applicable time limit, the taxpayer may request an extension as provided by §1.6 of this title (relating to Extensions of Time for Initiating Hearing Process). A request for a redetermination hearing that is not submitted within the original time limit or before the expiration of an extended time limit will not be granted. A taxpayer who cannot obtain a redetermination hearing may pay the determination and request a refund in order to raise any objection to the determination.

(b) Required documentary evidence at the audit conference. When a taxpayer timely requests a redetermination hearing, the agency may request in writing that the taxpayer produce documentary evidence for inspection that would support the taxpayer's Statement of Grounds [statement of grounds]. The written request may specify that resale or exemption certificates to support tax-free sales must be submitted within 60 days from the date of the request. Resale or exemption certificates that are not submitted within the 60-day [60 day] time limit will not be accepted as evidence to support a claim of tax-free sales.

(c) Refund hearing. If a taxpayer disagrees with the agency's denial of a refund claim, the taxpayer may request a refund hearing by timely submitting to the agency a written request for a refund hearing. This written request must include a Statement of Grounds [statement of grounds] that complies with the requirements set forth by §1.7 of this title and Tax Code, §111.104. To be considered timely, the request for a hearing must be filed within 30 days from the date of the denial. If the written request with the Statement of Grounds [statement of grounds] cannot be submitted within the applicable time limit, the taxpayer may request an extension as provided by §1.6 of this title. A request for a refund hearing that is not submitted within the original time limit or before the expiration of an extended time limit will not be granted. If no grounds are stated as a basis for the claim, a hearing will not be granted and the claim will be denied. If the claim is granted for any tax amount, any corresponding penalty and interest amount previously paid will be refunded.

(d) Hearings involving licenses and permits. The agency will initiate hearings concerning the denial, suspension, or revocation of licenses or permits by sending written notice to the taxpayer, which notice will include a statement of the matters asserted and procedures to be followed.

(e) An oral hearing under ~~the~~ Tax Code, §154.1142 or §155.0592, will be set if requested by the permit holder within 15 calendar days of the receipt of the notice of violation(s). See, §1.14

of this title (relating to Notice of Setting for Certain Cigarette, Cigar, and Tobacco Tax Cases).

§1.6. Extensions of Time for Initiating Hearing Process.

~~[(a)]~~ Requests [~~Motions~~] for extension of the due date for submitting a request for redetermination and Statement of Grounds [statement of grounds] may be granted in case of emergency or extraordinary circumstances. Requests [~~Motions~~] for extension will not be routinely granted and each request [~~motion~~] will be closely scrutinized to insure that the taxpayer has made every effort to comply with the original deadline. Requests [~~Motions~~] received after the expiration of the original due date will not be considered. The comptroller's office will not be responsible for delay in delivery of mail, messenger service, or other carriers. Requests [~~Motions~~] must be directed to the general counsel or his designee, who will grant or deny the extension.

~~[(b)]~~ A motion for an extension of any other deadline in these sections will not be granted unless good cause is established and the need for the extension is not due to the moving party's neglect, indifference, or lack of diligence. A motion must be made in writing at least seven days prior to the expiration of the time period. In the event of an emergency, a motion may be accepted if it is postmarked, sent by facsimile transmission, or deposited with a private mail or courier service, postage or delivery charges paid, not later than the date of the original deadline. Prior to the setting of a hearing the assistant general counsel may approve one extension of the time to reply to a position letter of not more than 14 days. Any additional extension may be granted, for good cause shown, only by the general counsel or his designee. After a hearing is set, a motion for an extension of filing deadlines should be addressed to the assigned administrative law judge and will be ruled upon by him. A copy of a motion for extension of a filing deadline must be provided to all parties.]

§1.7. Content of Statement of Grounds; Preliminary Conference.

(a) The Statement of Grounds [statement of grounds] must contain the reasons the taxpayer disagrees with the action of the agency. The taxpayer must list and number the items or transactions, individually or by category, with which he disagrees. ~~[-]~~ For each contested item or category of items, the taxpayer must also state [and list and number] the factual basis and the legal grounds to support why the taxpayer argues that the tax should not be assessed or the tax should be refunded. If [Legal authority must be cited if] the taxpayer disagrees with the agency's interpretation of the law, specific legal authority must be cited in support of the taxpayer's arguments.

(b) If an item or transaction, or category thereof, is not listed in the Statement of Grounds, it may be barred from consideration in a hearing.

(c) In the event that the taxpayer's Statement of Grounds fails to list and number items or transactions, individually or by category, or fails to state the factual basis and legal grounds upon which relief is sought, the case may be dismissed.

~~(d) [(b)]~~ If a taxpayer's Statement of Grounds [statement of grounds] raises issues that cannot be resolved from the material contained in the audit or Statement of Grounds [statement of grounds], additional evidence may be obtained through:

- (1) a preliminary conference;
- (2) discovery as described in §1.33 of this title (relating to Discovery);
- (3) written or oral requests for additional evidence; and
- (4) an audit amendment.

~~[(e)]~~ Time limits will be established for the completion of each of the procedures set out in subsection (b) of this section, either by

agreement of the parties, or by the assigned administrative law judge if the parties cannot reach agreement.]

(c) [(d)] The Statement of Grounds [statement of grounds] may be amended up to the time that a reply to the Position Letter [position letter] is required. All [; and not later, unless by permission of the assigned administrative law judge, and unless all] evidence on which the proving party intends to rely must be [is] filed with the proposed amendment.

[(e) If the parties agree a preliminary conference would be beneficial, a conference will be scheduled as soon as practical.]

(f) This section does not apply to hearings pursuant to [the] Tax Code, §154.1142 or §155.0592.

§1.9. Position Letter.

(a) If the taxpayer's contentions have not been resolved pursuant to §1.8 of this title (relating to Resolution Prior to Issuance of a Position Letter), the assistant general counsel will review the Statement of Grounds [Following receipt of the taxpayer's statement of grounds], documentary evidence, and any additional evidence received from the taxpayer and [requested by the assistant general counsel,] a Position Letter [position letter] will be sent to the taxpayer. The Position Letter [position letter] will accept or reject, in whole or in part, each contention of the taxpayer, and set forth what the assistant general counsel finds is properly subject to or exempt from taxation.

(b) Pursuant to Tax Code, §111.105(e), the assistant general counsel may issue a written demand notice to the taxpayer requesting that all documentary evidence that would support facts or contentions raised by the taxpayer in connection with a refund claim be produced within a specified time. The time period specified in the written demand notice may not be less than 180 days from the date of the original refund claim, and not less than 60 days from the date of the notice. A taxpayer who fails to produce the requested documents within the specified time period may not introduce in evidence any of the documents that were not timely produced. The assigned administrative law judge cannot consider documents that were not produced within the specified deadline. This section is only applicable to the administrative hearing and has no effect on a judicial proceeding pending under Tax Code, Chapter 112.

[(b) The agency may elect to amend the determination, to issue an amended billing, or agree to a refund or credit request rather than issue a position letter, if the taxpayer's contentions are fully accepted or if the parties agree on a resolution of all contentions. If the determination or billing is amended, or a refund or credit is issued, the action will become final 20 days after mailing. An amended billing or determination is payable 20 days after mailing unless otherwise specified.]

(c) This section does not apply to hearings pursuant to [the] Tax Code, §154.1142 or §155.0592.

§1.10. Acceptance or Rejection of Position Letter[; Motion To Dismiss Petition or Set for Hearing].

(a) The taxpayer must accept or reject the Tax Division's Position Letter, in whole or in part, [the position letter] within 45 [45] days after the day the Position Letter [position letter] is dated; unless an extension of the deadline is granted [however, note the extension exception in §1.6(b) of this title (relating to Extensions of Time)]. A selection form for accepting or rejecting the Position Letter [this purpose] will be enclosed as an attachment [with the position letter. Expiration of the 15-day period without the taxpayer filing a motion to set or dismiss will result in the filing of a motion to dismiss the hearing and dispose of the case according to the position of the Administrative Hearings Section].

[(b) The taxpayer is not required to respond to an amended determination or a final billing, other than by payment, unless the taxpayer disagrees with the amount of the amended determination or final billing. An amended final determination or final billing concludes the administrative proceeding unless the taxpayer notifies the agency within 20 days of the mailing date that he disagrees with the amount.]

(b) [(e)] The selection form enclosed with the Position Letter [position letter] will offer the taxpayer two [three] options.

(1) Agree with the Position Letter. [Motion to dismiss. The taxpayer may accept the conclusions of the position letter.] The tax liability or refund will be calculated accordingly. The taxpayer will not be required to respond to the amended determination or final billing, other than by payment, unless the taxpayer disagrees with the amount of the amended determination or final billing. An amended final determination or final billing concludes the administrative proceeding unless the taxpayer notifies the agency within 20 days of the date of notification that he disagrees with the amount by filing a motion for rehearing. Pursuant to APA, Government Code, §2001.142, notification is presumed to occur on the third day after the date of mailing.

(2) Disagree with the Position Letter. The taxpayer may reject some or all of the conclusions of the Position Letter and request that the contested issues be decided in a hearing. If the taxpayer chooses this option the taxpayer must return the selection form along with two copies of its Reply setting forth all of its arguments in support of its position and all supportive documents, affidavits, and other evidence. See, §1.15 of this title (relating to Reply to the Position Letter).

[(2) Motion to set for written submission hearing. The taxpayer may reject some or all of the conclusions of the position letter and request that the contested issues be decided in a written submission hearing by an administrative law judge. The parties will submit documents and arguments in accordance with the notice of setting issued by the assigned administrative law judge, rather than appearing at an oral hearing.]

[(3) Motion to set for oral hearing.]

[(A) The taxpayer may reject some or all of the conclusions of the position letter and request that the contested issues be decided after an oral hearing before an administrative law judge.]

[(B) A taxpayer who believes it will require more than two hours for the parties to present their cases must file a written request for an extended hearing at the time the motion to set is filed, and state the reasons why more time will be required; however, any party may later request an extended hearing for good cause shown.]

(c) If the taxpayer fails to timely respond to the Tax Division's Position Letter, the comptroller may dismiss the contested case. In such case an amended final determination or final billing in accordance with the positions set forth in the Position Letter will be sent to the taxpayer. The administrative proceeding will be concluded unless the taxpayer notifies the agency within 20 days of the date of notification that he disagrees with the amount by filing a motion for rehearing. Pursuant to APA, Government Code, §2001.142, notification is presumed to occur on the third day after the date of mailing. See, §1.29 of this title (relating to Motion for Rehearing).

[(d) In a Controlled Substances Tax case, the taxpayer will also be given the option of requesting an oral or written submissions hearing, but of holding the case in abeyance until the related criminal proceeding is concluded at the trial court level. An order of the trial court deferring adjudication will be deemed a conclusion of the trial court proceeding.]

(e) The agency has the option of requesting an oral hearing in any case in which the burden of proof is on the state. All hearings held pursuant to the Tax Code, §154.1142 or §155.0592, will be oral hearings.]

§1.11. Modification of the Position Letter.

The Position Letter [position letter] may be modified. [Any modifications to the position letter will be reduced to writing by the assistant general counsel and sent to the taxpayer.] A new 45-day [15-day] period for acceptance or rejection by the taxpayer begins on the day the modified Position Letter [position letter] is dated [if it is issued prior to the notice of setting being issued].

§1.14. Notice of Setting for Certain Cigarette, Cigar, and Tobacco Tax Cases.

(a) Upon receipt of a motion to set, the assigned administrative law judge will send a notice to the parties giving:

(1) the date, time, and place of the oral hearing, the date the record will close in a written submission hearing, or other disposition of the hearing;]

(2) the legal authority and jurisdiction under which the hearing is to be held;]

(3) the date any legal brief or additional facts in reply to the position letter is due; and]

(4) the date any response by the assistant general counsel to the taxpayer's reply to the position letter is due.]

(a) [(b)] Hearings [The notice of setting for hearings] pursuant to [the] Tax Code, §154.1142 or §155.0592, will receive a notice of setting from the agency that will include:

(1) the date, time, and place of the oral hearing;

(2) the legal authority and jurisdiction under which the hearing is to be held;

(3) the asserted factual basis for the alleged violation(s); and

(4) the date any legal brief or additional facts in reply to the notice of setting is due.

(b) [(e)] All notices of setting issued by the agency pursuant to subsection (a) of this section [the Tax Code, Chapters 154 or 155], will be sent certified mail, return receipt requested. Notices [; except for the notices] of setting issued pursuant to [the] Tax Code, §§154.114(c), 154.309(d), 155.059(c) or [§]155.186(d), [which] will be sent by first class mail.

(c) After reviewing a notice of setting issued for hearings under Tax Code, §154.1142 or §155.0592, a permit holder may present facts or legal arguments for consideration by filing a Reply to the notice of setting within the specified due date. The notice of setting may not set the due date for the Reply earlier than 20 days from the date the notice of setting is issued.

§1.15. Reply to the Position Letter[; Demand Notice for Documents].

(a) If after [After] reviewing the Position Letter [position letter], a taxpayer requests a hearing he should [may] present any additional facts, [or] legal arguments, or documents for consideration [by the administrative law judge] by filing a Reply [reply] to the Position Letter [position letter] within the due date specified in §1.10 of this title (relating to Acceptance or Rejection of Position Letter) [the notice of setting]. The notice of setting may not set the due date for the reply earlier than 20 days from the date the notice of setting is issued].

(b) The Reply should address all unresolved contentions and provide legal and factual support for the taxpayer's position. All factual

allegations should be supported by sworn affidavits, certified business records or otherwise admissible evidence.

(b) After reviewing a notice of setting issued for hearings under Tax Code, §154.1142 or §155.0592, a permit holder may present facts or legal arguments for consideration by the administrative law judge by filing a reply to the notice of setting within the specified due date. The notice of setting may not set the due date for the reply earlier than 20 days from the date the notice of setting is issued.]

(c) In the case of hearings pursuant to Tax Code, §154.1142 or §155.0592, a Reply may be filed pursuant to §1.14 of this title (relating to Notice of Setting for Certain Cigarette, Cigar, and Tobacco Tax Cases).

(e) All documentary evidence to support facts or contention(s) should be submitted with the reply to the position letter or the notice of setting under subsection (b) of this section or on or before the due date for the reply. The assigned assistant general counsel may object to the introduction of documentary evidence that was not timely submitted, and at his or her discretion, the assigned administrative law judge may rule the documentary evidence to be inadmissible or may grant additional time for the assistant general counsel to review the documents.]

(d) At any time after the original due date of the reply to position letter, the assigned assistant general counsel may issue a written demand notice to the taxpayer requesting that all documentary evidence that would support facts or contentions(s) raised by the taxpayer in connection to a refund claim be produced within a specified time period. The time period specified in the written demand notice may not be less than 180 days. A taxpayer who fails to produce the requested documents within the specified time period may not introduce in evidence any of the documents that were not timely produced. The assigned administrative law judge cannot consider documents that were not produced within the specified deadline. This section is only applicable to the administrative hearing pending before the agency and has no effect on a judicial proceeding pending under Tax Code, Chapter 112.]

§1.16. Response of the Administrative Hearings Section.

(a) If the taxpayer presents additional facts or legal arguments in a Reply [reply] to the Position Letter [position letter], the assistant general counsel shall issue, within 45 days, [file] a Response to the taxpayer stating [response by the date specified in the notice of setting]. If the taxpayer files a reply to the position letter containing no additional facts or legal arguments, the assistant general counsel is not required to file a response. Any response filed must state the legal position of the Tax Division [Administrative Hearings Section], and any factual disagreement, on each issue or argument raised by the taxpayer. If the assistant general counsel is unable to respond within 45 days, the taxpayer will be notified of the delay and informed of the revised response date.

(b) If the taxpayer fails to submit a Reply to the Position Letter, or if the Reply does not contain any additional facts or legal arguments, the assistant general counsel is not required to issue a Response.

(c) [(b)] For hearings pursuant to [the] Tax Code, §154.1142 or §155.0592, the Tax Division [Administrative Hearings Section] is not required to file a response. However, if the permit holder presents additional facts or legal arguments in its Reply [reply], the Tax Division [Administrative Hearings Section] may file a Response [response] no later than seven calendar days prior to the oral hearing.

§1.18. Filing of Documents[; Inspection of File].

(a) All documents submitted with or after the Position Letter selection form [notice of setting has been issued] must be filed with the assistant general counsel [assigned administrative law judge with a

copy to each party]. See §1.32 of this title (relating to Service) for the manner in which these filings may be made. Note that rules of service governing filing documents at SOAH will vary. See SOAH, Rules of Procedure, 1 TAC §155.23.

(b) Each party to a contested case, and any authorized representative of a party, may inspect and copy, at their own expense and in the offices of the administrative law judges, all documents on file in the case, subject to the rules of confidentiality contained in the Tax Code.]

§1.20. Continuances [~~Postponement of Hearing~~].

(a) If, prior to the time a contested case is brought under the jurisdiction of SOAH, a taxpayer needs an extension on a deadline he should request a [A motion for] continuance [of a contested case set for oral hearing must be] in writing from [and filed with] the assistant general counsel [assigned administrative law judge] at least seven days prior to the deadline [date that the matter is to be heard. If an emergency occurs less than seven days prior to the hearing date, a motion for continuance may be filed].

(b) The request for continuance [motion] must show that there is good cause for the continuance and that the need is not caused by neglect, indifference, or lack of diligence. A copy of the request [motion] must be served upon all other parties of record [at the time of filing].

(c) If the Tax Division [Administrative Hearings Section] increases the amount of tax deficiency at or before the time of hearing, the taxpayer is entitled to a 30-day continuance to obtain and produce further evidence applicable to the items upon which the increase is based.

(d) After a hearing is set by SOAH, a motion for an extension of filing deadlines must be filed with SOAH in accordance with SOAH's Rules of Practice.

§1.27. Proposal for [~~Proposed~~] Decision.

The assigned administrative law judge will issue a proposal for decision in accordance with SOAH's Rules of Procedure. Any party may file exceptions and responses in accordance with those rules [prepare a proposed decision within 30 days after the record is closed. The proposed decision will set out each finding of fact and conclusion of law necessary to the decision. The proposed decision will be served on the parties, and any party may file exceptions and briefs within 15 days, serving copies on all parties. If a party files exceptions, the other parties will have 15 days after the filing to reply. The proposed decision will be reviewed after considering the exceptions, briefs, and replies].

§1.28. Comptroller's Decision.

(a) Upon receipt of the proposal for decision from SOAH and review of any exceptions filed by the taxpayer and the assistant general counsel, the comptroller shall issue a final decision [The proposed decision of the assigned administrative law judge must be approved by the Comptroller of Public Accounts before it is given effect]. Notification of the comptroller's decision will be mailed to the taxpayer and any authorized representative. The [For comptroller's decisions issued prior to September 1, 1999, the taxpayer and any authorized representative are presumed to have been notified of the comptroller's decision on the date notice of decision is mailed. For comptroller's decisions issued on or after September 1, 1999, the] taxpayer and any authorized representative are presumed to have been notified of the comptroller's decision on the third day after notice of the decision is mailed. The comptroller's decision is final 20 days from the date of notification, unless a motion for rehearing is filed with the comptroller on or before [midnight of] the 20th day. If the motion for rehearing is granted, the decision is vacated pending a subsequent decision upon rehearing. If the motion for rehearing is overruled, whether by order or operation of law, the decision is final on the date it is overruled.

(b) The agency [administrative law judge] may issue a comptroller's decision without the issuance of a proposal for [proposed] decision if the parties are in agreement on all contested issues or if the parties agree to waive issuance of a proposal for [proposed] decision.

(c) The agency may issue a comptroller's decision without the issuance of a proposal for decision if a hearing is dismissed for a taxpayer's failure to respond to the Position Letter, as set forth in §1.10(c) of this title (relating to Acceptance or Rejection of Position Letter), failure to state a claim upon which relief can be brought, as set forth in §1.7(c) of this title (relating to Content of Statement of Grounds; Preliminary Conference), or for want of prosecution.

§1.29. Motion for Rehearing.

(a) A motion for rehearing may be filed with the comptroller by any party [with the assigned administrative law judge] no later than 20 days after the date notification of the comptroller's decision is provided to the parties. The motion must state each specific ground upon which the party believes the comptroller's decision is erroneous. In addition, a motion for rehearing on a refund claim must state the amount of the refund sought. Any reply to a motion for rehearing must be filed no later than 30 days after the date notification of the decision is provided to the parties. The motion must be acted on no later than 45 days after the date notification of the decision is provided to the parties, or the motion will be overruled by operation of law. These times may be varied as provided by APA [the Administrative Procedure Act, Government Code], §2001.146(e). Pursuant to APA, §2001.142, notification is presumed to occur on the third day after the date of mailing.

(b) If a rehearing is granted, a notice will be issued to the parties setting out all pertinent information.

§1.33. Discovery.

(a) Discovery. The APA [Administrative Procedure Act, Subchapter D] applies to matters of discovery.

(b) Discovery at the agency will be conducted under the same guidelines as set out in SOAH Rule of Procedure, 1 TAC §155.31. Discovery while a hearing is docketed at SOAH will be conducted under SOAH Rule of Procedure, 1 TAC §155.31.

(b) Scope, forms, and limitations of discovery. The scope of discovery is as follows: In general, parties may obtain discovery regarding any nonconfidential matter that is not privileged and is relevant to the subject matter in the pending action. It is not ground for objection that the information sought will be inadmissible at the hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence. Permissible forms of discovery include requests for disclosure; requests for production and inspection of documents and tangible things; interrogatories to a party; requests for admission; and oral or written depositions. Discovery shall be conducted by the parties pursuant to a timetable agreed to by the parties or pursuant to a discovery control plan ordered by the Administrative Law Judge on motion of a party. Unless otherwise ordered, agreed, or otherwise modified by the provisions of this section, discovery shall be conducted within the time limitations set forth for a Level 2 Discovery Control Plan in Texas Rules of Civil Procedures, §190.3. The discovery methods permitted by this section should be limited by the Administrative Law Judge if he or she determines, on motion or on his or her own initiative and on reasonable notice that:]

(1) the discovery sought is unreasonably cumulative or duplicative; or is obtainable from some other source that is more convenient, less burdensome, or less expensive; or]

(2) the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the

amount in controversy; the parties' resources; the importance of the issues at stake in the contested case, and the importance of the proposed discovery in resolving the issues.}]

[(c) Protective orders. Texas Rules of Civil Procedure, §192.6, is incorporated herein for the protection of the party from whom discovery is sought under this section.]

[(d) Written discovery.]

[(1) Responding to written discovery. A party must respond to written discovery in writing within the time provided by order of the Administrative Law Judge or this section. When responding to written discovery a party must make a complete response, based on all information reasonably available to the responding party or its attorney at the time the response is made. The responding party's answers, objections, and other responses must be preceded by the request to which they apply. Every disclosure, discovery request, notice, response, and objection must be signed by an attorney, if the party is represented by an attorney, and must show the attorney's address, telephone number, and fax number, if any; or by the party, if the party is not represented by an attorney, and must show the party's address, telephone number, and fax number, if any. The signature of an attorney or party on a disclosure constitutes a certification that to the best of the signer's knowledge, information, and belief, formed after a reasonable inquiry, the disclosure is complete and correct as of the time it is made. The signature of an attorney or party on a discovery request, notice, response, or objection constitutes a certification that to the best of the signer's knowledge, information, and belief, formed after a reasonable inquiry, the request, notice, response, or objection is consistent with the Texas Rules of Civil Procedure and this discovery section and warranted by existing law or rule or a good faith argument for the extension, modification, or reversal of existing law or rule; has a good faith factual basis; is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation; and is not unreasonable or unduly burdensome or expensive, given the needs of the contested case, the discovery already had in the case, the amount in controversy, and the importance of the issues at stake in the contested case.]

[(2) Objections to written discovery. On or prior to the date on which a response to a request for written discovery is due, a party may serve written objections to a specific request or portions thereof either in the response or in a separate document. A party must state specifically the legal or factual basis for the objection and the extent to which the party is refusing to comply with the request. A party may object to written discovery only if a good faith factual and legal basis for the objection exists at the time the objection is made. Objections served after the date on which the response to a discovery request is due, or that are obscured by numerous unfounded objections are waived unless the administrative law judge excuses the waiver for good cause shown; however, objections by the comptroller to discovery requests requiring the disclosure of confidential information cannot be waived. A party should not object to a request for discovery on the grounds that it calls for a production of material or information that is privileged but should comply with subsection (e) of this section. A party who objects to production of privileged material or information does not waive the privilege but must comply with subsection (e) of this section when the error is pointed out. A party must comply with as much of the request to which the party has made no objection unless it is unreasonable under the circumstances to do so before obtaining a ruling on the objection. If the responding party objects to the requested time or place of production, the responding party must state a reasonable time and place for complying with the request and must comply at that time and place without further request or order. Either party may at any reasonable

time request a hearing on objections or claims of privilege asserted under this section.]

[(e) Asserting a privilege. A party may preserve a privilege from written discovery in accordance with this subparagraph. For purposes of this rule, an assertion that material or information is work product, as that term is defined, protected, and limited in Texas Rules of Civil Procedure, §192.5, is an assertion of privilege.]

[(1) A party who claims that material or information responsive to written discovery is privileged may withhold the privileged material or information from the response. The party must state—in the response (or in an amended or supplemental response) or in a separate document—that:]

[(A) information or material responsive to the request has been withheld,]

[(B) the request to which the information or material relates, and]

[(C) the privilege or privileges asserted.]

[(2) After receiving a response indicating that material or information has been withheld from production, the party seeking discovery may serve a written request that the withholding party identify the information and material withheld. Within 15 days of service of that request, the withholding party must serve a response that:]

[(A) describes the information or materials withheld that, without revealing the privileged information itself or otherwise waiving the privilege, enables other parties to assess the applicability of the privilege, and]

[(B) asserts a specific privilege for each item or group of items withheld.]

[(f) Requests for disclosure. A party may obtain disclosure from another party of the information or material listed herein by serving the other party—at any time after a contested case has been assigned to an assistant general counsel but no later than 90 days before the scheduled date of the oral hearing or the date on which the record of a written submission hearing is scheduled to close—the following request: "Pursuant to §1.33(f) of this title (relating to Discovery); you are requested to disclose, within 30 days of service of this request, the information or material described in that section." A party may request disclosure of any or all of the following:]

[(1) the correct names of the parties to the contested case;]

[(2) the legal theories and, in general, the factual bases of the responding party's claims or defenses (the responding party need not marshal all evidence that may be offered at hearing);]

[(3) the name, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case;]

[(4) for any testifying expert:]

[(A) the expert's name, address, and telephone number;]

[(B) the subject matter on which the expert will testify;]

[(C) the general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to the control of the responding party, documents reflecting such information;]

[(D) if the expert is retained by, employed by, or otherwise subject to the control of the responding party:]

[(i) all documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony; and]

[(ii) the expert's current resume and bibliography;]

[(5) any witness statements described in Texas Rules of Civil Procedure, §192.3(h). The responding party must serve a written response on the requesting party within 30 days after service of the request, except that a response to a request under subsection (f)(4) of this section is governed by Texas Rules of Civil Procedure, §195. Copies of documents and other tangible items ordinarily must be served with the response. But if the responsive documents are voluminous, the response must state a reasonable time and place for the production of the documents. The responding party must produce the documents at the time and place stated, unless otherwise agreed by the parties or ordered by the Administrative Law Judge, and must provide the requesting party a reasonable opportunity to inspect them. No objection or assertion of work product is permitted to a request under subsection (f) of this section. A response to a request under subsection (f)(2) of this section that has been changed by an amended or supplemental response is not admissible and may not be used for impeachment.]

[(g) Discovery regarding testifying expert witnesses. Texas Rules of Civil Procedure, §195 is incorporated herein for discovery regarding testifying expert witnesses.]

[(h) Interrogatories to parties. Any party may serve upon any other party written interrogatories to inquire about any matter within the scope of discovery except matters covered by subsection (g) of this section. An interrogatory may inquire whether a party makes a specific legal or factual contention and may ask the responding party to state the legal theories and to describe in general the factual bases for the party's claims or defenses, but interrogatories may not be used to require the responding party to marshal all of the available proof or the proof the party intends to offer at hearing. Written interrogatories are to be answered by the party served, or, if the party served is a public or private corporation or partnership or association, by an officer or agent who must furnish such information as is available to the party. Interrogatories may be served at any time after a contested case has been assigned to an assistant general counsel. Interrogatories served upon the comptroller may be answered by the comptroller's designee who shall sign and verify the answers as required by subsection (h)(3) of this section.]

[(1) Interrogatories and answers to interrogatories. Service of interrogatories and answers to interrogatories must be made on the authorized representative of a party unless service upon the party is ordered by the administrative law judge.]

[(2) Time to answer. The party upon whom the interrogatories have been served must serve answers on the party submitting the interrogatories within 30 days after the service of the interrogatories, unless the parties agree in writing to a longer or shorter period of time. The administrative law judge, on a showing of good cause, may lengthen or shorten the time for serving answers or objections.]

[(3) Number of interrogatories. The number of questions including subsections in a set of interrogatories must not require more than 25 answers. Interrogatories must be answered separately and fully in writing. A responding party, not an agent or attorney, must sign the answers under oath except that when answers are based on information obtained from other persons, the party may so state, and a party need not sign answers to interrogatories about persons with knowledge of relevant facts, trial witnesses, and legal contentions. Answers to interrogatories must be preceded by the question or interrogatories to which the answer pertains. Copies of the interrogatories, and answers and ob-

jections thereto, must be served on all parties or their representatives. The answers must be signed and verified by the person making them.]

[(i) Subpoenas, depositions, and orders to allow entry. An administrative law judge, acting independently or on motion by any party, may, for good cause:]

[(1) subpoena any person to appear and testify and to produce certain documents or other tangible items at an oral hearing;]

[(2) commission the taking of an oral deposition in the witness' county of residence or county where the witness does business and require production of certain documents or other tangible items at the time of deposition; and]

[(3) order any party to allow entry upon property under the party's control for the purpose of doing any act or making any inspection not protected by privilege and reasonably calculated to lead to the discovery of evidence material to the contested case.]

[(j) Request for admission.]

[(1) At any time after a contested case has been assigned to an assistant general counsel, a party may serve upon any other party a written request for the admission, for purposes of the pending contested case only, of the truth of any matter within the scope of subsection (b) of this section set forth in the request that relates to statements or opinions of fact or the application of law to fact, including the genuineness of any documents described in the request. Copies of the documents shall be served with the request unless they have been or are otherwise furnished or made available for inspection and copying. Whenever a party is represented by an attorney or representative of record, service of a request for admissions shall be made on his attorney or representative. A true copy of any objection to the request together with a copy of the request shall be filed promptly in the administrative law judge clerk's office by the party making the objection. If no objection is filed to a request, the written answer and the request shall be filed with the assigned administrative law judge by the assistant general counsel no later than seven days prior to the date of the oral hearing or by the closing of the record of a written submission hearing.]

[(2) Each matter of which an admission is requested shall be separately set forth. The matter is admitted without necessity of an order of the administrative law judge, unless within 30 days after service of the request, or within such time as the court may allow, or as otherwise agreed by the parties, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or by his attorney or representative. If objection is made, the reason therefor shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons that the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify his answer or deny only a part of the matter of which an admission is requested, he shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made a reasonable inquiry and that the information known or easily obtainable by him is insufficient to enable him to admit or deny. A party who considers that a matter of which an admission is requested presents a genuine issue for the contested case may not, on that ground alone, object to the request; he may deny the matter or set forth reasons why he cannot admit or deny it.]

[(3) Any matter admitted under this subsection is conclusively established as to the party making the admission unless the administrative law judge on motion permits the withdrawal or amendment of the admission. The administrative law judge may permit withdrawal

or amendment of responses and deemed admissions upon a showing of good cause for such withdrawal or amendment if the administrative law judge finds that the parties relying upon the responses and deemed admissions will not be unduly prejudiced; that the withdrawal or amendment is necessary for factual accuracy, and that the presentation of the merits of the contested case will be subserved thereby. Any admission made by a party under this subsection is for the purpose of the pending contested case only and neither constitutes an admission by him for any other purpose nor may be used against him in any other proceeding.]

§1.36. Interested Parties.

Any person who has a direct pecuniary interest in the resolution of a contested case may be admitted as an interested party at the discretion of the agency [upon filing a motion to be admitted, with the administrative law judge and furnishing proof of service to all other parties. The administrative law judge will decide whether or not to admit the movant as an interested party]. If admitted, the interested party's participation will be limited to the extent of the party's interest.

§1.37. Joint Hearings; Severance.

(a) A party may request [file a written motion] to have two or more cases joined for purposes of hearing[; or an assigned administrative law judge, acting independently, may join two or more cases]. Proceedings involving more than one taxpayer may not be joined if any party objects. [A motion for joinder must state the basis for joinder.]

(b) Where two or more cases have been joined for purposes of hearing, a party may request [move] to sever. Severance should be allowed [granted] unless the hearing involves an issue which cannot be fully determined in the absence of one or more of the parties.

§1.39. Dismissal of Case.

If a motion to dismiss is filed by a taxpayer based upon agreement reached among the parties as reflected in the Position Letter [position letter] or any supplement to it, or upon the taxpayer's decision to abandon the case, a decision will be issued which conforms with the Position Letter [position letter] or the agreement reached among the parties. [The assistant general counsel may move to dismiss a case based upon agreement reached among the parties, for want of prosecution, or for failure to state a claim upon which relief can be granted as required by §1.7 of this title (relating to Content of Statement of Grounds; Preliminary Conference) and §1.42 of this title (relating to Definitions). The motion must be served on all parties and their authorized representatives at their last known address. If there is no reply from the taxpayer within 15 days to the assistant general counsel's motion to dismiss, a decision will be issued either dismissing the case and fixing the deficiency as the amount determined by the Administrative Hearings Section or otherwise disposing of the case according to the position last taken by the Administrative Hearings Section.] All agreements [motions to dismiss that are based upon a representation that both parties have agreed] to dismiss a contested case, on the basis that all issues have been settled, shall be in writing and signed by both parties or their authorized representatives.

§1.41. Ex Parte Communications.

There may be no direct or indirect [verbal] communications by any party with the comptroller or the final decision maker [administrative law judge] regarding any issue of fact or law in a case without notice and opportunity for all parties to participate, and there may be no written communications that are not transmitted at the same time to all parties, except that an individual assigned to render [involved in rendering] the decision or to make findings of fact and conclusions of law in a case may communicate ex parte with employees of the agency who did not participate in the hearing in the case for the purpose of utilizing their special skills or knowledge in evaluating the evidence.

§1.42. Definitions.

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

(1) Administrative law judge--An individual appointed [by the comptroller] to conduct hearings, as defined by SOAH, Rules of Procedure, 1 TAC §155.5(1) [on matters within the comptroller's jurisdiction and to prepare proposed decisions to properly resolve such matters].

(2) Agency--The Office of the Comptroller of Public Accounts.

(3) APA--The Administrative Procedure Act (Government Code, Title 10, Chapter 2001).

(4) [(3)] Applicant--A party seeking a license or permit from the agency, or seeking an exemption.

(5) [(4)] Authorized representative--An individual who represents a party in a contested case and may be any individual other than the party.

(6) [(5)] Contested case or case--A proceeding in which the legal rights, duties, or privileges of a party are to be determined by the agency after an opportunity for adjudicative hearing. It includes a request for redetermination or refund, as well as actions initiated by the agency to revoke or suspend permits or licenses administered by the agency on grounds other than failure to pay a final tax deficiency or failure to file a tax security. Contested cases are within the jurisdiction of the comptroller or the final decision maker by law or delegation [administrative law judges]. Forfeitures of rights to do business, of certificates of authority, of articles of incorporation, penalties imposed under [the] Tax Code, §151.7031, the refusal or failure to settle under Tax Code, §111.101 or requests for or revocation of exemptions from taxation are not contested cases [and are not within the jurisdiction of the administrative law judges].

(7) [(6)] Determination--A written notice from the agency that a person is required to pay to the State of Texas a tax, fee, penalty, or interest.

(8) [(7)] Assistant General Counsel--An attorney from the Administrative Hearings Section who is assigned to present the agency's position in a contested case.

(9) [(8)] Licensing--The agency process respecting the granting, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a permit.

(10) [(9)] Party--Any person filing a petition or claim with the agency or asked by the agency to respond; the agency, acting through its Administrative Hearings Section; and any other person admitted as a party under §1.36 of this title (relating to Interested Parties).

(11) [(10)] Permit--The whole or any part of a license, certificate, approval, registration, or similar form of permission, the issuance, renewal, amendment, suspension or revocation of which is within the jurisdiction of the agency.

(12) [(11)] Permit holder--Includes a bonded agent, distributor, wholesaler, or retailer required to obtain a permit under [the] Tax Code, Chapters 154 or 155.

(13) [(12)] Person--Any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character. It may also include an estate, trust, receiver, assignee for benefit of creditors, trustee, trustee in bankruptcy, assignee, or any other group or combination acting as a unit.

(14) [(13)] Petition--A request for official action by the agency regarding the rights, duties or privileges accorded to the person making the request under a statute administered or enforced by the agency. If the request is made orally, it must subsequently be reduced to writing.

(15) [(14)] Petitioner, claimant, or taxpayer--Any person who files a petition seeking redetermination of a liability, a refund of monies paid, or determination of rights under any license or permit granted by the agency.

(16) [(15)] Pleading--Any document filed by a party concerning the position or assertions in a contested case.

(17) [(16)] Respondent or taxpayer--Any person to whom a notice of a show cause hearing for the suspension or revocation of a license has been issued.

(18) Rules--The Texas Comptroller of Public Accounts Practice and Procedure Rules set forth in 34 TAC Chapter 1.

(19) SOAH--The State Office of Administrative Hearings.

(20) SOAH Rules of Procedure--The State Office of Administrative Hearings Rules set forth in 1 TAC Chapter 155.

(21) [(17)] Tax Division--The divisions within the agency responsible for the particular action or actions that are the subject of the contested case.

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 22, 2007.

TRD-200700148

Martin Cherry

General Counsel

Comptroller of Public Accounts

Earliest possible date of adoption: March 4, 2007

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



34 TAC §1.8, §1.22

The Comptroller proposes new §1.8, concerning resolution prior to the issuance of a position letter and new §1.22, concerning oral and written submission hearings. The new rules are being proposed in order to update and formalize procedures for the resolution of cases prior to the issuance of a Position Letter and to facilitate the transfer of cases to the State Office of Administrative Hearings ("SOAH") for oral and written submission hearings.

John Heleman, Chief Revenue Estimator, has determined that for the first five-year period the rule will be in effect, there will be no significant revenue impact on the state or units of local government.

Mr. Heleman also has determined that for each year of the first five years the rule is in effect, it would benefit the public by clarifying to taxpayers the comptroller's office practices and procedures subsequent to the transfer of hearings to SOAH. This rule is adopted under Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to individuals who are required to comply with the proposed rule.

Comments on the proposals may be submitted to Rick Budd, Deputy General Counsel, General Counsel Division, Administrative Hearings Section, P.O. Box 13528, Austin, Texas 78711.

The new sections are proposed under Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of Tax Code, Title 2.

The new sections implement Tax Code §§111.001, 111.009, and 111.105, which provide for the collection of taxes, redetermination and refund hearings.

§1.8. Resolution Prior to Issuance of a Position Letter.

(a) If the taxpayer's contentions are fully accepted or if the parties agree on a resolution of all contentions, the agency may elect to amend the determination, to issue an amended billing, or agree to a refund or credit request rather than issue a Position Letter.

(b) If the determination or billing is amended, or a refund or credit is issued, the action will become final 20 days after notification. An amended billing or determination is payable 20 days after it becomes final unless otherwise specified. Pursuant to APA, Government Code, §2001.142, notification is presumed to occur on the third day after the date of mailing.

§1.22. Oral and Written Submission Hearings.

(a) It is the agency's policy to encourage resolution and early settlement of all contested matters.

(b) If, after reviewing a taxpayer's Reply to the Tax Division's Position Letter, as well as all other available evidence, the parties are unable to resolve or settle all contested matters, the Tax Division will file a Request to Docket Case form with SOAH.

(c) At the time the Request to Docket Case form is filed with SOAH, the agency shall file with SOAH a copy of all pleadings served on the agency by the taxpayer and on the taxpayer by the agency, including but not limited to the Statement of Grounds, Position Letter, Reply and Response along with any exhibits or attachments thereto in accordance with the provisions of SOAH Rules of Procedure, §155.9.

(d) If the parties are unable to resolve or settle all contested matters, and resolution requires a hearing, then, except as otherwise noted or required, the taxpayer will be given the option of selecting:

(1) A written submission hearing before a SOAH administrative law judge, or

(2) An oral hearing before a SOAH administrative law judge.

(e) If the taxpayer fails to make a selection, the case will be docketed as a written submission hearing, subject to subsection (f) of this section.

(f) A taxpayer may change the selection of oral or written submission hearing made in subsection (d) of this section, by filing a motion with SOAH. Such a motion would be filed according to SOAH Rules of Procedure.

(g) The Tax Division has the option of requesting an oral hearing in any case in which it has the burden of proof.

(h) All hearings held pursuant to Tax Code, §154.1142 or §155.0592, will be oral hearings.

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 22, 2007.

TRD-200700145

Martin Cherry

General Counsel

Comptroller of Public Accounts

Earliest possible date of adoption: March 4, 2007

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



34 TAC §§1.13, 1.21, 1.34

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

The Comptroller of Public Accounts proposes the repeals of §1.13, concerning initiation of expedited hearings, §1.21, concerning oral hearings, and §1.34, concerning witness fees. The repeals are necessary because of the partial transfer of hearings responsibilities to the State Office of Administrative Hearings ("SOAH"). Repeal of these rules will prevent conflict and duplication with the SOAH Rules of Procedures.

John Heleman, Chief Revenue Estimator, has determined that repeal of the rules will not result in any fiscal implications to the state or to units of local government.

Mr. Heleman also has determined the repeal would benefit the public by clarifying for the taxpayers the comptroller's office practice and procedures subsequent to the transfer of hearings to SOAH. There would be no anticipated significant economic cost to the public. This repeal is adopted under Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There are no additional costs to persons who are required to comply with the repeal.

Comments on the repeals may be submitted to Rick Budd, Deputy General Counsel, General Counsel Division, Administrative Hearings Section, P.O. Box 13528, Austin, Texas 78711.

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

The repeals implement Tax Code §§111.001, 111.009, and 111.105, which provide for the collection of taxes, redetermination and refund hearings.

§1.13. *Initiation of an Expedited Hearing.*

§1.21. *Oral Hearings.*

§1.34. *Witness Fees.*

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 22, 2007.

TRD-200700144

Martin Cherry

General Counsel

Comptroller of Public Accounts

Earliest possible date of adoption: March 4, 2007

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



34 TAC §1.31, §1.32

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

The Comptroller of Public Accounts proposes the repeals of §1.31, concerning computation of time and §1.32, concerning service. Existing §1.31 and §1.32 are being repealed because of the partial transfer of hearings responsibilities to the State Office of Administrative Hearings ("SOAH"). New rules concerning computation of time and service are being proposed to more closely reflect SOAH Rules of Procedure.

John Heleman, Chief Revenue Estimator, has determined that repeal of the rules will not result in any fiscal implications to the state or to units of local government.

Mr. Heleman also has determined the repeal would benefit the public by clarifying for the taxpayers the comptroller's office practice and procedures subsequent to the transfer of hearings to SOAH. There would be no anticipated significant economic cost to the public. This repeal is adopted under Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There are no additional costs to persons who are required to comply with the repeal.

Comments on the repeals may be submitted to Rick Budd, Deputy General Counsel, General Counsel Division, Administrative Hearings Section, P.O. Box 13528, Austin, Texas 78711.

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

The repeals implement Tax Code §§111.001, 111.009, and 111.105, which provide for the collection of taxes, redetermination and refund hearings.

§1.31. *Computation of Time.*

§1.32. *Service.*

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 22, 2007.

TRD-200700146

Martin Cherry

General Counsel

Comptroller of Public Accounts

Earliest possible date of adoption: March 4, 2007

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



34 TAC §1.31, §1.32

The Comptroller of Public Accounts proposes new §1.31, concerning computation of time and §1.32, concerning service. The newly proposed rules will make the computation of time and service provisions consistent with SOAH rules regarding computation of time and service as well as to provide explicit guidelines for service regarding new technologies such as electronic mail.

John Heleman, Chief Revenue Estimator, has determined that for the first five-year period the rule will be in effect, there will be no significant revenue impact on the state or units of local government.

Mr. Heleman also has determined that for each year of the first five years the rule is in effect, it would benefit the public by clarifying to taxpayers the comptroller's office practices and procedures subsequent to the transfer of hearings to SOAH. This rule is adopted under Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to individuals who are required to comply with the proposed rule.

Comments on the proposals may be submitted to Rick Budd, Deputy General Counsel, General Counsel Division, Administrative Hearings Section, P.O. Box 13528, Austin, Texas 78711.

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

The new rules implement Tax Code §§111.001, 111.009, and 111.105, which provide for the collection of taxes, redetermination and refund hearings.

§1.31. Computation of Time.

(a) Unless otherwise required by statute, in computing time periods prescribed by applicable statute or these rules, the day of the act, event, or default on which the designated period of time begins to run is not included. The last day of the period is included, unless it is a Saturday, Sunday, an official state holiday, or another day on which the agency is closed, in which case the time period will be deemed to end on the next day that the agency is open. When these rules specify a deadline or set a number of days for filing documents or taking other actions, the computation of time shall be by calendar days rather than business days, unless otherwise provided by applicable law or these rules. However, if the period specified is five days or less, the intervening Saturdays, Sundays, and legal holidays are not counted, except for purposes of §1.32 of this title (related to Service).

(b) Disputes regarding computation of time for periods not specified in these rules will be resolved by reference to applicable law and upon consideration of agency policy.

(c) When by these rules an act is required or allowed to be done at or within a specified time, the agency may for cause shown, if allowed by applicable statute, order the period enlarged if application therefore is made before the expiration of the specified period. In addition, where good cause is shown for the failure to act within the specified period, the agency may permit the act to be done after the expiration of the specified period, if allowed by applicable statute.

§1.32. Service.

(a) Service may be made by hand-delivery; by regular (United States Postal Service or private mail service), certified or registered mail; by electronic mail, upon agreement of the parties; or by facsimile transmission.

(b) Service on parties. Any person filing any document required to be served on other parties in a case shall, on the same date as

the document is filed, provide a copy to each party or the party's authorized representative by hand-delivery; by regular, certified or registered mail; by electronic mail, upon agreement of the parties; or by facsimile transmission; provided however, when a party files a business record affidavit, pursuant to Supreme Court of Texas, Texas Rules of Evidence, Article IV, §902(10), or a transcript, the party may give notice of the filing without the necessity of providing a copy to each party.

(c) In the event that, pursuant to §1.36 of this title (relating to Interested Parties), a third party has been admitted as a party to the contested case, that interested party must also be served.

(d) The file stamp affixed by the agency will be the date of service for hand-delivered documents. The postmark, shipping, or transmission date indicated on other documents is presumed to be the date of service, but this is a rebuttable presumption. However, if a document was served by facsimile transmission or by electronic mail before 5:00 p.m. on a business day, it is presumed that the document was received on that day; otherwise, it is presumed that the document was received on the next business day.

(e) Certificate of service. The person filing or serving the document shall include a certificate of service that certifies compliance with this section.

(f) Service of notice of hearing. Unless otherwise required by law, service of notice of hearing shall be made by the agency in the manner required by the APA.

(g) Presumed time of receipt of served documents. The following rebuttable presumptions shall apply regarding a party's receipt of documents served by another party:

(1) If a document was hand-delivered to a party in person or by agent, it is presumed that the document was received on the date of filing at the agency.

(2) If a document was served by courier-receipted delivery, it is presumed that the document was received no later than the day after filing at the agency.

(3) If a document was sent by regular mail, certified mail, or registered mail, it is presumed that it was received no later than three days after mailing.

(4) If a document was served by facsimile transmission or by electronic mail before 5:00 p.m. on a business day, it is presumed that the document was received on that day; otherwise, it is presumed that the document was received on the next business day.

(h) Electronically transmitted documents. Documents may be served on parties by electronic mail according to the following requirements.

(1) With the exception of documents produced pursuant to a discovery request, the sender shall also file the original of the document with the agency.

(2) The sender has the burden of proving date and time of receipt of the document.

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 22, 2007.

TRD-200700147

Martin Cherry
General Counsel
Comptroller of Public Accounts
Earliest possible date of adoption: March 4, 2007
For further information, please call: (512) 475-0387



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 22. EXAMINING BOARDS

PART 31. TEXAS STATE BOARD OF EXAMINERS OF DIETITIANS

CHAPTER 711. DIETITIANS

22 TAC §711.17

The Texas State Board of Examiners of Dietitians (board) adopts an amendment to §711.17, concerning the licensure and regulation of dietitians, without changes to the proposed text as published in the August 11, 2006, issue of the *Texas Register* (31 TexReg 6305), and therefore, the section will not be republished.

The amendment is adopted to ensure that the rule is updated to reflect current legal, policy, and operational considerations; to improve draftsmanship, to clarify the requirement that license holders must complete the Texas Jurisprudence Examination; and to make the rule more accessible, understandable, and usable.

SECTION-BY-SECTION SUMMARY

An amendment to §711.17 is adopted to clarify that completion of continuing education is required during each two-year renewal period and that proof of completion must be submitted only if a license holder is selected for audit; to delete references to the continuing education report form, which is now obsolete; to correct a typographical error; and to clarify that license holders must complete the Texas Jurisprudence Examination upon renewing licenses that expire in calendar years 2007 and 2008.

This amendment replaces the current requirement that license holders must complete the Texas Jurisprudence Examination every four years.

PUBLIC COMMENT

There were no comments received regarding the proposal during the public comment period.

STATUTORY AUTHORITY

The adopted amendment is authorized by Occupations Code, §701.152, which authorizes the board to adopt rules necessary for the performance of the board's duties.

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 22, 2007.

TRD-200700142

Janet Hall

Acting Chair

Texas State Board of Examiners of Dietitians

Effective date: February 11, 2007

Proposal publication date: August 11, 2006

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



REVIEW OF AGENCY RULES

This section contains notices of state agency rules review as directed by the Texas Government Code, §2001.039. Included here are (1) notices of *plan to review*; (2) notices of *intention to review*, which invite public comment to specified rules; and (3) notices of *readoption*, which summarize public comment to specified rules. The complete text of an agency's *plan to review* is available after it is filed with the Secretary of State on the Secretary of State's web site (<http://www.sos.state.tx.us/texreg>). The complete text of an agency's rule being reviewed and considered for *readoption* is available in the *Texas Administrative Code* on the web site (<http://www.sos.state.tx.us/tac>).

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

Proposed Rule Review

State Board for Educator Certification

Title 19, Part 7

The State Board for Educator Certification (SBEC) proposes the review of 19 TAC Chapter 249, Disciplinary Proceedings, Sanctions, and Contested Cases Including Enforcement of the Educator's Code of Ethics, pursuant to the Texas Government Code, §2001.039. The rules being reviewed by the SBEC in 19 TAC Chapter 249 are organized under the following subchapters: Subchapter A, General Provisions; Subchapter B, Enforcement Actions and Guidelines; Subchapter C, Prehearing Matters; Subchapter D, Hearing Procedures; Subchapter E, Posthearing Matters; and Subchapter F, Enforcement of the Educator's Code of Ethics.

As required by the Texas Government Code, §2001.039, the SBEC will accept comments as to whether the reasons for adopting 19 TAC Chapter 249 continue to exist.

Comments or questions regarding this rule review may be submitted to Cristina De La Fuente-Valadez, Policy Coordination Division, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701-1494, (512) 475-1497. Comments may also be submitted electronically to sbecrules@tea.state.tx.us or faxed to (512) 463-0028.

The SBEC is also proposing amendments to 19 TAC Chapter 249, Subchapter B, §249.14, and Subchapter F, §§249.48 - 249.51, which may be found in the Proposed Rules section of this issue.

TRD-200700152

Cristina De La Fuente-Valadez

Director, Policy Coordination

State Board for Educator Certification

Filed: January 22, 2007



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

Notice of Award of a Major Consulting Contract

The Office of the Attorney General of Texas (OAG) announces the award of contract #302-7-1562 to Deloitte Consulting, LLP, an entity with a principal place of business at 400 West 15th Street, Suite 1700, Austin, Texas 78701. The contractor will provide consulting services related to:

- Assessing Child Support Division (CSD) business processes
- Recommending how CSD processes should change to meet the vision for the future of child support
- Recommending technologies and/or services that could best support future business processes
- Recommending a new organization required to support future business processes
- Reviewing the existing business strategy and review and identify metrics to support that strategy
- Recommending a plan or roadmap to implement new processes, technologies and services
- Planning and possibly overseeing the implementation of the new processes, services, and supporting technology

The total value of the contract will not exceed \$2,000,000.00. The contract was executed on January 22, 2007, and will expire on August 31, 2007, unless extended or terminated sooner by the OAG. The contractor must complete and submit all reports under the contract to the OAG by August 31, 2007.

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

TRD-200700190

Stacey Napier

Deputy Attorney General

Office of the Attorney General

Filed: January 24, 2007



Texas Water Code Enforcement Settlement Notice

The State of Texas hereby gives notice of the proposed resolution of a suit for enforcement of two orders of the Texas Natural Resource Conservation Commission, now known as the Texas Commission on Environmental Quality. The claims were brought pursuant to the Texas Water Code. Before the State may settle a judicial enforcement action, pursuant to §7.110 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 agreement if the comments disclose facts or considerations that indicate that the consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Law.

Case Title and Court: *State of Texas v. Heartland Rig International, L.L.C.*, No. GV-500281, 98th District Court, Travis County, Texas, to

be settled in *In Re: HRI-Oilfield, L.P., et al.*, Case No. 04-39367-11, United States Bankruptcy Court for the Northern District of Texas, Fort Worth Division.

Nature of Suit: This is a suit for enforcement of two administrative orders against Heartland Rig International concerning the management of hazardous wastes at a tractor trailer chassis and oil field drilling rig facility at U.S. Highway 377 N, Curtis Field, Brady, McCulloch County, Texas (the Main Facility). The suit also concerns the management of wastes, air emissions, and storm water at the Main Facility and two other locations formerly operated by Heartland Rig International. The additional locations were sandblasting and waste storage operations located 1.2 miles south of the Main Facility on the west side of U.S. Highway 377 and 3.0 miles north of the Main Facility on the east side of U.S. Highway 377.

Proposed Settlement: The proposed settlement liquidates the State's enforcement suit claims for civil penalties and attorney's fees in the bankruptcy court to an administrative claim in the amount of \$25,000.00 and an unsecured claim in the amount of \$555,540.00.

The Office of the Attorney General will accept written comments relating to this proposed judgment for thirty (30) days from the date of the publication of this notice. Copies of the proposed judgment may be examined at the Office of the Attorney General, 300 W. 15th Street, 8th Floor, Austin, Texas. A copy of the proposed judgment may also be obtained in person or by mail at the above address for the cost of copying. Requests for copies of the settlement and written comments on the proposed judgment should be directed to Edith Stuart Phillips, Assistant Attorney General, Office of the Texas Attorney General, P. O. Box 12548, Austin, Texas 78711-2548, (512) 463-2173, facsimile (512) 482-8341.

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

TRD-200700143

Stacey Napier

Deputy Attorney General

Office of the Attorney General

Filed: January 22, 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 January 12, 2007, through January 18, 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 24, 2007. The public comment period for these projects will close at 5:00 p.m. on February 23, 2007.

FEDERAL AGENCY ACTIONS:

Applicant: Hall-Houston Exploration, LP; Location: The project is located approximately 4 miles off of Brazoria County in Texas State Waters of State Tract (ST) 278L. The project can be located on the U.S.G.S. quadrangle map entitled: Christmas Point OE S, Texas. Approximate UTM Coordinates in NAD 27 (meters): Zone 15; Easting: 284701.28; Northing: 3199086.84. Project Description: The applicant proposes to install, operate and maintain a 7,384.66-foot-long, 4.5-inch-diameter gas and condensate pipeline. The proposed pipeline would run from Galveston ST 278L, Well No. 1 (Lease No. MF102890), authorized under Permit 24166, to Well No. 1 (Lease No. MF106411) authorized under General Permit 16637(05)/GLO-131 and located outside of the anchorage area in Galveston ST 278L. The pipeline would be buried to a depth of 16.5 feet where it is contained within the Freeport Anchorage Area. CCC Project No.: 07-0092-F1; Type of Application: U.S.A.C.E. permit application #24414 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). Note: The consistency review for this project may be conducted by the Railroad Commission of Texas under §401 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 Ms. 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-200700159

Larry L. Laine

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

Filed: January 23, 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, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 01/29/07 - 02/04/07 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 01/29/07 - 02/04/07 is 18% for Commercial over \$250,000.

¹ Credit for personal, family or household use.

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

TRD-200700158

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: January 23, 2007

Credit Union Department

Applications to Expand Field of Membership

Notice is given that the following applications have been filed with the Credit Union Department and are under consideration:

An application was received from Matagorda County Teachers Credit Union, Bay City, Texas to expand its field of membership. The proposal would permit persons who live, work, or worship Matagorda County, Texas, to be eligible for membership in the credit union.

An application was received from Edinburg Teachers Credit Union, Edinburg, Texas to expand its field of membership. The proposal would permit employees of Lasara Independent School District, Lasara, Texas 78561, to be eligible for membership in the credit union.

An application was received from TEC/TWC Credit Union, San Antonio, Texas to expand its field of membership. The proposal would permit persons who live, work or go to school within a 10-mile radius of the main office of TEC/TWC Credit Union located at 4801 NW Loop 410, San Antonio, Texas 78229, to be eligible for membership in the credit union.

Comments or a request for a meeting by any interested party relating to an application must be submitted in writing within 30 days from the date of this publication. Credit unions that wish to comment on any application must also complete a Notice of Protest form. The form may be obtained by contacting the Department at (512) 837-9236 or downloading the form at <http://www.t cud.state.tx.us/applications.html>. Any written comments must provide all information that the interested party wishes the Department to consider in evaluating the application. All information received will be weighed during consideration of the merits of an application. Comments or a request for a meeting should be addressed to the Texas Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

TRD-200700188

Harold E. Feeney

Commissioner

Credit Union Department

Filed: January 24, 2007

Notice of Final Action Taken

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

Application(s) to Expand Field of Membership--Approved

MemberSource Credit Union, Houston, Texas--See *Texas Register* issue, dated September 29, 2006.

BNSF Credit Union, Amarillo, Texas--See *Texas Register* issue, dated November 24, 2006.

TRD-200700189

Harold E. Feeney

Commissioner

Credit Union Department

Filed: January 24, 2007

◆ ◆ ◆

East Texas Council of Governments

Public Notice for Social Services Block Grant for Emergency Disaster Relief

The Texas Health and Human Services Commission (HHSC) awarded the East Texas Council of Governments (ETCOG) a Social Services Block Grant (SSBG) for Emergency Disaster Relief. These funds may be used to reimburse local organizations in providing allowable health and human services to individuals affected by Hurricane Rita.

Proposed services must be provided to evacuees located in one of the following 14 counties: Gregg, Harrison, Panola, Marion, Cherokee, Rusk, Smith, Van Zandt, Anderson, Camp, Wood, Rains, Upshur, and Henderson. To apply for funding, a local organization must submit an Application for Funding.

The Request for Application is being released to **provide future services** to:

- (a) promote self-sufficiency and job placement for Rita evacuees; and/or
- (b) provide social services/health services/maintenance for Rita evacuees who cannot live independently.

In releasing this Request for Applications (RFA), ETCOG is not making a commitment to reimburse an organization based solely on the submittal of the organization's identified plan for expenditures. Local organizations submitting Applications must establish the amount of projected funds to be expended on Hurricane Rita evacuees. Several of the SSBG eligible services may include, but are not limited to: congregate meals, home-based services, housing services, health related and home health services, legal services, transportation, special services for at risk youth or persons with developmental or physical disabilities, after-school programs and/or tutorials for children of Rita evacuees, training, counseling, etc.

The contract period for the use of the grant funds is from March 1, 2007 to August 31, 2007. The total amount of grant funds available for Hurricane Rita expenditures is \$547,952.00. The grant funds are financed utilizing 100% federal funds.

Applications will be evaluated by a RFA Review Team, and organizations that best meet the criteria of the RFA will be awarded contracts. After applications have been approved and funding amounts determined, ETCOG will execute a financial contract with each local organization. As services are provided, organizations must submit valid documentation/written verification (i.e. receipts, invoices, spreadsheets, etc.) substantiating expenditures per evacuee with individual FEMA Numbers, in order to be reimbursed. Expenses paid from the receipt of cash donations, or reimbursement for donated goods and/or services are not allowable.

East Texas organizations interested in receiving an Application package(s) should send a request by letter, e-mail or fax. to: Peggy M. Collier, Program Coordinator, East Texas Council of Governments, 3800 Stone Road, Kilgore, Texas 75662, or peggy.collier@twc.state.tx.us, or fax to (903) 983-1440, Attention: Peggy M. Collier.

Applications must be submitted to ETCOG by **5:00 PM on Monday, February 12, 2007** by hand delivery or mailed to the following address:

East Texas Council of Governments
Attention: Peggy M. Collier
3800 Stone Road

Kilgore, Texas 75662

An Informational Conference regarding the RFA will be conducted at 1:30 PM Thursday, February 1, 2007, at the East Texas Council of Governments--Large Conference Room, 3800 Stone Road, Kilgore, Texas. Questions concerning the RFA process will be addressed at the conference, or may be sent by fax to Peggy M. Collier, Program Coordinator, at (903) 983-1440, Attention: Peggy M. Collier; or to peggy.collier@twc.state.tx.us by February 2, 2006.

Historically Underutilized Businesses (HUB) as well as local organizations, i.e. non-profit organizations, faith-based organizations, community-based organizations, educational organizations, and city and county governments are encouraged to submit applications. All programs of ETCOG are equal opportunity entities. Auxiliary aids and services are available, upon request, to those with disabilities. 1-800-735-2988 VOICE, 1-800-735-2989 TDD.

TRD-200700140

Glynn Knight

Executive Director

East Texas Council of Governments

Filed: January 19, 2007

◆ ◆ ◆

Texas Commission on Environmental Quality

Enforcement Orders

An agreed order was entered regarding Western Waste of Texas, L.L.C. dba New Boston Landfill, Docket No. 2002-0075-MSW-E on January 11, 2007 assessing \$81,625 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Robert Mosley, Staff Attorney at (512) 239-0627, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Agrifos Fertilizer Inc., formerly, Agrifos Fertilizer L.P., Docket No. 2002-0742-IWD-E on January 11, 2007 assessing \$67,362 in administrative penalties with \$13,472 deferred.

Information concerning any aspect of this order may be obtained by contacting Rebecca Johnson, Enforcement Coordinator at (713) 422-8931, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding F.K.R. Enterprises, Inc. dba Yellow Jacket Grocery Docket No. 2004-0255-PST-E on January 11, 2007 assessing \$7,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Deanna Sigman, Staff Attorney at (512) 239-0619, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding D & M Excavating, Inc., Docket No. 2004-1111-WQ-E on January 11, 2007 assessing \$6,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting James Sallans, Staff Attorney at (512) 239-2053, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CIC Construction, Inc. dba CIC Construction, Docket No. 2004-2049-PST-E on January 11, 2007 assessing \$2,100 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Daniel Siringi, Enforcement Coordinator at (409) 899-8799, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Mastercraft Industries Company, L.P., Docket No. 2005-0539-AIR-E on January 11, 2007 assessing \$11,250 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Laurencia Fasoyiro, Staff Attorney at (713) 422-9286, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Ricky Jon Penick, Docket No. 2005-0929-LII-E on January 11, 2007 assessing \$10,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Lena Roberts, Staff Attorney at (512) 239-0019, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Windwood Water System, Inc., Docket No. 2005-1069-PWS-E on January 11, 2007 assessing \$508 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Shawn Slack, Staff Attorney at (512) 239-0063, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Tommy Joe Thomas dba Deer Trail Mobile Home Park, Docket No. 2005-1534-MWD-E on January 11, 2007 assessing \$6,400 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Catherine Albrecht, Enforcement Coordinator at (713) 767-3672, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Pierce Larned, Docket No. 2005-1793-AIR-E on January 11, 2007 assessing \$450 in administrative penalties with \$90 deferred.

Information concerning any aspect of this order may be obtained by contacting Trina Grieco, Enforcement Coordinator at (210) 403-4006, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Texas Business Networks Inc. dba Country Store II, Docket No. 2005-2044-PST-E on January 11, 2007 assessing \$4,500 in administrative penalties with \$900 deferred.

Information concerning any aspect of this order may be obtained by contacting Shontay Wilcher, Enforcement Coordinator at (512) 239-2136, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Rogelio De La Paz dba De La Paz Trucking, Docket No. 2006-0083-MSW-E on January 11, 2007 assessing \$1,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Deanna Sigman, Staff Attorney at (512) 239-0619, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Edward Leiber and Janet Leiber dba Shady Oaks Mobile Home Park, Docket No. 2006-0118-PWS-E on January 11, 2007 assessing \$578 in administrative penalties with \$116 deferred.

Information concerning any aspect of this order may be obtained by contacting Sandy VanCleave, Enforcement Coordinator at (512) 239-2670, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Safeway Inc. dba Randalls Store, Docket No. 2006-0171-PST-E on January 11, 2007 assessing \$2,500 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Deanna Sigman, Staff Attorney at (512) 239-0619, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Shanil-Tex, Inc. dba Alex's Mobil, Docket No. 2006-0370-PST-E on January 11, 2007 assessing \$5,360 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Deanna Sigman, Staff Attorney at (512) 239-0619, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Textech Environmental, Inc. and Ronnie Bowyer, Docket No. 2006-0503-MWD-E on January 11, 2007 assessing \$10,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Brent Hurta, Enforcement Coordinator at (512) 239-6589, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Alford Barron, Jr. dba Red Barron Sand & Gravel, Docket No. 2006-0559-MSW-E on January 11, 2007 assessing \$7,500 in administrative penalties with \$1,500 deferred.

Information concerning any aspect of this order may be obtained by contacting Dana Shuler, Enforcement Coordinator at (512) 239-2505, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Richard Davis dba Sundance Enterprises, Docket No. 2006-0635-MLM-E on January 11, 2007 assessing \$3,675 in administrative penalties with \$735 deferred.

Information concerning any aspect of this order may be obtained by contacting Marlin Bullard, Enforcement Coordinator at (254) 751-0335, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Lawrence Kindel, Docket No. 2006-0643-WOC-E on January 11, 2007 assessing \$210 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting David Van Soest, Enforcement Coordinator at (512) 239-0468, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding ExxonMobil Oil Corporation, Docket No. 2006-0737-AIR-E on January 11, 2007 assessing \$20,724 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting John Muennink, Enforcement Coordinator at (361) 825-3423, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Benton City Water Supply Corporation, Docket No. 2006-0746-MWD-E on January 11, 2007 assessing \$6,325 in administrative penalties with \$1,265 deferred.

Information concerning any aspect of this order may be obtained by contacting Catherine Albrecht, Enforcement Coordinator at (713) 767-3672, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Harris County Municipal Utility District No. 221, Docket No. 2006-0747-MWD-E on January 11, 2007 assessing \$7,752 in administrative penalties with \$1,550 deferred.

Information concerning any aspect of this order may be obtained by contacting Melissa Keller, SEP Coordinator at (512) 239-1768, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding KNRK, Inc. dba RK Cleaners, Docket No. 2006-0765-DCL-E on January 11, 2007 assessing \$1,185 in administrative penalties with \$237 deferred.

Information concerning any aspect of this order may be obtained by contacting Cari-Michel La Caille, Enforcement Coordinator at (512) 239-1387, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Mohan & Mohan Enterprises Inc. dba Fossil Creek Cleaners and Vogue Cleaners, Docket No. 2006-0767-DCL-E on January 11, 2007 assessing \$1,778 in administrative penalties with \$356 deferred.

Information concerning any aspect of this order may be obtained by contacting Suzanne Walrath, Enforcement Coordinator at (512) 239-2134, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Chy Lee, Corporation dba Jiffy Cleaners 1, Jiffy Cleaners 2 and Comet Cleaners, Docket No. 2006-0817-DCL-E on January 11, 2007 assessing \$2,667 in administrative penalties with \$534 deferred.

Information concerning any aspect of this order may be obtained by contacting Thomas Greimel, Enforcement Coordinator at (512) 239-5690, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Musheer Qureshi dba Esteem Cleaners, Docket No. 2006-0825-DCL-E on January 11, 2007 assessing \$1,185 in administrative penalties with \$237 deferred.

Information concerning any aspect of this order may be obtained by contacting Deana Holland, Enforcement Coordinator at (512) 239-2504, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Chevron U.S.A. Inc., Docket No. 2006-0835-AIR-E on January 11, 2007 assessing \$2,925 in administrative penalties with \$585 deferred.

Information concerning any aspect of this order may be obtained by contacting Jessica Rhodes, Enforcement Coordinator at (512) 239-2879, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Chriserin, Inc. dba Mclendon Cleaners 3, Docket No. 2006-0844-DCL-E on January 11, 2007 assessing \$889 in administrative penalties with \$178 deferred.

Information concerning any aspect of this order may be obtained by contacting Deana Holland, Enforcement Coordinator at (512) 239-2504, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Jims Inc. dba Snow White Cleaners, Docket No. 2006-0862-DCL-E on January 11, 2007 assessing \$1,066 in administrative penalties with \$213 deferred.

Information concerning any aspect of this order may be obtained by contacting Cheryl Thompson, Enforcement Coordinator at (817) 588-5886, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Patiala Petroleum, LLC dba Cherry Lane Food Stop, Docket No. 2006-0865-PST-E on January 11, 2007 assessing \$3,080 in administrative penalties with \$616 deferred.

Information concerning any aspect of this order may be obtained by contacting Cari-Michel La Caille, Enforcement Coordinator at (512) 239-1387, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Breenz Enterprises, Inc. dba Wichita Fuel City, Docket No. 2006-0878-PST-E on January 11, 2007 assessing \$2,125 in administrative penalties with \$425 deferred.

Information concerning any aspect of this order may be obtained by contacting Libby Hogue, Enforcement Coordinator at (512) 239-1165, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Air Products, L.P., Docket No. 2006-0903-AIR-E on January 11, 2007 assessing \$5,200 in administrative penalties with \$1,040 deferred.

Information concerning any aspect of this order may be obtained by contacting Nadia Hameed, Enforcement Coordinator at (713) 767-3629, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Viewpoint Energy, Inc., Docket No. 2006-0906-AIR-E on January 11, 2007 assessing \$3,300 in administrative penalties with \$660 deferred.

Information concerning any aspect of this order may be obtained by contacting Nadia Hameed, Enforcement Coordinator at (713) 767-3629, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Velia M. Martinez dba C Martinez Cleaners, Docket No. 2006-0937-DCL-E on January 11, 2007 assessing \$1,185 in administrative penalties with \$237 deferred.

Information concerning any aspect of this order may be obtained by contacting Marlin Bullard, Enforcement Coordinator at (254) 761-3038, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Neal, Inc. dba Neal, Inc. 15, Docket No. 2006-0945-PWS-E on January 11, 2007 assessing \$1,463 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Amy Martin, Enforcement Coordinator at (512) 239-2540, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Crystal Cleaners of Desoto, Inc., Docket No. 2006-0948-DCL-E on January 11, 2007 assessing \$889 in administrative penalties with \$178 deferred.

Information concerning any aspect of this order may be obtained by contacting Libby Hogue, Enforcement Coordinator at (512) 239-1165, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Hereford-Custom Cleaners, L.C., Docket No. 2006-0949-DCL-E on January 11, 2007 assessing \$889 in administrative penalties with \$178 deferred.

Information concerning any aspect of this order may be obtained by contacting Harvey Wilson, Enforcement Coordinator at (512) 239-0321, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Chillicothe, Docket No. 2006-0955-MWD-E on January 11, 2007 assessing \$9,245 in administrative penalties with \$1,849 deferred.

Information concerning any aspect of this order may be obtained by contacting Laurie Eaves, Enforcement Coordinator at (512) 239-4495, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Seong D. Roh dba Valley Ranch Cleaners, Docket No. 2006-0960-DCL-E on January 11, 2007 assessing \$1,185 in administrative penalties with \$237 deferred.

Information concerning any aspect of this order may be obtained by contacting Cari-Michel La Caille, Enforcement Coordinator at (512) 239-1387, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Sam Yong Corporation dba Diamond Cleaners, Docket No. 2006-0971-DCL-E on January 11, 2007 assessing \$1,778 in administrative penalties with \$356 deferred.

Information concerning any aspect of this order may be obtained by contacting Craig Fleming, Enforcement Coordinator at (512) 239-5806, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Jaymauma Incorporated dba Image Cleaners, Docket No. 2006-0993-DCL-E on January 11, 2007 assessing \$1,067 in administrative penalties with \$214 deferred.

Information concerning any aspect of this order may be obtained by contacting Shontay Wilcher, Enforcement Coordinator at (512) 239-2136, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Paul C. Nguyen dba C K Cleaners, Docket No. 2006-1010-DCL-E on January 11, 2007 assessing \$889 in administrative penalties with \$178 deferred.

Information concerning any aspect of this order may be obtained by contacting Deana Holland, Enforcement Coordinator at (512) 239-2504, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Gurnak, Inc. dba Sunmart 435, Docket No. 2006-1013-PST-E on January 11, 2007 assessing \$6,000 in administrative penalties with \$1,200 deferred.

Information concerning any aspect of this order may be obtained by contacting Deana Holland, Enforcement Coordinator at (512) 239-2504, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding NRG Texas LP, Docket No. 2006-1030-IWD-E on January 11, 2007 assessing \$7,425 in administrative penalties with \$1,485 deferred.

Information concerning any aspect of this order may be obtained by contacting Lynley Doyen, Enforcement Coordinator at (512) 239-1364, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding KMCO Port Arthur, Inc. dba KMTEX, Docket No. 2006-1048-AIR-E on January 11, 2007 assessing \$9,231 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting John Barry, Enforcement Coordinator at (409) 899-8781, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Phu Nguyen dba TC Cleaners, Docket No. 2006-1109-DCL-E on January 11, 2007 assessing \$1,185 in administrative penalties with \$237 deferred.

Information concerning any aspect of this order may be obtained by contacting Samuel Short, Enforcement Coordinator at (512) 239-5363, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Hockley County, Docket No. 2006-1112-MSW-E on January 11, 2007 assessing \$900 in administrative penalties with \$180 deferred.

Information concerning any aspect of this order may be obtained by contacting Alison Echlin, Enforcement Coordinator at (512) 239-3308, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Edwin Pak dba J C Cleaners, Docket No. 2006-1125-DCL-E on January 11, 2007 assessing \$889 in administrative penalties with \$178 deferred.

Information concerning any aspect of this order may be obtained by contacting Libby Hogue, Enforcement Coordinator at (512) 239-1165, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Saipullai Imtiaz dba Polo Press Cleaners and dba Polo Press II, Docket No. 2006-1137-DCL-E on January 11, 2007 assessing \$2,370 in administrative penalties with \$474 deferred.

Information concerning any aspect of this order may be obtained by contacting Suzanne Walrath, Enforcement Coordinator at (512) 239-2134, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Phuong Duy Nguyen dba 1.25 Antoine Cleaner, Docket No. 2006-1168-DCL-E on January 11, 2007 assessing \$889 in administrative penalties with \$178 deferred.

Information concerning any aspect of this order may be obtained by contacting Rajesh Acharya, Enforcement Coordinator at (512) 239-0577, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Don Adams & Associates Inc. dba Burselon Cleaners, dba Kens Kleaners, and dba Olde Towne Cleaners, Docket No. 2006-1177-DCL-E on January 11, 2007 assessing \$3,555 in administrative penalties with \$711 deferred.

Information concerning any aspect of this order may be obtained by contacting Samuel Short, Enforcement Coordinator at (512) 239-5363, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Bark Investments, Inc. dba The Cleaners, Docket No. 2006-1226-DCL-E on January 11, 2007 assessing \$200 in administrative penalties with \$40 deferred.

Information concerning any aspect of this order may be obtained by contacting Rebecca Clausewitz, Enforcement Coordinator at (210)

403-4012, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Petro Stopping Centers, L.P. dba Petro Stopping Center 50, Docket No. 2006-1229-AIR-E on January 11, 2007 assessing \$1,240 in administrative penalties with \$248 deferred.

Information concerning any aspect of this order may be obtained by contacting Daniel Siringi, Enforcement Coordinator at (409) 899-8799, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Poth, Docket No. 2006-1255-PWS-E on January 11, 2007 assessing \$1,838 in administrative penalties with \$368 deferred.

Information concerning any aspect of this order may be obtained by contacting Merrilee Hupp, Enforcement Coordinator at (512) 239-4490, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Lee Van Cleaners, Inc. dba City Cleaners, Docket No. 2006-1278-DCL-E on January 11, 2007 assessing \$889 in administrative penalties with \$178 deferred.

Information concerning any aspect of this order may be obtained by contacting Libby Hogue, Enforcement Coordinator at (512) 239-1165, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Chong O. Murtuza dba Cuff & Collar, Docket No. 2006-1294-DCL-E on January 11, 2007 assessing \$1,185 in administrative penalties with \$237 deferred.

Information concerning any aspect of this order may be obtained by contacting Samuel Short, Enforcement Coordinator at (512) 239-5363, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Eddins-Walcher Company dba Eddins Walcher Security Fuel System, Docket No. 2006-1327-PST-E on January 11, 2007 assessing \$2,625 in administrative penalties with \$525 deferred.

Information concerning any aspect of this order may be obtained by contacting Jason Godeaux, Enforcement Coordinator at (512) 239-2541, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding The Choy Corporation dba Your Valet Cleaners, Docket No. 2006-1332-DCL-E on January 11, 2007 assessing \$2,097 in administrative penalties with \$419 deferred.

Information concerning any aspect of this order may be obtained by contacting Michael Limos, Enforcement Coordinator at (512) 239-5839, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Scott D. Nguyen dba One Hour Champion Dry Cleaning, Docket No. 2006-1349-DCL-E on January 11, 2007 assessing \$1,185 in administrative penalties with \$237 deferred.

Information concerning any aspect of this order may be obtained by contacting Shontay Wilcher, Enforcement Coordinator at (512) 239-2136, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Helen Ja Yang dba Dryclean Planet 3, Docket No. 2006-1420-DCL-E on January 11, 2007 assessing \$889 in administrative penalties with \$178 deferred.

Information concerning any aspect of this order may be obtained by contacting Suzanne Walrath, Enforcement Coordinator at (512) 239-2134, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Yong Sun Mahony dba Yong's Cleaners, Docket No. 2006-1459-DCL-E on January 11, 2007 assessing \$889 in administrative penalties with \$178 deferred.

Information concerning any aspect of this order may be obtained by contacting Shontay Wilcher, Enforcement Coordinator at (512) 239-2136, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Alvin Gunkel dba Plaza Cleaners, Docket No. 2006-1467-DCL-E on January 11, 2007 assessing \$1,185 in administrative penalties with \$237 deferred.

Information concerning any aspect of this order may be obtained by contacting Deana Holland, Enforcement Coordinator at (512) 239-2504, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Ae Cha Floyd dba Floyd's Dry Cleaners, Docket No. 2006-1483-DCL-E on January 11, 2007 assessing \$889 in administrative penalties with \$178 deferred.

Information concerning any aspect of this order may be obtained by contacting Thomas Greimel, Enforcement Coordinator at (512) 239-5690, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding South Texas Electric Cooperative, Inc., Docket No. 2006-1495-AIR-E on January 11, 2007 assessing \$7,200 in administrative penalties with \$1,440 deferred.

Information concerning any aspect of this order may be obtained by contacting John Muennink, Enforcement Coordinator at (361) 825-3423, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Bok I. Kim dba Heritage Dry Cleaners, Docket No. 2006-1498-DCL-E on January 11, 2007 assessing \$1,185 in administrative penalties with \$237 deferred.

Information concerning any aspect of this order may be obtained by contacting Jason Godeaux, Enforcement Coordinator at (512) 239-2541, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Uy Eang Chou dba Town Park Cleaners, Docket No. 2006-1637-DCL-E on January 11, 2007 assessing \$770 in administrative penalties with \$154 deferred.

Information concerning any aspect of this order may be obtained by contacting Samuel Short, Enforcement Coordinator at (512) 239-5363, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of New Boston, Docket No. 2004-0525-MWD-E on January 11, 2007 assessing \$20,200 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Michael Limos, Enforcement Coordinator at (512) 239-5839, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Mario A. Cardenas dba Cashway Food Store, Docket No. 2004-1692-PST-E on January 12, 2007 assessing \$200 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting J. Mac Vilas, Enforcement Coordinator at (512) 239-2557, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-200700199

LaDonna Castañuela

Chief Clerk

Texas Commission on Environmental Quality

Filed: January 24, 2007

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-200700198

LaDonna Castañuela

Chief Clerk

Texas Commission on Environmental Quality

Filed: January 24, 2007

◆ ◆ ◆
Notice of District Petition

Notice issued January 22, 2007

TCEQ Internal Control No. 09112006-D08; Cherokee Webster Investors L.P. (Petitioner) filed a petition for creation of Harris County Municipal Utility District No. 481 (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 holds fee simple title to a majority in value of the land to be included in the proposed District; (2) there is one lien holder, Wachovia Bank, National Association, 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 331.733 acres located in Harris County, Texas; and (4) the proposed District is within the corporate limits of the City of Webster, Texas. By Resolution No. 06-11, effective June 6, 2006, the City of Webster, 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 \$42,100,000.

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)

◆ ◆ ◆
Texas Health and Human Services Commission

Notice of Intent to Renew Consultant Contract

In compliance with the provisions of Chapter 2254, Subchapter B, Texas Government Code, the Health and Human Services Commission (HHSC) furnish this notice of intent to renew a consultant contract.

HHSC issued the Request for Proposals (RFP) from qualified consultants to procure technical expertise to assist in the strategic development, implementation, and evaluation of a Texas healthy marriage initiative pursuant to this RFP. The original notice of request for proposals (RFP #529-05-0115A) was posted on HHSC's Business Opportunities Page under HHSC Contracting Opportunities link at http://www.hhsc.state.tx.us/about_hhsc/BUSOpp/BO_opportunities.html. HHSC also posted notice of the procurement on the Texas Marketplace on June 22, 2005.

The contract was awarded to Public Strategies, Inc., 301 Northwest 63rd Street, Suite 600, Oklahoma City, Oklahoma 73116. Notice of the award of the original contract was posted on HHSC's Business Opportunities Page under HHSC Contracting Opportunities link on August 15, 2005. The original contract included options to extend the contract as necessary and HHSC intends to exercise this option.

HHSC intends to extend the contract through August 31, 2007, unless they receive a better offer for the desired services. Any consultant submitting an offer in response to this Invitation must provide the following:

1. Consultant's legal name, including type of entity (individual, partnership, corporation, etc.), and address;
2. Background information regarding the consultant, including the number of years in business and the number of employees;
3. Information regarding the qualifications, education, and experience of the team members proposed to conduct the requested services;
4. The hourly rate to be charged for each team member providing services;
5. The earliest date by which the consultant could begin providing the services;
6. A list of five client references for which consultant has provided consulting services;
7. A statement of consultant's approach to the project (i.e., the services described in this notice), any unique benefits consultant offers HHSC, and any other information consultant desires HHSC to consider in connection with consultant's offer;
8. Information to assist HHSC in assessing consultant's demonstrated competence and experience providing consulting services similar to the services requested in this notice;
9. Information to assist HHSC in assessing the consultant's knowledge of and experience with research related to marriage across a wide array of audiences, and have demonstrated expertise in promoting

and/or implementing public marriage policy for state government(s). http://www.hhsc.state.tx.us/about_hhsc/Contracting/rfp_attch/attach.html:

- a. Child Support Certification;
- b. Debarment, Suspension, Ineligibility and Voluntary Exclusion for Covered Contracts;
- c. Federal Lobbying Certification;
- d. Nondisclosure Statement;
- e. Proposer Information; and
- f. HUB Subcontracting Plan Forms (Pre-Award). To search for potential HUB vendors who may perform subcontracting opportunities, respondents may refer to the Texas Building and Procurement Commission's Centralized Master Bidders List HUB Directory, which is found at <http://www.tbpc.state.tx.us/cmb/cmbhub.html>. Class and item codes for potential subcontracting opportunities under this notice, include, but are not limited to: Class 918 -- "Consulting Services;" Item 58 -- "Governmental Consulting". Failure to submit the required forms will result in HHSC's disqualification of the offer.

10. Information to assist HHSC in assessing whether the consultant will have any conflicts of interest in performing the requested services.

Competing offers must be sent to Rex Miller, Health and Human Services Commission, 909 West 45th Street, Building 2, Austin, Texas 78751. To be considered, all competing offers must be received at the foregoing address on or before 4:00 p.m. Central Time on February 19, 2007. Offers received after this time and date will not be considered. Any offers received will be evaluated on the basis of demonstrated competence, knowledge, and qualifications and on the reasonableness of the proposed fee for the services. Exercise of this option to extend is contingent upon receipt of a finding of fact from the Governor's Office of Budget and Planning that the requested consulting services are necessary. All questions regarding this notice must be sent in writing to Mr. Miller at the address stated above, or by e-mail to rex.miller@hhsc.state.tx.us by 4:00 p.m. Central Time on February 7, 2007.

TRD-200700197
David Brown
Assistant General Counsel
Texas Health and Human Services Commission
Filed: January 24, 2007



Notice of Public Hearing on Proposed Medicaid Payment Rate

Hearing. The Texas Health and Human Services Commission will conduct a public hearing on February 21, 2007, at 1:30 p.m. to receive public comment on the proposed Medicaid payment rate for Case Management for the Blind Children's Vocational Discovery and Development Program (BCVDDP). This program is operated by the Texas Department of Assistive and Rehabilitative Services (DARS). The public hearing will be held in the Big Bend Conference Room of the Health and Human Services Commission, Braker Center, Building H, located at 11209 Metric Boulevard, Austin, Texas. The hearing will be held in compliance with 1 TAC §355.105(g), which requires public hearings on proposed Medicaid reimbursements. Persons requiring ADA accommodation or auxiliary aids or services should contact Irene Cantu

by calling (512) 491-1358 at least 72 hours prior to the hearing so appropriate arrangements can be made.

Proposal. The proposed payment rate calculation is based on audited financial and statistical data reported by DARS BCVDDP for its 2006 fiscal year. The proposed payment rate will be effective January 1, 2007.

Methodology and Justification. The proposed payment rate was developed pursuant to the reimbursement methodology rules, 1 Texas Administrative Code (TAC) §355.8381, relating to Reimbursement Rates for Case Management.

Briefing Package. A briefing package describing the proposed payment rate will be available on or after February 2, 2007. Interested parties may obtain a copy of the briefing package prior to the hearing by contacting Irene Cantu by telephone at (512) 491-1358; by fax at (512) 491-1998; or by e-mail at IreneCantu@hhsc.state.tx.us. The briefing package also will be available at the public hearing.

Written Comments. Written comments regarding the proposed payment rate may be submitted in lieu of or in addition to oral testimony until 5 p.m. the day of the hearing. Written comments may be sent by U.S. mail to the attention of Irene Cantu, Health and Human Services Commission, Rate Analysis, Mail Code H-400, P.O. Box 85200, Austin, Texas 78708-5200; by fax to Irene Cantu at (512) 491-1998; or by e-mail to Irene.Cantu@hhsc.state.tx.us. In addition, written comments may be sent by overnight mail or hand delivered to Irene Cantu, HHSC, Rate Analysis, Mail Code H-400, Braker Center, Building H, 11209 Metric Boulevard, Austin, Texas 78758-4021.

TRD-200700196
Steve Aragón
Chief Counsel
Texas Health and Human Services Commission
Filed: January 24, 2007



Notice of Public Hearing on Proposed Medicaid Payment Rates

Hearing. The Texas Health and Human Services Commission will conduct a public hearing on February 21, 2007, at 2:30 p.m. to receive public comment on the proposed Medicaid payment rates for the following specific procedure codes for physician-administered drugs/biologicals including seasonal vaccines, Intra Uterine Device contraceptives, Botox, and an asthma injection. The public hearing will be held in the Lone Star Conference Room of the Health and Human Services Commission, Braker Center, Building H, located at 11209 Metric Boulevard, Austin, Texas. Entry is through Security at the main entrance of the building, which faces Metric Boulevard. The hearing will be held in compliance with Human Resources Code §32.0282 and 1 Texas Administrative Code (TAC) §355.201(e) - (f), which require public notice and hearings on proposed Medicaid reimbursements. Persons requiring Americans with Disability Act (ADA) accommodation or auxiliary aids or services should contact Irene Cantu by calling (512) 491-1358, at least 72 hours prior to the hearing so appropriate arrangements can be made.

Proposal. The proposed payment rates are as follows:

Proposed Payment Rates

Procedure Code	Current Medicaid Rate	Proposed Medicaid Rate
J0585	\$4.66 per unit	\$4.85 per unit
J2357	\$16.11 per 5 mg	\$17.25 per 5 mg
J7300	\$321.13 each	\$387.60 each
J7302	\$426.97 per 52 mg	\$487.76 per 52 mg
90378	\$14.04 per 50 mg	\$14.82 per 50 mg
90655	\$12.89	\$14.49
90656	\$12.89	\$15.61
90657	\$12.89	\$5.94
90658	\$9.37	\$11.89
90732	\$21.93	\$25.46

The proposed payment rates will be retroactively effective September 1, 2006.

Methodology and justification. The proposed payment rates are calculated as physician services access-based fees in accordance with 1 TAC §355.8085, which addresses the Medicaid Reimbursement Methodology for Physicians and Certain Other Practitioners, and the specific fee guidelines published in Section 2.2.1.2 of the 2006 Texas Medicaid Provider Procedures Manual. These authorities require HHSC to review the fees for individual services at least every two years. These fees and the adjustments thereto will be based upon either: (i) historical payments, with adjustments, to ensure adequate access to appropriate health care services; or (ii) actual resources required by an economically efficient provider to provide each individual service. The fees for individual services or adjustments thereto will be made within available funding.

Briefing Package. A briefing package describing the proposed payment rates will be available on or after February 2, 2007. Interested parties may obtain a copy of the briefing package prior to the hearing by calling Irene Cantu at (512) 491-1358; by faxing to Irene Cantu at (512) 491-1998; or by e-mail to Irene.Cantu@hhsc.state.tx.us. The briefing package also will be available at the public hearing.

Written Comments. Written comments regarding the proposed payment rates may be submitted in lieu of or in addition to oral testimony until 5:00 p.m. the day of the hearing. Written comments may be sent by U.S. mail to the attention of Irene Cantu, Health and Human Services Commission, Rate Analysis, Mail Code H-400, P.O. Box 85200, Austin, Texas 78708-5200; by fax to Irene Cantu at (512) 491-1998; or by e-mail to Irene.Cantu@hhsc.state.tx.us. In addition, written comments may be sent by overnight mail or hand delivered to Irene Cantu, HHSC, Rate Analysis, Mail Code H-400, Braker Center, Building H, 11209 Metric Boulevard, Austin, Texas 78758-4021.

TRD-200700200

Steve Aragón

Chief Counsel

Texas Health and Human Services Commission

Filed: January 24, 2007

◆ ◆ ◆ Department of State Health Services

Notice of Proposed Administrative Renewal of the Radioactive Material License of Everest Exploration, Inc.

Notice is hereby given by the Department of State Health Services (department) that it proposes to grant an administrative renewal pursuant to 25 Texas Administrative Code (TAC), §289.260(h) for a two-year period for Radioactive Material License Number L03626 issued to Everest Exploration, Inc. for facilities located in Karnes County, Texas near Hobson, Texas and Live Oak County, Texas near Dinero, Texas.

The department has determined that the licensee has paid its license renewal fee, has a satisfactory compliance history, and otherwise complies with the requirements of 25 TAC §289.260(h).

This notice affords the opportunity for a public hearing upon written request by a person affected within 30 days of the date of publication of this notice as required by Texas Health and Safety Code, §401.264 and as set out in 25 TAC §289.205(d). 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 a county, in which the 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, P.E., Radiation Program Officer, Division for Regulatory Services, 1100 West 49th Street, Austin, Texas 78756-3189. Any request for a hearing must contain the name and address of the person who considers himself affected by this action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated. Should no request for a public hearing be timely filed, the proposed issuance of the license will be final.

A public hearing, if requested, shall be conducted in accordance with the provisions of Texas Health and Safety Code, Chapter 401; the Administrative Procedure Act (Chapter 2001, Texas Government Code); the formal hearing procedures of the department (25 TAC §1.21 et seq.); and the procedures of the State Office of Administrative Hearings (1 TAC Chapter 155).

A copy of the proposed license and information regarding the license renewal is available for public inspection and copying, by appointment, at the office of the Radiation Safety Licensing Branch, Department of State Health Services, Exchange Building, 8407 Wall Street, Austin, Texas, telephone (512) 834-6688, 8:00 a.m. to 5:00 p.m. Monday - Friday (except holidays). Information relative to inspection and copying the documents may be obtained by contacting Chrissie Toungate, Custodian of Records, Radiation Safety Licensing Branch.

TRD-200700165
Cathy Campbell
General Counsel
Department of State Health Services
Filed: January 23, 2007

◆ ◆ ◆
Texas Department of Housing and Community Affairs

Notice of Public Hearing

Multifamily Housing Revenue Bonds (Terraces at Cibolo) Series 2007

Notice is hereby given of a public hearing to be held by the Texas Department of Housing and Community Affairs (the "Issuer") at Boerne Middle School North, 240 West Johns Road, Boerne, Kendall County, Texas 78006, at 6:00 p.m. on February 21, 2007, with respect to an issue of tax-exempt multifamily residential rental development revenue bonds in an aggregate principal amount not to exceed \$10,000,000 and taxable bonds, if necessary, in an amount to be determined, to be issued in one or more series (the "Bonds"), by the Issuer. The proceeds of the Bonds will be loaned to Boerne Terraces at Cibolo Apartments, L.P., a limited partnership, or a related person or affiliate thereof (the "Borrower") to finance a portion of the costs of acquiring, constructing, and equipping a multifamily senior housing development (the "Development") described as follows: 150-unit multifamily senior residential rental development to be located at approximately the 100 block of Fabra Street, Kendall County, Texas. Upon the issuance of the Bonds, the Development will be owned by the Borrower.

All interested parties are invited to attend such public hearing to express their views with respect to the Development and the issuance of the Bonds. Questions or requests for additional information may be directed to Teresa Morales at the Texas Department of Housing and Community Affairs, P.O. Box 13941 Austin, TX 78711-3941; (512) 475-3344; and/or teresa.morales@tdhca.state.tx.us.

Persons who intend to appear at the hearing and express their views are invited to contact Teresa Morales in writing in advance of the hearing. Any interested persons unable to attend the hearing may submit their views in writing to Teresa Morales prior to the date scheduled for the hearing. Individuals who require a language interpreter for the hearing should contact Teresa Morales at least three days prior to the hearing date. Personas que hablan español y requieren un intérprete, favor de llamar a Jorge Reyes al siguiente número (512) 475-4577 por lo menos tres días antes de la junta para hacer los preparativos apropiados.

Individuals who require auxiliary aids in order to attend this meeting should contact Gina Esteves, ADA Responsible Employee, at (512) 475-3943 or Relay Texas at (800) 735-2989 at least two days before the meeting so that appropriate arrangements can be made.

TRD-200700195
Michael G. Gerber
Executive Director
Texas Department of Housing and Community Affairs
Filed: January 24, 2007

◆ ◆ ◆
Texas Lottery Commission

Public Comment Hearing

A public hearing to receive public comments regarding the proposed repeal of 16 TAC §402.603, relating to Bonds or Other Security, proposed new 16 TAC §402.305, relating to Progressive Bingo, proposed

amendments to 16 TAC §402.300, relating to Pull-Tab Bingo, and proposed amendments to 16 TAC §402.400, relating to General Licensing Provisions, will be held on Wednesday, January 31, 2007, at 10:00 a.m. at the Texas Lottery Commission, Commission Auditorium, First Floor, 611 E. Sixth Street, Austin, Texas 78701. Persons requiring any accommodation for a disability should notify Michelle Guerrero, Executive Assistant to the General Counsel, Texas Lottery Commission at (512) 344-5113 at least 72 hours prior to the public hearing.

TRD-200700134
Kimberly L. Kiplin
General Counsel
Texas Lottery Commission
Filed: January 18, 2007

◆ ◆ ◆
Public Utility Commission of Texas

Announcement of Application for Amendment to a State-Issued Certificate of Franchise Authority

The Public Utility Commission of Texas (commission) received an application on January 12, 2007, to amend a state-issued certificate of franchise authority (CFA), pursuant to §§66.001 - 66.016 of the Public Utility Regulatory Act (PURA).

Project Title and Number: Application of Charter Communications VI, L.L.C. d/b/a Charter Communications for an Amendment to a State-Issued Certificate of Franchise Authority, Project Number 33741 before the Public Utility Commission of Texas.

Information on the application may be obtained by contacting the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All inquiries should reference Project Number 33741.

TRD-200700136
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: January 18, 2007

◆ ◆ ◆
Announcement of Application for Amendment to a State-Issued Certificate of Franchise Authority

The Public Utility Commission of Texas (commission) received an application on January 18, 2007, to amend a state-issued certificate of franchise authority (CFA), pursuant to §§66.001 - 66.016 of the Public Utility Regulatory Act (PURA).

Project Title and Number: Application of Time Warner Cable San Antonio L.P. for an Amendment to a State-Issued Certificate of Franchise Authority, Project Number 33753 before the Public Utility Commission of Texas.

Information on the application may be obtained by contacting the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All inquiries should reference Project Number 33753.

TRD-200700167

Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: January 23, 2007



Announcement of Application for Amendment to a State-Issued Certificate of Franchise Authority

The Public Utility Commission of Texas (commission) received an application on January 18, 2007, to amend a state-issued certificate of franchise authority (CFA), pursuant to §§66.001 - 66.016 of the Public Utility Regulatory Act (PURA).

Project Title and Number: Application of Charter Communications VI, L.L.C. d/b/a Charter Communications for an Amendment to a State-Issued Certificate of Franchise Authority, Project Number 33768 before the Public Utility Commission of Texas.

Information on the application may be obtained by contacting the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All inquiries should reference Project Number 33768.

TRD-200700168
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: January 23, 2007



Announcement of Application for Amendment to a State-Issued Certificate of Franchise Authority

The Public Utility Commission of Texas (commission) received an application on January 22, 2007, to amend a state-issued certificate of franchise authority (CFA), pursuant to §§66.001 - 66.016 of the Public Utility Regulatory Act (PURA).

Project Title and Number: Application of Cebriidge Acquisition LP d/b/a Suddenlink Communications for an Amendment to a State-Issued Certificate of Franchise Authority, Project Number 33779 before the Public Utility Commission of Texas.

Information on the application may be obtained by contacting the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All inquiries should reference Project Number 33779.

TRD-200700192
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: January 24, 2007



Announcement of Application for Amendment to a State-Issued Certificate of Franchise Authority

The Public Utility Commission of Texas (commission) received an application on January 22, 2007, to amend a state-issued certificate of

franchise authority (CFA), pursuant to §§66.001 - 66.016 of the Public Utility Regulatory Act (PURA).

Project Title and Number: Application of Time Warner Cable for an Amendment to a State-Issued Certificate of Franchise Authority, Project Number 33780 before the Public Utility Commission of Texas.

Information on the application may be obtained by contacting the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All inquiries should reference Project Number 33780.

TRD-200700193
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: January 24, 2007



Announcement of Application for State-Issued Certificate of Franchise Authority

The Public Utility Commission of Texas (commission) received an application on January 18, 2007, for a state-issued certificate of franchise authority (CFA), pursuant to §§66.001 - 66.016 of the Public Utility Regulatory Act (PURA).

Project Title and Number: Application of SilverLining Communications, LLC for a State-Issued Certificate of Franchise Authority, Project Number 33751 before the Public Utility Commission of Texas.

Applicant intends to provide video service. The requested CFA service area includes the entire State of Texas.

Information on the application may be obtained by contacting the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All inquiries should reference Project Number 33751.

TRD-200700166
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: January 23, 2007



Announcement of Application for State-Issued Certificate of Franchise Authority

The Public Utility Commission of Texas received an application on January 18, 2007, for a state-issued certificate of franchise authority (CFA), pursuant to §§66.001 - 66.016 of the Public Utility Regulatory Act (PURA).

Project Title and Number: Application of Mid-Coast Cablevision, LP for a State-Issued Certificate of Franchise Authority, Project Number 33785 before the Public Utility Commission of Texas.

Applicant intends to provide video service. The requested CFA service area includes the City Limits of Edna, Texas.

Information on the application may be obtained by contacting the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin,

Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All inquiries should reference Project Number 33785.

TRD-200700194
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: January 24, 2007



Notice of Application for Amendment for an Exchange Area Name Change

Notice is given to the public of an application filed on January 9, 2007 with the Public Utility Commission of Texas (commission), for an amendment for an exchange area name change.

Docket Style and Number: Application of Central Texas Telephone Cooperative, Inc. to Amend Certificate of Convenience and Necessity for an Exchange Area Name Change. Docket Number 33719.

The Application: Central Texas Telephone Cooperative, Inc. (CTTC) filed an application to amend a certificate of convenience and necessity for an exchange area name change. CTTC requests to change the name of an existing exchange from Doole to Doole/Millersview.

Persons wishing to comment on the action sought or intervene 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. 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 33719.

TRD-200700137
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: January 18, 2007



Notice of Application for Amendment to Service Provider Certificate of Operating Authority

On January 18, 2007, FEC Communications, L.L.P. filed an application with the Public Utility Commission of Texas (commission) to amend its service provider certificate of operating authority (SPCOA) granted in SPCOA Certificate Number 60318. Applicant intends to reflect a change in ownership/control.

The Application: Application of FEC Communications, L.L.P. for an Amendment to its Service Provider Certificate of Operating Authority, Docket Number 33754.

Persons wishing to 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 no later than February 7, 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 33754.

TRD-200700185

Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: January 23, 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 January 11, 2007, 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 VOIP Partners, Inc. for a Service Provider Certificate of Operating Authority, Docket Number 33732 before the Public Utility Commission of Texas.

Applicant intends to provide plain old telephone service, and long distance services.

Applicant's requested SPCOA geographic area includes the area of Texas currently served by AT&T Texas and Verizon Southwest.

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 31, 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 33732.

TRD-200700135
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: January 18, 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 12, 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 22, 2007.

Docket Title and Number: Application of Windstream Sugar Land, Inc. for Approval of LRIC Study for Limited Local Measured Service Bundled with Broadband Service Pursuant to P.U.C. Substantive Rule §26.214, Docket Number 33735.

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 33735. Written comments or recommendations should be filed no later than forty-five (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 33735.

TRD-200700179

Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: January 23, 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 12, 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 22, 2007.

Docket Title and Number: Application of Texas Windstream, Inc. for Approval of LRIC Study for Limited Local Measured Service Bundled with Broadband Service Pursuant to P.U.C. Substantive Rule §26.214, Docket Number 33736.

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 33736. Written comments or recommendations should be filed no later than forty-five (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 33736.

TRD-200700180
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: January 23, 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 12, 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 22, 2007.

Docket Title and Number: Application of Windstream Communications Kerrville, LP for Approval of LRIC Study for Limited Local Measured Service Bundled with Broadband Service Pursuant to P.U.C. Substantive Rule §26.214, Docket Number 33737.

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 33737. Written comments or recommendations should be filed no later than forty-five (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 33737.

TRD-200700181

Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: January 23, 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 12, 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 22, 2007.

Docket Title and Number: Application of Windstream Communications Southwest for Approval of LRIC Study for Limited Local Measured Service Bundled with Broadband Service Pursuant to P.U.C. Substantive Rule §26.214, Docket Number 33738.

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 33738. Written comments or recommendations should be filed no later than forty-five (45) days after the date of a sufficient study and should be filed at the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or toll free 1-800-735-2989. All comments should reference Docket Number 33738.

TRD-200700182
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: January 23, 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 12, 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 22, 2007.

Docket Title and Number: Application of Windstream Communications Kerrville, LP for Approval of LRIC Study regarding Discounts to Primary Rate Interface Service Pursuant to P.U.C. Substantive Rule §26.214, Docket Number 33739.

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 33739. Written comments or recommendations should be filed no later than forty-five (45) days after the date of a sufficient study and should be filed at the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or toll free 1-800-735-2989. All comments should reference Docket Number 33739.

TRD-200700184

Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: January 23, 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 12, 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 22, 2007.

Docket Title and Number: Application of Windstream Communications Southwest for Approval of LRIC Study regarding Discounts to Primary Rate Interface Service Pursuant to P.U.C. Substantive Rule §26.214, Docket Number 33740.

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 33740. Written comments or recommendations should be filed no later than forty-five (45) days after the date of a sufficient study and should be filed at the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or toll free 1-800-735-2989. All comments should reference Docket Number 33740.

TRD-200700183
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: January 23, 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 19, 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 22, 2007.

Docket Title and Number: Application of Consolidated Communications of Texas d/b/a Consolidated Communications for Approval of LRIC Study for Discount for Residential EMS Rates in the Conroe Exchange, Docket Number 33771.

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 33771. Written comments or recommendations should be filed no later than forty-five (45) days after the date of a sufficient study and should be filed at the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or toll free 1-800-735-2989. All comments should reference Docket Number 33771.

TRD-200700177

Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: January 23, 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 19, 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 22, 2007.

Docket Title and Number: Application of Consolidated Communications of Fort Bend d/b/a Consolidated Communications for Approval of LRIC Study for Discount for Residential EMS Rates in the Brookshire Exchange, Docket Number 33772.

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 33772. Written comments or recommendations should be filed no later than forty-five (45) days after the date of a sufficient study and should be filed at the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or toll free 1-800-735-2989. All comments should reference Docket Number 33772.

TRD-200700178
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: January 23, 2007



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

Notice is given to the public of the filing on January 19, 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 22, 2007.

Docket Title and Number: Application of Consolidated Communications of Texas d/b/a Consolidated Communications for Approval of LRIC Study to Introduce Contract Rates for PRI ISDN Service and Reduction in Nonrecurring Charge for Same, Docket Number 33773.

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 33773. Written comments or recommendations should be filed no later than forty-five (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 33773.

TRD-200700176

Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: January 23, 2007



**Notice of Intent to File LRIC Study Pursuant to P.U.C.
Substantive Rule §26.215**

Notice is given to the public of the filing on January 11, 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 §26.215. The Applicant will file the LRIC study on or after January 22, 2007.

Docket Title and Number: Application of Verizon Southwest for Approval of LRIC Study for Duplicate Bill Charges Pursuant to P.U.C. Substantive Rule §26.215, Docket Number 33733.

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 33733. Written comments or recommendations should be filed no later than forty-five (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 33733.

TRD-200700186
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: January 23, 2007



Texas A&M University, Board of Regents

Request for Proposals

In accordance with the Texas Insurance Code, Chapter 1601, as amended, The Texas A&M University System (A&M System) announces a Request for Proposals (RFP) to provide discount hearing aids and associated testing and services to A&M System employees and retirees. The A&M System is committed to providing these individuals with economical hearing aid services and devices by establishing a relationship with a qualified hearing aid provider in Texas. The A&M System intends to offer this benefit service on a value-added basis at no administrative cost to the A&M System or program participants. Firms are invited to submit proposals for the services mentioned above. The RFP solicits proposals for plans beginning May 1, 2007.

Firms wishing to respond to this request must have superior, recognized expertise and specialize in administering benefit plans of the type listed above.

The deadline for receipt of proposals in response to this request is 4:00 p.m. CST on March 1, 2007.

The A&M System reserves the right to accept or reject any proposals submitted, and is under no legal requirement to execute a resulting contract on the basis of this advertisement. The A&M System will base its choice on cost, demonstrated competence, superior qualifications, and evidence of conformance with the RFP criteria. The A&M Sys-

tem shall not designate and will not pay commissions to an Agent of Record or a commissioned representative.

This RFP does not commit the A&M System to pay any costs incurred prior to execution of a contract. Issuance of this material in no way obligates the A&M System to award a contract or to pay any cost incurred in the preparation of a response. The A&M System specifically reserves the right to vary all provisions set forth at any time prior to execution of the contract where the A&M System deems it to be in its best interest.

Beginning February 2, 2007, RFP instructions providing detailed information regarding the project can be downloaded from <http://tamus.edu/offices/shro/rfp> or written requests can be faxed to Mr. Paul Bozeman, Office of Risk Management and Safety, The Texas A&M University System, FAX (979) 458-6247 (physical address: The A&M System Building, Suite 1120, 200 Technology Way, College Station, Texas 77845-3424). For questions or further information regarding this notice, contact Mr. Paul Bozeman by facsimile or by e-mail at pbozeman@tamu.edu.

TRD-200700201
Thelma Isenhardt
Assistant Executive Secretary to the Board
Texas A&M University, Board of Regents
Filed: January 24, 2007



Request for Proposals

In accordance with the Texas Insurance Code, Chapter 1601, as amended, The Texas A&M University System (A&M System) announces a Request for Proposals (RFP) to provide Internet-based financial information services to A&M System employees and retirees. The A&M System desires to provide assistance in shopping via the Internet for financial information related to home and automobile insurance and loans, financial planning, legal services, pet insurance and real estate services. The A&M System intends to offer this benefit service on a value-added basis at no administrative cost to the A&M System or program participants. Firms are invited to submit proposals for the services mentioned above. The RFP solicits proposals for plans beginning May 1, 2007.

Firms wishing to respond to this request must have superior, recognized expertise and specialize in administering benefit plans of the type listed above.

The deadline for receipt of proposals in response to this request is 4:00 p.m. CST on March 7, 2007.

The A&M System reserves the right to accept or reject any proposals submitted, and is under no legal requirement to execute a resulting contract on the basis of this advertisement. The A&M System will base its choice on cost, demonstrated competence, superior qualifications, and evidence of conformance with the RFP criteria. The A&M System shall not designate and will not pay commissions to an Agent of Record or a commissioned representative.

This RFP does not commit the A&M System to pay any costs incurred prior to execution of a contract. Issuance of this material in no way obligates the A&M System to award a contract or to pay any cost incurred in the preparation of a response. The A&M System specifically reserves the right to vary all provisions set forth at any time prior to execution of the contract where the A&M System deems it to be in its best interest.

Beginning February 2, 2007, RFP instructions providing detailed information regarding the project can be downloaded from

<http://tamus.edu/offices/shro/rfp> or written requests can be faxed to Mr. Paul Bozeman, Office of Risk Management and Safety, The Texas A&M University System, FAX (979) 458-6247 (physical address: The A&M System Building, Suite 1120, 200 Technology Way, College Station, Texas 77845-3424). For questions or further information regarding this notice, contact Mr. Paul Bozeman by facsimile or by e-mail at pbozeman@tamu.edu.

TRD-200700202

Thelma Isenhardt

Assistant Executive Secretary to the Board

Texas A&M University, Board of Regents

Filed: January 24, 2007



Texas Department of Transportation

Notice of Request for Proposal - Workforce Transportation Projects

The Texas Department of Transportation (department) announces a Request for Proposal (RFP) for workforce transportation projects. The project will be funded through the Federal Transit Administration (FTA) 42 U.S.C. §5316 Job Access and Reverse Commute (JARC) Program, and will be administered by the Public Transportation Division of the department. The RFP is available in electronic and printed format from the department. See "To Obtain a Copy of the RFP" later in this notice.

Purpose: The purpose of the funding is for public transportation projects for access to jobs and reverse commute purposes. A job access project is one that transports welfare recipients and eligible low-income individuals to and from jobs and activities related to employment. A reverse commute project is one that takes individuals from urbanized (cities/downtown areas) and non-urbanized areas to suburban employers. The federal statute has no reference to welfare or income status associated with reverse commute projects; therefore these projects are open to a rider of any income level.

Eligible Applicants: Eligible applicants include local governmental authorities, private nonprofit organizations, operators of public transportation services and private for-profit operators of public transportation services.

Availability of Funds: A maximum of \$5,245,677 (\$3,065,349 for areas 50,000 to 199,999 population and \$2,180,328 for areas less than 50,000 in population) will be available to fund the competitively selected job access and reverse commute proposals requested by this RFP. The department anticipates the project period to be from August 2007 to August 31, 2009.

Program Goal: The department's goal in administering the Section 5316 program is to promote the availability of public transportation services targeted to employment and employment-related transportation needs. To achieve this goal, the department's objectives are to:

- (1) promote the development of employment transportation services throughout the state, in partnership with local officials, public and private non-profit agencies, and operators of public transportation services;
- (2) fully integrate the JARC program with other federal and state programs supporting public, employment, and human service transportation;
- (3) foster the development of local, coordinated public and human service transportation service plans from which JARC projects are derived;

(4) support local economic development; and

(5) improve the efficiency and effectiveness of the JARC program.

Eligible Projects: Eligible types of projects have been defined by the Texas Transportation Commission in accordance with FTA guidelines, other laws and regulations, and in consultation with members of the public transportation industry, *see* 43 Texas Administrative Code, Part 1, Chapter 31, Subchapter C, §31.17. These include projects for local administration, vehicle capital, planning, marketing, and operating assistance.

Job access projects include:

- * financing the eligible costs of projects that provide public transportation services targeted to welfare recipients and eligible low-income individuals;
- * promoting public transportation use by low-income workers, including the use of public transportation by workers with nontraditional work schedules;
- * promoting the use of employer-provided transportation, including the transit pass benefit program under Section 132 of the Internal Revenue Code of 1986;
- * supporting mobility management and coordination programs among public transportation providers and other human service agencies providing employment or employment-related transportation services;
- * otherwise facilitating or providing transportation for employment or employment-related purposes by welfare recipients and low income persons.

Reverse commute projects include:

- * subsidizing the costs associated with adding reverse commute bus, train, carpool, van routes, or service from urbanized areas and non-urbanized areas to suburban workplaces;
- * subsidizing the purchase or lease by a nonprofit organization or public agency of a van or bus dedicated to shuttling employees from their residences to a suburban workplace;
- * supporting mobility management and coordination programs among public transportation providers and other human service agencies providing employment or employment-related transportation services;
- * otherwise facilitating or providing public transportation services to suburban employment opportunities.

Review and Award Criteria: Each application will first be screened for completeness and timeliness. Proposals that are deemed incomplete or arrive after the deadline will not be reviewed. Proposals will be evaluated against a matrix of criteria and then prioritized. Subject to available funding, the department is placing no preconditions on the number or on the types of projects to be selected for funding. During the evaluation phase of each proposal, the department reserves the right to conduct formal negotiations pertaining to a proposer's initial responses, specifications, and prices. An approximate balance in funding awarded to the five types of projects, or an approximate geographic balance of selected projects, may be seen as appropriate, depending on the proposals that are received. The department may consider these additional criteria when recommending prioritized projects to the Texas Transportation Commission.

Key Dates and Deadlines:

February 26, 2007. Statewide Pre-Proposal Video Teleconference conference.

1:30 - 4:30 PM CST Statewide Texas Department of Transportation district offices (with the exception of Odessa; applicants may attend in

Lubbock, San Angelo or Abilene). Please notify the department district office in your area, three days prior to the event, if you plan to attend.

March 1, 2007. Written questions about the proposal are due.

March 9, 2007. Written responses to questions posted on the department's Public Transportation Division's website.

May 4, 2007. Deadline for receipt of proposals, 5:00 PM CST. Proposals prepared according to instructions in the RFP package must be received by TxDOT Public Transportation Division, 150 East Riverside Drive, Austin, Texas 78704 by 5:00 p.m. on May 4, 2007.

June 1, 2007. Target date for the department to complete the evaluation, prioritization, and negotiation of proposals.

June 28, 2007. Target date for presentation of project selection recommendations to the Texas Transportation Commission for action.

August 1, 2007. Target date for all project grant agreements to be executed, with approved scopes of work and calendars of work.

To Obtain a Copy of the RFP: A copy of the RFP is available from the Public Transportation Division on-line under the heading "JARC Request for Proposal" at:

<http://www.txdot.gov/ptn/geninfo.htm>

<http://www.dot.state.tx.us/ptn/geninfo.htm>

Interested parties should download the Request for Proposal. Interested parties may also contact Kris Dudley, TxDOT-PTN, 125 East 11th Street, Austin, Texas 78701-2483, (512) 416-2829 for paper copies of the Request for Proposal.

TRD-200700191

Bob Jackson

General Counsel

Texas Department of Transportation

Filed: January 24, 2007



Public Notice - Aviation

Pursuant to Transportation Code, §21.111, and Title 43, Texas Administrative Code, §30.209, the Texas Department of Transportation conducts public hearings to receive comments from interested parties concerning proposed approval of various aviation projects.

For information regarding actions and times for aviation public hearings, please go to the following web site:

www.txdot.gov/about_us/public_hearings_and_meetings/aviation.htm

Or visit www.txdot.gov and navigate to this website by clicking on Citizen, clicking on Public Hearings, and then clicking on Aviation Division.

Or contact Joyce Moulton, Aviation Division, 150 East Riverside, Austin, Texas 78704, (512) 416-4501 or 800-68-PILOT.

TRD-200700138

Bob Jackson

General Counsel

Texas Department of Transportation

Filed: January 19, 2007



Public Notice - Deadline Extended for Public Comments

In the November 17, 2006, issue of the *Texas Register* (31 TexReg 9543), the Texas Department of Transportation (the department) published a notice regarding the Highway Project Selection Process. The department originally set a deadline of January 19, 2007, for receiving comments concerning the Texas Transportation Commission's highway project selection process and the relative importance of the various criteria on which the commission bases its project selection decisions.

This notice is to extend the public comment period to 5:00 p.m. on March 5, 2007. It is emphasized that comments should regard the procedure by which projects are selected and not the merits or details of specific projects themselves.

Highway project selection information will be available at the department's Riverside Annex, 118 E. Riverside Drive, Bldg. 118, Room 2C-5, Austin, Texas, (512) 486-5050. Written comments may be submitted to the Texas Department of Transportation, Attention: James L. Randall, P.E., Director, Transportation Planning and Programming, P.O. Box 149217, Austin, Texas 78714-9217.

TRD-200700139

Bob Jackson

General Counsel

Texas Department of Transportation

Filed: January 19, 2007



Public Notice of DEIS

Pursuant to Title 43, Texas Administrative Code, §2.5(e)(5), the Texas Department of Transportation (TxDOT) is announcing to the public the availability of the Draft Environmental Impact Statement (DEIS), dated January 2007, for the proposed construction of Segment G of the Grand Parkway (State Highway 99) northeast of Houston in Harris and Montgomery Counties, Texas. Comments regarding the DEIS can be mailed to the Grand Parkway Association, Attention: Segment G Comments, 4544 Post Oak Place, Suite 222, Houston, Texas 77027 or to TxDOT Houston District, Attention: Director of Project Development, P.O. Box 1386, Houston, Texas 77251-1386. Comments will be accepted by e-mail to segmentgcomments@grandpky.com. All comments must be submitted prior to 5:00 p.m. on April 27, 2007.

Transportation improvements are needed in the Segment G study area because there are inefficient connections between suburban communities and major radial roadways, the current and future transportation demand exceeds capacity, many roadways in the study area have a high accident rate, and there is an increasing strain on transportation infrastructure from population and economic growth. The purpose of the proposed transportation improvements in the Segment G study area is to efficiently link the suburban communities and major roadways, enhance mobility and safety, and respond to economic growth. The goal is to improve system linkage, address current and future transportation demand, improve safety and hurricane evacuation, and accommodate population and economic growth.

The study process included consideration of a full range of alternatives; the Study Team considered the No-Build Alternative, various transportation modes, alternative corridors, and various Build Alternative Alignments. Transportation System Management (TSM), Travel Demand Management (TDM), Smart Street improvements, and modal transportation improvements such as bus transit, high-occupancy vehicle lanes, rail feasibility, and new planned roadway construction were considered. Alternatives determined not to meet the need for and purpose of the project were eliminated from further consideration, while other reasonable alternatives were identified and carried forward for detailed study. The Build Alternative was selected because it is the only alternative that fulfills the need for and purpose of the project. The

study approach first emphasized avoidance, and then minimization to ensure that the identified Preferred Alternative Corridor, and ultimately the Recommended Alternative Alignment, minimizes adverse impacts to the greatest extent possible. The Recommended Alternative Alignment was identified after careful consideration of comments received from the public and resource agencies.

The Recommended Alternative Alignment consists of a controlled access toll road on a new location. The proposed facility would include four main lanes and intermittent frontage roads within a right-of-way width of 400 feet. A total of four Build Alternative Alignments (A through D), in addition to the No-Build Alternative, are presented in the DEIS. All alternative alignments extend from IH 45 to US 59 in an east-west direction and are described as follows.

- Alternative Alignment A begins at IH 45 approximately 2.9 miles north of FM 2920 and passes through the center of the study area. This alignment alternative ends at US 59 near Community Drive and is 13.7 miles in length.
- Alternative Alignment B begins at IH 45 approximately 0.2 mile south of IH 45 and the Hardy Toll Road interchange. Alternative Alignment B passes through the northern and southern portion of the study area before ending at the same location as Alternative Alignment A. Alternative Alignment B is 13.6 miles in length.
- Alternative Alignment C begins at the same location as Alternative Alignment A but passes through the southern and northern portion of the study area. Alternative Alignment C ends at the same location as Alternative Alignments A and B and is 13.7 miles in length.
- Alternative Alignment D begins at the same location as Alternative Alignments A and C and is 14.4 miles in length. Alternative Alignment D passes through the northern and southern portion of the study area before ending at the same as Alternative Alignments A-C.

The Recommended Alternative Alignment that has emerged from the study is a combination of alternative alignments. The Recommended Alternative Alignment allows impact avoidance and minimization for a number of resources, fulfills the need for and purpose of the project, and provides feasible engineering alternatives. The Recommended Alternative Alignment best balances the expected project benefits with the overall effects.

The Recommended Alternative Alignment for Segment G would require the taking of right-of-way, the adjustment of utility lines, and the filling of aquatic resources including approximately 31.7 acres of potentially jurisdictional wetlands. The displacement of one business, 63 existing residences and 59 platted residences would occur. Additionally, like all alignments considered, the Recommended Alternative Alignment would affect visual resources in the immediate area, present potential access impacts, cause changes to community cohesion, and affect 129.9 acres of bottomland hardwood forests. No effects to schools, churches, archeological sites, historic properties, cemeter-

ies, publicly-owned parks, remnant prairie topography, riparian forests, or endangered species are expected. The separation of farmland from homesteads is also not expected. No disproportionate affects to minority or low-income populations would result from this alternative. Although a Recommended Alternative Alignment is presented, selection of the final Preferred Alternative Alignment will not be made until after the public comment period is completed, comments on the DEIS are received and considered, and the environmental effects are fully evaluated.

The Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (Uniform Act) requires that comparable, decent, safe, and sanitary replacement housing within a person's financial means be made available to all affected residents. The State's Relocation Assistance Program will be available to all individuals, families, businesses, farmers, ranchers, and nonprofit organizations displaced as a result of the proposed project. Acquisitions of businesses and residences will be conducted in accordance with the Uniform Act, as amended in 1987. Relocation assistance would be made available to all businesses and residences without discrimination, consistent with the requirements of the Civil Rights Act of 1964 and the Housing and Urban Development Amendment of 1974. Representatives from the State of Texas will be available at the public hearing to answer questions and provide information concerning the property acquisition process and benefits offered by relocation assistance. The property acquisition process for this project is scheduled to begin in 2008. Construction could begin as early as 2009, depending upon the completion of property acquisition and the availability of funds.

Copies of the DEIS and other information about the project may be obtained by contacting Mr. David Gornet at the Grand Parkway Association, at (713) 965-0871. Paper copies of the DEIS may also be reviewed at the following locations: (1) Grand Parkway Association 4544 Post Oak Place, Suite 222, Houston, TX, 77027; (2) Texas Department of Transportation, 7721 Washington Avenue, Houston, TX, 77251; (3) Houston Public Library (Texas Room) 500 McKinney, Houston, TX, 77002; (4) Montgomery County Library, South Branch, 2101 Lake Robbins Dr., The Woodlands, TX, 77380; (5) Montgomery County Library, R.B. Tullis Branch, 21130 U.S. Hwy. 59 #K, New Caney, TX, 77357; (6) Harris County Library, Kingwood Branch, 4102 Rustic Woods, Kingwood, TX, 77345; and (7) Harris County Library, Baldwin Boettcher Branch, 22248 Aldine Westfield Rd., Humble, TX, 77338. A digital version of the DEIS may be downloaded from the Grand Parkway website at www.grandpky.com.

TRD-200700141

Bob Jackson

General Counsel

Texas Department of Transportation

Filed: January 19, 2007



Open Meetings

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

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

Members of the public also may view these notices during regular office hours from a computer terminal in the lobby of the James Earl Rudder Building, 1019 Brazos (corner of 11th Street and Brazos) Austin, Texas. To request a copy by telephone, please call 463-5561 in Austin. For out-of-town callers our toll-free number is 800-226-7199. Or request a copy by email: register@sos.state.tx.us

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

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

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

<http://www.oag.state.tx.us/opinopen/opengovt.shtml>

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

Additional information about state government may be found here:
<http://www.state.tx.us/>

...

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

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).